

Amy J. Oliver (Admitted *pro hac vice*)
Laurie E. Abbott (Admitted *pro hac vice*)
Securities and Exchange Commission
351 South West Temple, Suite 6.100
Salt Lake City, UT 84101-1950
Tel.: (801) 524-5796
olivera@sec.gov
abbottla@sec.gov
Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

SECURITIES AND EXCHANGE
COMMISSION

Plaintiff,

v.

ALEXANDER BEVIL, an individual;
RICHARD MCCALL BOHNSACK, an
individual; DANIEL THOMAS BROYLES, an
individual; CHARLES CARY DAVIS, an
individual; WILLIAM JAMES ROTH, an
individual; GLENN JOSEPH STORY, an
individual; and HAROLD WASSERMAN, an
individual,

Defendants.

Case No.: 2:19-cv-590-RFB-CWH

**FINAL JUDGMENT AS TO
DEFENDANTS ALEXANDER BEVIL,
CHARLES CARY DAVIS, AND
WILLIAM JAMES ROTH**

The Securities and Exchange Commission having filed a Complaint, and Defendants Alexander Bevil, Charles Cary Davis, and William James Roth (collectively, “Defendants”) having entered a general appearance; consented to the Court’s jurisdiction over them and the subject matter of this action; consented to entry of this Final Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction and except as otherwise provided herein in paragraph VIII); 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 Defendants are permanently restrained and enjoined from violating, directly or indirectly, Section 15(a)(1) of the Exchange Act [15 U.S.C. § 78o(a)(1)] by making use of the mails or any means or instrumentality of interstate commerce to effect transactions in or induce or attempt to induce the purchase or sale of securities while they, or anyone hired by them to effect transactions in or induce or attempt to induce the purchase or sale of securities, are not registered with the Commission as a broker or dealer or while they, or anyone hired by them to effect transactions in or induce or attempt to induce the purchase or sale of securities, are not associated with an entity registered with the Commission as a broker or dealer.

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) the officers, agents, servants, employees, and attorneys of any of the Defendants; and (b) other persons in active concert or participation with any of the Defendants or with anyone described in (a).

II.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendants are permanently restrained and enjoined from violating Section 5 of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. § 77e] by, directly or indirectly, in the absence of any applicable exemption:

- (a) unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate

1 commerce or of the mails to sell such security through the use or medium
2 of any prospectus or otherwise;

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

7
8 (c) making use of any means or instruments of transportation or
9 communication in interstate commerce or of the mails to offer to sell or
10 offer to buy through the use or medium of any prospectus or otherwise any
11 security, unless a registration statement has been filed with the
12 Commission as to such security, or while the registration statement is the
13 subject of a refusal order or stop order or (prior to the effective date of the
14 registration statement) any public proceeding or examination under
15 Section 8 of the Securities Act [15 U.S.C. § 77h].
16

17
18 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in
19 Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who
20 receive actual notice of this Final Judgment by personal service or otherwise: (a) the officers,
21 agents, servants, employees, and attorneys of any of the Defendants; and (b) other persons in
22 active concert or participation with any of the Defendants or with anyone described in (a).
23

24 III.

25 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
26 Defendants Bevil and Roth are permanently restrained and enjoined from violating Section
27 17(a)(2) of the Securities Act [15 U.S.C. § 77q(a)] in the offer or sale of any security by the use
28

1 of any means or instruments of transportation or communication in interstate commerce or by
2 use of the mails, directly or indirectly, to obtain money or property by means of any untrue
3 statement of a material fact or any omission of a material fact necessary in order to make the
4 statements made, in light of the circumstances under which they were made, not misleading.

5 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in
6 Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who
7 receive actual notice of this Final Judgment by personal service or otherwise: (a) the officers,
8 agents, servants, employees, and attorneys of Defendants Bevil and/or Roth; and (b) other
9 persons in active concert or participation with Defendants Bevil and/or Roth or with anyone
10 described in (a).
11
12

13 IV.

14 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendants are
15 permanently restrained and enjoined from directly or indirectly, including, but not limited to,
16 through any entity owned or controlled by any of them soliciting any person or entity to purchase
17 or sell any security.
18

19 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in
20 Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who
21 receive actual notice of this Final Judgment by personal service or otherwise: (a) the officers,
22 agents, servants, employees, and attorneys of any of the Defendants and (b) other persons in
23 active concert or participation with any of the Defendants or with anyone described in (a).
24

25 V.

26 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
27 Defendants Bevil and Roth are permanently barred from participating in an offering of penny
28

1 stock, including engaging in activities with a broker, dealer, or issuer for purposes of issuing,
2 trading, or inducing or attempting to induce the purchase or sale of any penny stock. A penny
3 stock being any equity security that has a price of less than five dollars, except as provided in
4 Exchange Act Rule 3a51-1 [17 C.F.R. § 240.3a51-1].

