

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION**

CASE NO.: 10-CV-80186-MARRA/JOHNSON

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

**WINNING KIDS, INC.,
CHRISTIAN HAINSWORTH,
ROBERT COMISKEY,
EDWARD TAMIMI, and
VICTOR SELENOW,**

Defendants.

**ORDER GRANTING PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT OF
PERMANENT INJUNCTION AND OTHER RELIEF AGAINST DEFENDANT
ROBERT COMISKEY AND ENTERING PERMANENT INJUNCTION**

THIS MATTER is before the Court on Plaintiff Securities and Exchange Commission's Motion for Entry of a Default Judgment of Permanent Injunction And Other Relief Against Defendant Robert Comiskey. Having considered the motion and the entire record, the Court enters the following order granting the Plaintiff's motion, and imposing a Default Judgment of Permanent Injunction and Other Relief against Comiskey:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. This Court has personal jurisdiction over Comiskey and the subject matter of this action. Venue is proper in the Southern District of Florida.

2. Comiskey was properly served with a summons and a copy of the Complaint pursuant to Rule 4 of the Federal Rules of Civil Procedure. Thus, Comiskey has proper notice of this action.

3. As of the date of this Order, Comiskey has failed to answer or otherwise file a responsive pleading to the Complaint as required by the Federal Rules of Civil Procedure.

4. The Clerk of the Court entered a default against Comiskey on April 14, 2010. By virtue of the default and the failure to respond to the Complaint, Comiskey is deemed to have admitted the allegations of the Complaint and liability is established against him. *Buchanan v. Bowman*, 820 F.2d 359, 361 (11th Cir. 1987). Accordingly, the Court finds Comiskey committed the violations alleged in the Complaint.

5. Comiskey is not an infant or an incompetent person and has no guardian, committee, conservator or other such persons appearing on his behalf. Accordingly, it is:

ORDERED AND ADJUDGED that Plaintiff's Motion for Entry of a Default Judgment of Permanent Injunction and Other Relief Against Defendant Robert Comiskey is **GRANTED**. Default Judgment is entered against Comiskey as follows:

PERMANENT INJUNCTION

I.

**VIOLATION OF SECTION 10(b) OF THE SECURITIES
EXCHANGE ACT OF 1934 AND RULE 10b-5 THEREUNDER**

IT IS ORDERED AND ADJUDGED that Comiskey and Comiskey's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Judgment by personal service or otherwise, are permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Exchange Act and Exchange Act Rule 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:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) 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
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

II.

VIOLATION OF SECTION 17(a) OF THE SECURITIES ACT

IT IS FURTHER ORDERED AND ADJUDGED that Comiskey and Comiskey's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 17(a) of the Securities Act 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:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) 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
- (c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

III.

VIOLATION OF SECTION 5 OF THE SECURITIES ACT

IT IS FURTHER ORDERED AND ADJUDGED that Comiskey and Comiskey's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Judgment by personal service or otherwise are permanently restrained and enjoined from violating Sections 5(a) and (c) of the Securities Act 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 commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;

(b) 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; 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 security, unless a registration statement has been filed with the Commission 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.

IV.

VIOLATION OF SECTION 15(a) OF THE EXCHANGE ACT

IT IS FURTHER ORDERED AND ADJUDGED that Comiskey, his officers, agents, servants, representatives, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Judgment by personal service or otherwise, are permanently

restrained and enjoined from violating Section 15(a)(1) of the Exchange Act, 15 U.S.C. § 78j(a)(1), directly or indirectly, by making use of any means or instrumentality of interstate commerce or of the mails and engaging in the business of effecting transactions in securities for the accounts of others, or inducing or effecting the purchase and sale of securities, while not registered with the Commission in accordance with the provisions of Section 15(b) of the Exchange Act, or while not associated with a broker-dealer that was so registered.

DISGORGEMENT

IT IS FURTHER ORDERED AND ADJUDGED that Comiskey is liable for disgorgement of \$86,975, representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$6,657.53, for a total of \$93,632.53, for which let execution issue. The Commission 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 14 days following entry of this Judgment.

CIVIL MONEY PENALTY

IT IS FURTHER ORDERED AND ADJUDGED that Comiskey shall pay 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). The amount of the civil penalty shall be determined by the Court upon motion of the Commission that the Commission must file within 120 days of the date of this Order.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED AND ADJUDGED that this Court will retain jurisdiction over this matter and Comiskey in order to implement and carry out the terms of 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, and will order other relief that this Court deems appropriate under the circumstances.

RULE 54(b) CERTIFICATION

IT IS FURTHER ORDERED AND ADJUDGED that 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 in Chambers at West Palm Beach, Florida, this 29th day of June, 2010.



KENNETH A. MARRA
UNITED STATES DISTRICT JUDGE

Copies to counsel and parties of record