

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

DIMITRY BRAVERMAN,

Defendant,

-and-

VITALY PUPYNIN,

Relief Defendant.

14-CV-7482 (RMB)

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ELECTRONICALLY FILED  
DOC #:  
DATE FILED: **6/15/15**

**FINAL JUDGMENT AS TO DEFENDANT DIMITRY BRAVERMAN**

The Securities and Exchange Commission, having filed a Complaint and Defendant Dmitry Braverman (a/k/a “Dmitry Braverman”) having entered a general appearance; consented to the Court’s jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final Judgment; waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of

interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating Section 14(e) of the Exchange Act [15 U.S.C. § 78n(e)] and Rule 14e-3 [17 C.F.R. § 240.14e-3] promulgated thereunder, in connection with any tender offer or request or invitation for tenders, from engaging in any fraudulent, deceptive, or manipulative act or practice, by:

- (a) purchasing or selling or causing to be purchased or sold the securities sought or to be sought in such tender offer, securities convertible into or exchangeable for any such securities or any option or right to obtain or dispose of any of the foregoing securities while in possession of material

information relating to such tender offer that Defendant knows or has reason to know is nonpublic and knows or has reason to know has been acquired directly or indirectly from the offering person; the issuer of the securities sought or to be sought by such tender offer; or any officer, director, partner, employee or other person acting on behalf of the offering person or such issuer, unless within a reasonable time prior to any such purchase or sale such information and its source are publicly disclosed by press release or otherwise; or

(b) communicating material, nonpublic information relating to a tender offer, which Defendant knows or has reason to know is nonpublic and knows or has reason to know has been acquired directly or indirectly from the offering person; the issuer of the securities sought or to be sought by such tender offer; or any officer, director, partner, employee, advisor, or other person acting on behalf of the offering person or such issuer, to any person under circumstances in which it is reasonably foreseeable that such communication is likely to result in the purchase or sale of securities in the manner described in subparagraph (a) above, except that this paragraph shall not apply to a communication made in good faith

(i) to the officers, directors, partners or employees of the offering person, to its advisors or to other persons, involved in the planning, financing, preparation or execution of such tender offer;

(ii) to the issuer whose securities are sought or to be sought by

- such tender offer, to its officers, directors, partners, employees or advisors or to other persons involved in the planning, financing, preparation or execution of the activities of the issuer with respect to such tender offer; or
- (iii) to any person pursuant to a requirement of any statute or rule or regulation promulgated thereunder.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

III.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for disgorgement of \$306,658.33, representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$9,336.41, and a civil penalty in the amount of \$204,438.89 pursuant to Section 21A of the Exchange Act [15 U.S.C. § 78u-1].

Defendant's liability shall be satisfied, in part, by:

1. Relinquishment by the Defendant and his spouse Anastasiya Pupynina ("Pupynina"), pursuant to stipulation executed April 28, 2015, of all legal and equitable right, title and interest in a Bank of America, N.A. ("Bank of America") checking account (account number \*\*\*\*\*3310) held in their names ("Braverman BOA Account 1") and by Bank of America's subsequent liquidation of the Braverman BOA Account 1 and transfer of the entire

proceeds of the Braverman BOA Account 1 to the Commission, within 14 days after entry of this Final Judgment;<sup>1</sup>

2. Vitaly Pupynin's relinquishment, pursuant to stipulation executed May 18, 2015, of all legal and equitable right, title and interest in the Interactive Brokers LLC account held in his name ("Pupynin Account"), and by Interactive Brokers LLC's subsequent liquidation of the Pupynin Account and transfer of the entire proceeds of the Pupynin Account to the Commission, within 14 days after entry of this Final Judgment;<sup>2</sup>

3. Vitaly Pupynin's relinquishment, pursuant to stipulation executed May 18, 2015, 2015, of all legal and equitable right, title and interest in a Bank of America Corporation ("Bank of America") account (account number \*\*\*\*\*3517) held in Pupynin's name ("Pupynin BOA Account") and by Bank of America's subsequent liquidation of the Pupynin BOA Account and transfer of the entire proceeds of the Pupynin BOA Account to the Commission, within 14 days after entry of this Final Judgment;<sup>3</sup>

4. Vitaly Pupynin's relinquishment, pursuant to stipulation executed May 18, 2015, 2015, of all legal and equitable right, title and interest in the optionsXpress, Inc. ("optionsXpress") account held in his name ("Pupynin optionsXpress Account"), and by optionsXpress' subsequent liquidation of the Pupynin optionsXpress Account and transfer of the entire proceeds of the Pupynin optionsXpress Account to the Commission, within 14 days after entry of this Final Judgment;<sup>4</sup>