5 VI.

6 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that:
7

- 8 (a) Defendant Bevil is liable for disgorgement of \$45,295.92, representing profits
9 gained as a result of the conduct alleged in the Complaint, together with
10 prejudgment interest thereon in the amount of \$1,839.19;
11
12 (b) Defendant Davis is liable for disgorgement of \$90,000.00, representing profits
13 gained as a result of the conduct alleged in the Complaint, together with
14 prejudgment interest thereon in the amount of \$3,654.37;
15
16 (c) Defendant Roth is liable for disgorgement of \$144,325.00, representing profits
17 gained as a result of the conduct alleged in the Complaint, together with
18 prejudgment interest thereon in the amount of \$5,860.17;
19
20 (d) Defendant Bevil is liable for a civil penalty in the amount of \$22,000.00 pursuant
21 to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of
22 the Exchange Act [15 U.S.C. § 78u(d)(3)];
23
24 (e) Defendant Davis is liable for a civil penalty in the amount of \$45,000.00 pursuant
25 to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of
26 the Exchange Act [15 U.S.C. § 78u(d)(3)]; and,
27
28

1 (f) Defendant Roth is liable for a civil penalty in the amount of \$65,000.00 pursuant
2 to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of
3 the Exchange Act [15 U.S.C. § 78u(d)(3)].

4 Defendants shall satisfy their obligation by paying, as set forth above, to the Securities
5 and Exchange Commission within 14 days after entry of this Final Judgment.

6
7 Defendants may transmit payment electronically to the Commission, which will provide
8 detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly
9 from a bank account via Pay.gov through the SEC website at
10 <http://www.sec.gov/about/offices/ofm.htm>. Defendants may also pay by certified check, bank
11 cashier's check, or United States postal money order payable to the Securities and Exchange
12 Commission, which shall be delivered or mailed to

13
14 Enterprise Services Center
15 Accounts Receivable Branch
16 6500 South MacArthur Boulevard
Oklahoma City, OK 73169

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

20
21 Defendants shall simultaneously transmit photocopies of evidence of payment and case
22 identifying information to the Commission's counsel in this action. By making such payment,
23 Defendants relinquishes all legal and equitable right, title, and interest in such funds and no part
24 of the funds shall be returned to any Defendants.

25 The Commission may enforce the Court's judgment for disgorgement and prejudgment
26 interest by moving for civil contempt (and/or through other collection procedures authorized by
27 law) at any time after 14 days following entry of this Final Judgment. Defendants shall pay post
28

1 judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961. The Commission
2 shall hold the funds, together with any interest and income earned thereon (collectively, the
3 “Fund”), pending further order of the Court.

4 The Commission may propose a plan to distribute the Fund subject to the Court’s
5 approval. Such a plan may provide that the Fund shall be distributed pursuant to the Fair Fund
6 provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. The Court shall retain
7 jurisdiction over the administration of any distribution of the Fund. If the Commission staff
8 determines that the Fund will not be distributed, the Commission shall send the funds paid
9 pursuant to this Final Judgment to the United States Treasury.
10

11 Regardless of whether any such Fair Fund distribution is made, amounts ordered to be
12 paid as civil penalties pursuant to this Judgment shall be treated as penalties paid to the
13 government for all purposes, including all tax purposes. To preserve the deterrent effect of the
14 civil penalty, Defendants shall not, after offset or reduction of any award of compensatory
15 damages in any Related Investor Action based on Defendants’ payment of disgorgement in this
16 action, argue that they are entitled to, nor shall they further benefit by, offset or reduction of such
17 compensatory damages award by the amount of any part of any of the Defendants’ payment of a
18 civil penalty in this action (“Penalty Offset”). If the court in any Related Investor Action grants
19 such a Penalty Offset, Defendants shall, within 30 days after entry of a final order granting the
20 Penalty Offset, notify the Commission’s counsel in this action and pay the amount of the Penalty
21 Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a
22 payment shall not be deemed an additional civil penalty and shall not be deemed to change the
23 amount of the civil penalty imposed in this Judgment. For purposes of this paragraph, a “Related
24 Investor Action” means a private damages action brought against any of the Defendants by or on
25
26
27
28

1 behalf of one or more investors based on substantially the same facts as alleged in the Complaint
2 in this action.

3 VII.

4 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consents of the
5 Defendants are incorporated herein with the same force and effect as if fully set forth herein, and
6 that Defendants shall comply with all of the undertakings and agreements set forth therein.
7

8 VIII.

9 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, solely for purposes
10 of exceptions to discharge set forth in Section 523 of the Bankruptcy Code [11 U.S.C. § 523], the
11 allegations in the complaint are true and admitted by Defendants, and further, any debt for
12 disgorgement, prejudgment interest, civil penalty or other amounts due by Defendants under this
13 Final Judgment or any other judgment, order, consent order, decree or settlement agreement
14 entered in connection with this proceeding, is a debt for the violation by Defendants of the
15 federal securities laws or any regulation or order issued under such laws, as set forth in Section
16 523(a)(19) of the Bankruptcy Code [11 U.S.C. § 523(a)(19)].
17
18

19 IX.

20 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain
21 jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.
22

23 X.

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

26 Dated: May 21, 2019.



27
28 RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE