

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

SECURITIES AND EXCHANGE COMMISSION)	
)	
Plaintiff,)	
)	Case No: 19 C 6458
v.)	
)	Judge Martha M. Pacold
MARCUS BEAM)	
)	
Defendant.)	
_____)	

ORDER AND DEFAULT FINAL JUDGMENT AGAINST DEFENDANT

THIS MATTER is before the Court on Plaintiff Securities and Exchange Commission’s Motion for Entry of Default Final Judgment against Defendant (“Motion”). Having considered the Motion, accompanying brief, declarations, pleadings and all matters of record, the Court enters the following Order granting the Motion, and imposing default final judgment against Defendant Marcus Beam (“Beam”).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. This Court has personal jurisdiction over Beam and the subject matter of this action. Venue is proper in the Northern District of Illinois.
2. Beam executed a waiver of service of the summons, and acknowledged receipt of a copy of the Complaint (Dkt. 10). Thus, he has proper notice of this action.
3. Beam is not an infant nor a minor; has not been declared incompetent by a U.S. court; and is not a person in U.S. military service or otherwise exempted from default judgment pursuant to 50 U.S.C. app. § 521.
4. As of the date of this Order and Final Judgment, Beam has failed to answer or otherwise respond to the Complaint as required by the Federal Rules of Civil Procedure.

5. On the SEC's motion, this Court entered default against Beam on June 9, 2020 (Dkt. 25).

6. By virtue of the default and his failure to respond to the Complaint, Beam is deemed to have admitted the allegations of the Complaint.

7. The Court finds the Complaint states claims for which relief can be granted under Section 17(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. § 77q(a); Section 10(b) and Rule 10b-5 of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5; and Sections 206(1), 206(2), and 206(4) and Rule 206(4)-8 of the Investment Advisers Act of 1940 ("Advisers Act"), 15 U.S.C. §§ 80b-6(1), 80b-6(2), 80b-6(4), and 17 C.F.R. § 275.206(4)-8.

8. Accordingly, because the Complaint's allegations are deemed admitted, the Court further finds Beam committed the violations of the securities laws alleged in the Complaint, and liability is established against him.

Accordingly, **IT IS ORDERED** that the SEC's Motion for Entry of Default Final Judgment against Defendant is **GRANTED**.

JUDGMENT OF PERMANENT INJUNCTION

On the basis of the foregoing, **FINAL JUDGMENT IS HEREBY ENTERED** against Defendant Marcus Beam as follows:

I.

SECTION 17(a) OF THE SECURITIES ACT

Beam is permanently restrained and enjoined from violating Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a), in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly: (i) to employ any device, scheme, or artifice to defraud; (ii) to obtain money

or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or (iii) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

As provided in Fed. R. Civ. P. 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Judgment by personal service or otherwise: (a) Beam's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Beam or with anyone described in (a).

II.
SECTION 10(b) AND RULE 10b-5 OF THE EXCHANGE ACT

Beam is permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of 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: (i) to employ any device, scheme, or artifice to defraud; (ii) 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 (iii) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

As provided in Fed. R. Civ. P. 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Judgment by personal service or otherwise: (a) Beam's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Beam or with anyone described in (a).

III.
SECTIONS 206(1) AND 206(2) OF THE ADVISERS ACT

Beam is permanently restrained and enjoined from violating Sections 206(1) and 206(2) of the Advisers Act, 15 U.S.C. §§ 80b-6(1) and (2), by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly, while acting as an investment adviser: (i) to employ any device, scheme or artifice to defraud any client or prospective client; or (ii) to engage in any transaction, practice or course of business which operates as a fraud or deceit upon any client or prospective client.

As provided in Fed. R. Civ. P. 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Judgment by personal service or otherwise: (a) Beam's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Beam or with anyone described in (a).

IV.
SECTION 206(4) AND RULE 206(4)-8 OF THE ADVISERS ACT

Beam is permanently restrained and enjoined from violating Section 206(4) and Rule 206(4)-8 of the Advisers Act, 15 U.S.C. § 80b-6(4) and 17 C.F.R. § 275.206(4)-8, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly, while acting as an investment adviser: (i) 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, to an investor or prospective investor in a pooled investment vehicle; or (ii) to engage in any act, practice or course of business that is fraudulent, deceptive, or manipulative with respect to investors or prospective investors in a pooled investment vehicle.

As provided in Fed. R. Civ. P. 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Judgment by personal service or otherwise: (a) Beam's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Beam or with anyone described in (a).

V.
DISGORGEMENT AND CIVIL PENALTY

Beam is liable for disgorgement of \$207,000.00, representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$12,921.07. Beam is further liable for a civil penalty in the amount of \$207,000.00 pursuant to Section 20(d) of the Securities Act, Section 21(d) of the Exchange Act, and Section 209(e) of the Advisers Act, 15 U.S.C. §§ 77t(d), 78u(d)(3), and 80b-9(e). Beam shall satisfy these obligations by paying the total disgorgement and prejudgment interest amount of \$219,921.07 and the total civil penalty amount of \$207,000.00 to the SEC within 30 days after entry of this Final Judgment.

Beam may transmit payment electronically to the SEC, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment also may be made directly from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>. Beam also may 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; Beam's name as a defendant in this action; and specifying that payment is made pursuant to this Final Judgment.

Beam shall simultaneously transmit photocopies of evidence of payment and case identifying information to the SEC's counsel in this action. By making this payment, Beam relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to him.

The SEC shall hold the funds (collectively, the "Fund") and may propose a plan to distribute the Fund subject to the Court's approval. The Court shall retain jurisdiction over the administration of any distribution of the Fund. If the SEC staff determines the Fund will not be distributed, the SEC shall send the funds paid pursuant to this Final Judgment to the United States Treasury.

The SEC 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 30 days following entry of this Final Judgment. Beam shall pay post judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

VI.

BANKRUPTCY NONDISCHARGEABILITY

IT IS HEREBY FURTHER ORDERED AND ADJUDGED that any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Beam under this Order and 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 Beam 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
RETENTION OF JURISDICTION

IT IS HEREBY FURTHER ORDERED AND ADJUDGED that this Court shall retain jurisdiction of this matter and of Beam for the purposes of enforcing the terms of this Order and Final Judgment.

DONE AND ORDERED in Chicago, Illinois, this 21st day of September, 2020.

/s/ Martha M. Pacold
MARTHA M. PACOLD
UNITED STATES DISTRICT JUDGE

Copies to:

All counsel of record (via CM-ECF)

Marcus Beam, *pro se*, marcus.beam@gmail.com