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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

JAMMIN' JAVA CORP., dba MARLEY
COFFEE, SHANE G. WHITTLE, WAYNE
S. P. WEAVER, MICHAEL K. SUN, RENE
BERLINGER, STEPHEN B. WHEATLEY,
KEVIN P. MILLER, MOHAMMED A. AL-
BARWANI, ALEXANDER J. HUNTER,
and THOMAS E. HUNTER,

Defendants.

Case No. 2:15-cv-08921 SVW (MRWx)

**FINAL JUDGMENT AS TO
DEFENDANT RENE BERLINGER**

1 The Securities and Exchange Commission (“Commission”) having filed an Amended
2 Complaint and Defendant Rene Berlinger (“Defendant”) having entered a general appearance;
3 consented to the Court’s jurisdiction over Defendant and the subject matter of this action;
4 consented to entry of this Final Judgment without admitting or denying the allegations of the
5 Amended Complaint (except as to jurisdiction and except as otherwise provided herein in
6 paragraph VI); waived findings of fact and conclusions of law; and waived any right to appeal
7 from this Final Judgment:

8 I.

9 IT IS HEREBY ordered, adjudged, and decreed that Defendant is permanently
10 restrained and enjoined from violating Section 5 of the Securities Act of 1933 (“Securities
11 Act”), 15 U.S.C. § 77e, by, directly or indirectly, in the absence of any applicable exemption:

12 (a) unless a registration statement is in effect as to a security, making use of any
13 means or instruments of transportation or communication in interstate commerce or of the
14 mails to sell such security through the use or medium of any prospectus or otherwise;

15 (b) unless a registration statement is in effect as to a security, carrying or causing to
16 be carried through the mails or in interstate commerce, by any means or instruments of
17 transportation, any such security for the purpose of sale or for delivery after sale; or

18 (c) making use of any means or instruments of transportation or communication in
19 interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of
20 any prospectus or otherwise any security, unless a registration statement has been filed with the
21 Commission as to such security, or while the registration statement is the subject of a refusal
22 order or stop order or (prior to the effective date of the registration statement) any public
23 proceeding or examination under Section 8 of the Securities Act, 15 U.S.C. § 77h.

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

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II.

IT IS HEREBY FURTHER ordered, adjudged, and decreed that Defendant is barred for a period of five (5) years from entry of this Judgment from participating in an offering of penny stock, including engaging in activities with a broker, dealer, or issuer for purposes of issuing, trading, or inducing or attempting to induce the purchase or sale of any penny stock. A penny stock is any equity security that has a price of less than five dollars, except as provided in Rule 3a51-1 under the Exchange Act, 17 C.F.R. § 240.3a51-1.

III.

IT IS FURTHER ordered, adjudged, and decreed that Defendant is liable for disgorgement in the amount of \$47,069.86, representing profits gained as a result of the conduct alleged in the Amended Complaint, together with prejudgment interest thereon in the amount of \$6,691.91. Defendant shall make this payment pursuant to the terms of the payment schedule set forth in paragraph IV below after entry of this Final Judgment.

Defendant may transmit payment 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; Rene Berlinger as a defendant in this action; and specifying that payment is made pursuant to this Final Judgment.

Defendant shall simultaneously transmit photocopies of evidence of payment and case identifying information to the Commission's counsel in this action. By making this payment,

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

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

8 IV.

9 Defendant shall pay the total of disgorgement and prejudgment interest due of
10 \$53,761.77 in five (5) installments to the Commission according to the following
11 schedule: (1) \$10,000.00 within 14 days of entry of this Final Judgment; (2)
12 \$10,940.44 within 90 days of entry of this Final Judgment; (3) \$10,940.44 within 180
13 days of entry of this Final Judgment; (4) \$10,940.44 within 270 days of entry of this
14 Final Judgment; and (5) \$10,940.45 (plus any remaining post judgment interest)
15 within 360 days of entry of this Final Judgment. Payments shall be deemed made on
16 the date they are received by the Commission and shall be applied first to post
17 judgment interest, which accrues pursuant to 28 U.S.C. § 1961 on any unpaid amounts
18 due after 14 days of the entry of Final Judgment. Prior to making the final payment
19 set forth herein, Defendant shall contact the staff of the Commission for the amount
20 due for the final payment.

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

26 V.

27 IT IS FURTHER ordered, adjudged, and decreed that the Consent is incorporated
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1 herein with the same force and effect as if fully set forth herein, and that Defendant shall
2 comply with all of the undertakings and agreements set forth therein.

3 VI.

4 IT IS FURTHER ordered, adjudged, and decreed that, solely for purposes of exceptions
5 to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the allegations
6 in the Amended Complaint are true and admitted by Defendant, and further, any debt for
7 disgorgement, prejudgment interest, civil penalty or other amounts due by Defendant under
8 this Final Judgment or any other judgment, order, consent order, decree or settlement
9 agreement entered in connection with this proceeding, is a debt for the violation by Defendant
10 of the federal securities laws or any regulation or order issued under such laws, as set forth in
11 Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

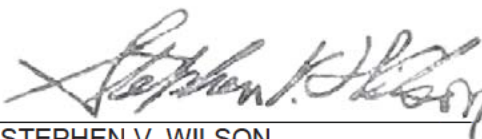
12 VII.

13 IT IS FURTHER ordered, adjudged, and decreed that this Court shall retain
14 jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

15 VIII.

16 There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of
17 Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without
18 further notice.

19 Dated: May 24, 2017

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21 STEPHEN V. WILSON
22 United States District Judge
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