

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

**06-22440**  
**CIV. LIT.**  
**TORRES**

CASE NO.

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

DONALD E. SECUNDA, et al.,

Defendants.

FILED by *[Signature]* D.C.  
OCT - 3 2006  
CLARENCE MADDOX  
CLERK U.S. DIST. CT.  
S. D. OF FLA. - MIAMI

**JUDGMENT OF PERMANENT INJUNCTION  
AND OTHER RELIEF AGAINST DONALD E. SECUNDA**

Defendant Donald E. Secunda ("Secunda") by the Consent annexed hereto, without admitting or denying any of the allegations in the Complaint filed by the Securities and Exchange Commission ("Commission"), except that he acknowledges service of the Complaint against him and admits the jurisdiction of this Court over him and over the subject matter of this action, has agreed to the entry of this Judgment of Permanent Injunction and Other Relief against Donald E. Secunda ("Judgment"). Secunda has furthermore waived findings of fact and conclusions of law and has waived any right to appeal from this Judgment. This Court, having accepted Secunda's Consent and having jurisdiction over Secunda and the subject matter of this action, and being fully advised in the premises, orders as follows:

*10/11/06*

I.

**PERMANENT INJUNCTION AS TO SECUNDA**

**IT IS ORDERED AND ADJUDGED** that Secunda, his directors, officers, agents, servants, employees, attorneys, and those persons in active concert or participation with him, and each of them, are restrained and enjoined from:

**Section 5 of the Securities Act of 1933**

A. Directly or indirectly, (a) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell securities in the form of units, common stock, warrants or any other securities (including, but not limited to, the investment contracts, promissory notes or limited liability companies), through the use or medium of any prospectus or otherwise, unless and until a registration statement is in effect with the Commission as to such securities; (b) carrying securities, in the form of units, common stock, warrants or any other securities (including, but not limited to, the investment contracts, promissory notes or limited liability companies), or causing them to be carried through the mails or in interstate commerce, by any means or instruments of transportation, for the purpose of sale or for delivery after sale, unless and until a registration statement is in effect with the Commission as to such securities; or (c) 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 securities, in the form of units, common stock, warrants or any other securities (including, but not limited to, the investment contracts, promissory notes or limited liability companies), unless a registration statement is filed with the Commission as to such securities, or while a registration statement filed with the Commission as to such security 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, in violation of Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) and 77e(c), provided, however, that nothing in the foregoing portion of this injunction shall apply to any security or transaction which is exempt from the provisions of Section 5 of the Securities Act, 15 U.S.C. § 77e.

**Section 17(a) of the Securities Act of 1933**

B. Directly or indirectly, by use of any means or instruments of transportation or communication in interstate commerce, or by the use of the mails, in the offer or sale of securities, knowingly or recklessly employing devices, schemes or artifices to defraud, in violation of Section 17(a)(1) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C. § 77q(a)(1);

C. Directly or indirectly, by use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, in the offer or sale of securities, (i) obtaining money or property by means of untrue statements of material facts or omissions to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading; or (ii) engaging in acts, practices and courses of business which have operated and will operate as a fraud or deceit upon purchasers and prospective purchasers of such securities, in violation of Sections 17(a)(2) & (3) of the Securities Act, 15 U.S.C. §§ 77q(a)(2) & (3);

**Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5**

D. Directly or indirectly, by use of 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 securities, knowingly or recklessly: (i) employing devices,

schemes or artifices to defraud; (ii) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or (iii) engaging in acts, practices and courses of business which have operated, are now operating or will operate as a fraud upon the purchasers of such securities in violation of Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5;

**II.**

**OFFICER AND DIRECTOR BAR**

**IT IS FURTHER ORDERED AND ADJUDGED** that pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], Secunda is prohibited from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

**III.**

**PENNY STOCK BAR**

**IT IS FURTHER ORDERED AND ADJUDGED** that pursuant to Section 21(d) of the Exchange Act, 15 U.S.C. § 78u(d), Secunda is barred from participating in an offering of a penny stock, including acting as a promoter, finder, consultant, agent or other person who engages 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].

IV.

**DISGORGEMENT AND CIVIL PENALTY**

**IT IS FURTHER ORDERED AND ADJUDGED** that Secunda is liable for disgorgement of ill-gotten gains, prejudgment interest thereon, and a civil penalty pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. Secunda further agrees that the amounts of the disgorgement and civil penalty shall be determined by the Court, upon motion of the Commission, and that prejudgment interest shall be calculated from April 1, 2002, based on the rate of interest used by the Internal Revenue Service for the underpayment of federal income tax as set forth in 26 U.S.C. § 6621(a)(2). In connection with the Commission's motion for disgorgement and/or civil penalties, and at any hearing held on such a motion: (a) Secunda will be precluded from arguing that he did not violate the federal securities laws as alleged in the Complaint; (b) Secunda may not challenge the validity of this Consent or the Judgment; (c) solely for the purposes of such motion, the allegations of the Complaint shall be accepted as and deemed true by the Court; and (d) the Court may determine the issues raised in the motion on the basis of affidavits, declarations, excerpts of sworn deposition or investigative testimony, and documentary evidence, without regard to the standards for summary judgment contained in Rule 56(c) of the Federal Rules of Civil Procedure. In connection with the Commission's motion for disgorgement and/or civil penalties, the parties may take discovery, including discovery from appropriate non-parties.

V.

**INCORPORATION OF CONSENT**

**IT IS FURTHER ORDERED AND ADJUDGED** that Secunda shall comply with the provisions of the Consent, and that the Consent is incorporated by reference into this Judgment as if fully set forth herein.

VI.

**RETENTION OF JURISDICTION**

**IT IS FURTHER ORDERED AND ADJUDGED** that this Court shall retain jurisdiction over this matter and Secunda in order to implement and carry out the terms of this Judgment and all Orders and Decrees that may be entered, and/or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

VII.

**RULE 54(b) CERTIFICATION**

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

**DONE AND ORDERED** this 3 day of Oct., 2006 at Miami, Florida.

  
**UNITED STATES DISTRICT JUDGE**

Copies: Counsel of Record