

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

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SECURITIES AND EXCHANGE COMMISSION,	§	
	§	
Plaintiff,	§	Case No.: 6:04-cv-455
	§	
v.	§	
SAFESCRIPPT PHARMACIES, INC.	§	Final Judgment by
formerly known as RTIN HOLDINGS, INC.,	§	Default against Defendant
CURTIS A. SWANSON,	§	R. Stephen Cavendar
STANLEY L. SWANSON,	§	
R. STEPHEN CAVENDAR,	§	
and CURTIS A. BORMAN,	§	
	§	
Defendants.	§	

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This matter came before this Court on the motion of plaintiff, Securities and Exchange Commission, seeking entry of a final judgment by default, providing it with the relief requested in its *Complaint* against R. Stephen Cavendar (“Defendant”) by reason of his failure to answer the Commission's *Complaint*, or otherwise appear in or defend this civil action.

This Court having considered the pleadings and declarations on file herein makes the following findings of fact and conclusions of law:

1. The Commission's *Complaint* was filed on October 5, 2004.
2. Defendant was served with the *Complaint* and *Summons* on October 19, 2004.
3. The *Affidavit of Service* for Defendant was filed with the Clerk on November 16, 2004.
4. Defendant has not filed an answer to the *Complaint*, nor has he otherwise appeared before this Court to defend in this cause.

5. Defendant is not an infant or incompetent. Defendant is not eligible for relief under the Soldiers' and Sailors' Civil Relief Act of 1940 [50 U.S.C. Appendix, § 501 et seq.].

6. The Court has personal jurisdiction over Defendant, and the subject matter jurisdiction over this action. Venue is proper in this district.

7. The Commission seeks an order enjoining Defendant from committing future violations, or causing future violations of Sections 5(a) and 5(c) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§77e(a) and 77e(c)] and Sections 10(b) and 13(b)(5) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§78j(b) and 78m(b)(5)] and Rules 10b-5, 13b2-1, 13b2-2 and 13a-14 thereunder [17 C.F.R. §§240.10b-5, 240.13b2-1, 240.13b2-2 and 240.13a-14], and aiding and abetting violations of Sections 10(b), 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§78j(b), 78m(a), 78(b)(2)(A) and 78m(b)(2)(B)] and Rules 10b-5, 12b-20, 13a-1 and 13a-13 thereunder [17 C.F.R. §§240.10b-5, 240.12b-20, 240.13a-1 and 240.13a-13].

8. The Commission seeks the entry of an order that directs Defendant to pay disgorgement, representing the amount paid or attributable to him from the proceeds of unlawful securities transactions set out in the Commission's *Complaint* and prejudgment interest accrued at the rate permitted by law, from the date the funds were received through the date of this motion.

9. The Commission seeks to recover an appropriate civil penalty from Defendant pursuant to Section 20(d) of the Securities Act and Section 21(d)(3) of the Exchange Act, because his violations of the federal securities laws, as described in the Commission's *Complaint*, (a) involved fraud, deceit and a deliberate or reckless disregard of regulatory requirements, and (b) directly or indirectly resulted in substantial losses to investors or, at least, created a significant risk of substantial losses to investors.

10. Upon entry of the final judgment by default, the Commission will present evidence to this Court regarding the amount of disgorgement, and the prejudgment interest calculation, that the Commission is seeking against the Defendant.

11. Upon entry of the default judgment, the Commission will recommend to this Court a civil money penalty in a specific amount that the Commission is seeking against the Defendant.

