

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 12-CV-21962-UNGARO/TORRES

SECURITIES AND EXCHANGE COMMISSION,)
)
Plaintiff,)
)
v.)
)
JORGE GOMEZ)
and)
ROBERTO ALEPH ESPINOSA,)
)
Defendants.)
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**ORDER GRANTING PLAINTIFF'S MOTION FOR ENTRY OF DEFAULT JUDGMENT
OF PERMANENT INJUNCTION AND OTHER RELIEF
AGAINST DEFENDANT JORGE GOMEZ**

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. This Court has personal jurisdiction over the Defendant and the subject matter of this action. Venue is proper in the Southern District of Florida.
2. Gomez was properly served with a copy of the Summons and Complaint pursuant to Rule 4 of the Federal Rules of Civil Procedure. Thus, he has proper notice of this action.

3. Gomez's responsive pleading was due January 3, 2013, but he has not answered or otherwise responded to the complaint as required by the Federal Rules of Civil Procedure.

4. On January 4, 2013, the Plaintiff filed a motion to enter a default against Gomez pursuant to Fed. R. Civ. Pro. 55(a).

5. The clerk entered a default against Gomez on January 9, 2013.

6. By virtue of his default and failure to respond to the complaint, Gomez 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 Gomez committed the violations alleged in the complaint.

7. Gomez is not an infant or an incompetent person, and has no guardian, committee, conservator or other such person appearing on his behalf.

Accordingly, it is:

ORDERED AND ADJUDGED that Plaintiff's Motion for Entry of Default Judgment of Permanent Injunction And Other Relief Against Defendant Jorge Gomez is **GRANTED**. Default Judgment is entered against him as follows:

I.

PERMANENT INJUNCTION

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

IT IS FURTHER ORDERED AND ADJUDGED that Gomez, his agents, servants, representatives, employees, and attorneys, and all persons in active concert or participation with him who receive actual notice of this Default Judgment by personal service or otherwise, are permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78j(b), and Exchange Act Rule

10b-5, 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:

- (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

by, directly or indirectly, (i) creating a false appearance or otherwise deceiving any person, or (ii) disseminating false or misleading documents, materials, or information or making, either orally or in writing, any false or misleading statement in any communication with any investor or prospective investor, about:

- (A) any investment strategy or investment in securities,
- (B) the use of investor funds,
- (C) compensation to any person; or
- (D) the misappropriation of investor funds or investment proceeds.

B. Sections 206(1) & (2) of the Advisers Act

IT IS FURTHER ORDERED AND ADJUDGED that Gomez, his agents, servants, representatives, employees, and attorneys, and all persons in active concert or participation with him who receive actual notice of this Default Judgment by personal service or otherwise, are permanently restrained and enjoined from, directly or indirectly, through use of the mails or any means or instrumentalities of interstate commerce: (i) employing devices, schemes or artifices to

defraud clients or prospective clients; or (ii) engaging in transactions, practices and courses of business which are now operating or will operate as a fraud or deceit upon clients or prospective clients, in violation of Sections 206(1) and 206(2) of the Investment Advisers Act of 1940, 15 U.S.C. §§ 80b-6(1) and 80b-6(2) by, directly or indirectly, (i) creating a false appearance or otherwise deceiving any person, or (ii) disseminating false or misleading documents, materials, or information or making, either orally or in writing, any false or misleading statement in any communication with any investor or prospective investor, about:

- (A) any investment strategy or investment in securities,
- (B) the use of investor funds,
- (C) compensation to any person; or
- (D) the misappropriation of investor funds or investment proceeds.

C. Aiding & Abetting Violations of Advisers Act Sections 206(1) and 206(2)

IT IS FURTHER ORDERED AND ADJUDGED that Gomez, his officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from aiding and abetting any violations of Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §§ 80b-6(1) and (2)], by directly or indirectly, (i) creating a false appearance or otherwise deceiving any person, or (ii) disseminating false or misleading documents, materials, or information or making, either orally or in writing, any false or misleading statement in any communication with any investor or prospective investor, about:

- (A) any investment strategy or investment in securities,
- (B) the use of investor funds,
- (C) compensation to any person; or

(D) the misappropriation of investor funds or investment proceeds.

II.

DISGORGEMENT

IT IS FURTHER ORDERED AND ADJUDGED that Gomez is liable for disgorgement of \$5,575,000, representing profits gained as a result of the conduct alleged in the complaint, together with prejudgment interest thereon in the amount of \$372, 901.79, for a total of \$5,947,901.79, 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. In response to any such civil contempt motion by the Commission, Gomez may assert any legally permissible defense.

Gomez may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account or by credit or debit card via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>. Gomez may also 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; Jorge Gomez as a defendant in this action; and specifying that payment is made pursuant to this Final Judgment. Gomez shall simultaneously transmit photocopies of evidence of payment and case identifying information to Adam Schwartz, Securities and Exchange

Commission, 801 Brickell Avenue, Suite 1800, Miami, FL 33131. By making this payment, Gomez relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to Gomez. The Commission shall send the funds paid pursuant to this Final Judgment to the United States Treasury.

III.

CIVIL MONEY PENALTY

IT IS FURTHER ORDERED AND ADJUDGED that Gomez shall pay a civil penalty pursuant to Section 21(d) of the Exchange Act, 15 U.S.C. § 78u(d); and Section 209(e) of the Advisers Act, 15 U.S.C. § 80b-9(e). 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.

IV.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED AND ADJUDGED that this Court will retain jurisdiction over this matter and the Defendant 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.

V.

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 Miami, Florida, this 18 day of January, 2013.



URSULA UNGARO
UNITED STATES DISTRICT JUDGE

Copies to counsel and parties of record