5. Sergiy Kyrmyza's relinquishment, pursuant to stipulation executed June 5, 2015,

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1. As of December 31, 2014, this account held \$5,672.00.  
2. As of March 5, 2015, the value of the account was \$199,078.56.  
3. As of December 31, 2014, this account held \$9,840.00.  
4. As of December 31, 2014, this account held \$700.13.

of all legal and equitable right, title and interest in the Bank of America account (account number \*\*\*\*\*3978) held in Sergiy Kyrmyza's name ("Sergiy Kyrmyza BOA Account"), and by Bank of America's subsequent liquidation of the Sergiy Kyrmyza BOA Account and transfer of the entire proceeds of the Sergiy Kyrmyza BOA Account to the Commission, within 14 days after entry of this Final Judgment,<sup>5</sup>

Defendant will satisfy the remainder of his disgorgement obligation, prejudgment interest obligation, and his civil penalty obligation pursuant to the terms of the payment schedule set forth in Paragraph IV below after entry of this Final Judgment.

Defendant may transmit his payments electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>. Defendant may also pay by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to

Enterprise Services Center  
Accounts Receivable Branch  
6500 South MacArthur Boulevard  
Oklahoma City, OK 73169

and shall be accompanied by a letter identifying the case title, civil action number, and name of this Court; Dimitry Braverman's name as a defendant in this action; and specifying that payment is made pursuant to this Final Judgment.

Interactive Brokers LLC, Bank of America, and optionsXpress may pay by certified check, bank cashier's check, or United States postal money order payable to the Securities and

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5. As of December 31, 2014, this account held \$5,118.00.

Exchange Commission, which shall be delivered or mailed to

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and shall be accompanied by a letter identifying the case title, civil action number, and name of this Court; Dimitry Braverman's name as a defendant in this action; and specifying that payment is made pursuant to this Final Judgment.

Defendant, Interactive Brokers LLC, Bank of America, and optionsXpress shall simultaneously transmit photocopies of evidence of payment and case identifying information to the Commission's counsel in this action by electronic mail to [chandrasekharc@sec.gov](mailto:chandrasekharc@sec.gov) and/or by overnight mail delivery service to:

Charu A. Chandrasekhar  
Senior Counsel, Division of Enforcement  
U.S. Securities and Exchange Commission  
Brookfield Place  
200 Vesey Street, Suite 400  
New York, NY 10281

Defendant relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to Defendant. The Commission shall send the funds paid pursuant to this Final Judgment to the United States Treasury.

The Commission may enforce the Court's judgment for disgorgement and prejudgment interest by moving for civil contempt (and/or through other collection procedures authorized by law) at any time after 14 days following entry of this Final Judgment. Defendant shall pay post judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

IV.

After the payments set forth in Paragraph III have been made, Braverman shall pay the remainder of his disgorgement obligation, prejudgment interest obligation, and his civil penalty obligation in twenty (20) installments to the Commission according to the following schedule:

- (1) \$50,000, within 90 days of entry of this Final Judgment;
- (2) Nineteen (19) subsequent installments, commencing 90 days after the payment of the \$50,000 specified in Paragraph IV(1)) and continuing for every 90 days thereafter until all 19 payments been made, of one-nineteenth of the outstanding balance (which is the total amount of Braverman's disgorgement obligation, prejudgment interest obligation, and his civil penalty obligation that remains outstanding after the payment of the \$50,000 specified in Paragraph IV(1)).

Payments shall be deemed made on the date they are received by the Commission and shall be applied first to post judgment interest, which accrues pursuant to 28 U.S.C. § 1961 on any unpaid amounts due after 14 days of the entry of Final Judgment. Prior to making each of the payments set forth in this Paragraph, Braverman shall contact the staff of the Commission for the amount due for each payment.

If Braverman fails to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Final Judgment, including post-judgment interest, minus any payments made, shall become due and payable immediately at the discretion of the staff of the Commission without further application to the Court.



V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent is incorporated herein with the same force and effect as if fully set forth herein, and that Defendant shall comply with all of the undertakings and agreements set forth therein.

VI.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the allegations in the complaint are true and admitted by Defendant, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Defendant under this Final Judgment or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Defendant of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

VII.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

Dated: June 15, 2015



UNITED STATES DISTRICT JUDGE