On the basis of the foregoing findings of fact and conclusions of law:

**I.**

IT IS HEREBY ORDERED, ADJUDGED and DECREED that Defendant, his officers, agents, servants, employees, attorneys-in-fact and those persons in active concert or participation with him who receive actual notice of this Order by personal service or otherwise, and each of them, be and hereby are permanently restrained and enjoined from any of the following:

A. violating, or aiding and abetting any violation of, 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.

B. violating Section 5 of the Securities Act [15 U.S.C. §77e] by, directly or indirectly, in the absence of any applicable exemption:

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

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

(iii) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to carry or transmit any prospectus relating to any security with respect to which a registration statement has been filed, unless such prospectus meets the requirements of Section 10 of the Securities Act [15 U.S.C. §77j];

(iv) carrying or causing to be carried through the mails or in interstate commerce any such security for the purpose of sale or for delivery after sale, unless accompanied or preceded by a prospectus that meets the requirements of subsection (a) of Section 10 of the Securities Act [15 U.S.C. §77j(a)];

(v) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed as to such security, or while the registration

statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or examination under Section 8 of the Securities Act [15 U.S.C. §77h].

C. aiding and abetting any violation of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20, 13a-1 and 13a-13 thereunder [17 C.F.R. §§ 240.12b-20, 240.13a-1, and 240.13a-13] by:

(i) failing to file with the Commission:

(a) such information and documents as the Commission shall require to keep reasonably current the information and documents required to be included in or filed with an application or registration statement filed pursuant to Section 12 of the Exchange Act, and

(b) such annual and quarterly reports as prescribed by Commission Rules 13a-1 and 13a-13; or

(ii) failing to add to any statement or report filed pursuant to Section 12 of the Exchange Act such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made, not misleading as described in Rule 12b-20.

D. aiding and abetting any violation of Section 13b(2) of the Exchange Act [15 U.S.C. § 78m(b)(2)] by knowingly providing substantial assistance to an issuer that fails to:

(i) make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of its assets;

(ii) devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that

(a) transactions are executed in accordance with management's general or specific authorization;

(b) transactions are recorded as necessary (I) to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, and (II) to maintain accountability for assets;

(c) access to assets is permitted only in accordance with management's general or specific authorization; and

(d) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

E. violating Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] and Rule 13b2-1 promulgated thereunder [17 C.F.R. §§ 240.13b2-1], by knowingly circumventing or knowingly failing to implement a system of internal accounting controls or knowingly falsifying any book record or account described in Section 13(b)(2) of the Exchange Act; or falsifying or causing to be falsified, any book, record or account subject to section 13(b)(2)(A) of the Exchange Act.

F. violating Exchange Act Rule 13a-14 [17 C.F.R. §240. 13a-14] which requires that principal officers of an issuer certify, in regard to each periodic report filed with the Commission, that, among other things, he or she has reviewed the report and that the report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading; the financial statements, and other financial information included in the report, fairly present in all material respects the financial condition, results of operations and cash flows

of the issuer; and that he or she has designed such disclosure controls and procedures to ensure that material information relating to the issuer, including its consolidated subsidiaries, is made known to them by others within those entities, particularly during periods in which the periodic reports are being prepared; and that he or she has disclosed to the issuer's auditors and the audit committee of the board of directors any fraud, whether or not material, that involves management or other employees who have a significant role in the issuer's internal controls

## II.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that based on the Defendant's default and his incumbent admission of the facts plead against him in the Commission's *Complaint*, disgorgement should be ordered, and prejudgment interest thereon, and a civil money penalty assessed. Upon entry of this Order, the Commission shall make application to this Court, supported by affidavit or declaration, for an order setting the disgorgement amount, and assessing prejudgment interest and a civil money penalty. Following entry of such order and assessment, the Commission shall request entry of a final judgment pursuant to FED. R. CIV. P. Rules 54 and 58.

## III.

This Court shall retain jurisdiction over this action for all purposes, including for purposes of entertaining any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court, including but not limited to the relief requested by the Commission in its *Complaint*.

## IV.

This *Final Judgment by Default* may be served upon Defendant in person or by mail either by the United States Marshal, the Clerk of the Court, or any member of the staff of the Securities and Exchange Commission.

V.

There being no just reason for delay, the Clerk of this Court is hereby directed to enter this *Final Judgment by Default* pursuant to rules 54, 58 and 79 FED. R. CIV. P.

Dated this 18 day of October, 2005.

A handwritten signature in black ink, reading "Michael H. Schneider". The signature is written in a cursive, flowing style with a horizontal line underneath the name.

MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE