

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

SECURITIES AND EXCHANGE
COMMISSION.,

Plaintiffs,

v.

MESSIER, *et al.*,

Defendants.

Case No. 20-cv-105-BAS (AGS)
**FINAL JUDGMENT AS TO
DEFENDANT SCOTT CHARLES
MESSIER**

The Securities and Exchange Commission having filed a Complaint and Defendant Scott Charles Messier 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 without admitting or denying the allegations of the Complaint (except as to jurisdiction and except as otherwise provided herein in paragraph VI); 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:

1 (a) to employ any device, scheme, or artifice to defraud;

2 (b) to make any untrue statement of a material fact or to omit to state a material
3 fact necessary in order to make the statements made, in the light of the circumstances
4 under which they were made, not misleading; or

5 (c) to engage in any act, practice, or course of business which operates or would
6 operate as a fraud or deceit upon any person.

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

13 II.

14 **IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED** that
15 Defendant is permanently restrained and enjoined from violating Section 17(a) of the
16 Securities Act of 1933 (the "Securities Act") [15 U.S.C. § 77q(a)] in the offer or sale of
17 any security by the use of any means or instruments of transportation or communication
18 in interstate commerce or by use of the mails, directly or indirectly:

19 (a) to employ any device, scheme, or artifice to defraud;

20 (b) to obtain money or property by means of any untrue statement of a material
21 fact or any omission of a material fact necessary in order to make the statements made, in
22 light of the circumstances under which they were made, not misleading; or

23 (c) to engage in any transaction, practice, or course of business which operates
24 or would operate as a fraud or deceit upon the purchaser.

25 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that, as provided
26 in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the
27 following who receive actual notice of this Final Judgment by personal service or

1 otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b)
2 other persons in active concert or participation with Defendant or with anyone described
3 in (a).

4 III.

5 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendant is
6 permanently restrained and enjoined from violating, directly or indirectly, Section
7 15(a)(1) of the Exchange Act [15 U.S.C. § 78o(a)(1)] by using any means or
8 instrumentality of interstate commerce, or of the mails, or of any facility of any national
9 securities exchange, to effect transactions in, or induce or attempt to induce the purchase
10 or sale of, securities while not registered with the Commission as a broker or dealer or
11 while not associated with an entity registered with the Commission as a broker or dealer.

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

17 IV.

18 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendant is
19 permanently restrained and enjoined from, directly or indirectly, including, but not limited
20 to, through any entity owned or controlled by Defendant, soliciting any person or entity
21 to purchase or sell any security.

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

27 V.

1 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Defendant
2 is liable for disgorgement of \$706,705.06, representing profits gained as a result of the
3 conduct alleged in the Complaint, together with prejudgment interest thereon in the
4 amount of \$37,812.35 and a civil penalty in the amount of \$150,000.00 pursuant to Section
5 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act
6 [15 U.S.C. § 78u(d)(3)]. Defendant shall satisfy this obligation by paying the amounts set
7 forth above to the Securities and Exchange Commission within 30 days after entry of this
8 Final Judgment.

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

15 Enterprise Services Center
16 Accounts Receivable Branch
17 6500 South MacArthur Boulevard
18 Oklahoma City, OK 73169

19 and shall be accompanied by a letter identifying the case title, civil action number, and
20 name of this Court; Scott Charles Messier as a defendant in this action; and specifying
21 that payment is made pursuant to this Final Judgment.

22 Defendant shall simultaneously transmit photocopies of evidence of payment and
23 case identifying information to the Commission's counsel in this action. By making this
24 payment, Defendant relinquishes all legal and equitable right, title, and interest in such
25 funds and no part of the funds shall be returned to Defendant. The Commission shall send
26 the funds paid pursuant to this Final Judgment to the United States Treasury.

27 The Commission may enforce the Court's judgment for disgorgement and
28 prejudgment interest by moving for civil contempt (and/or through other collection

1 procedures authorized by law) at any time after 30 days following entry of this Final
2 Judgment. Defendant shall pay post judgment interest on any delinquent amounts
3 pursuant to 28 U.S.C. § 1961.


4 VI.

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

14 VII.

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

18
19 **DATED: January 22, 2020**

20 
21 **Hon. Cynthia Bashant**
22 **United States District Judge**