

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 0:12-cv-61079-KMW

SECURITIES AND EXCHANGE COMMISSION,	)
	)
Plaintiff,	)
v.	)
	)
JOSEPH J. REPKO,	)
MICHAEL M. CIMINO, and	)
SURE TRACE SECURITY CORP.	)
	)
Defendants.	)
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**ORDER GRANTING PLAINTIFF’S MOTION FOR ENTRY OF DEFAULT  
JUDGMENT OF PERMANENT INJUNCTION AND OTHER RELIEF AGAINST  
DEFENDANT MICHAEL M. CIMINO**

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 Michael M. Cimino. Having considered the motion and the entire record, the Court enters the following order granting the Plaintiff’s motion and imposing Default Judgment against Cimino:

**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. Cimino was personally served with a copy of the Summons and Complaint on August 6, 2012. Thus, he has proper notice of this action.
3. Cimino’s responsive pleading was due September 17, 2012, but he has not answered or otherwise responded to the complaint as required by the Federal Rules of Civil Procedure.

4. The clerk entered a default against Cimino on October 3, 2012.

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

6. Cimino 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 Michael M. Cimino is **GRANTED**. Default Judgment is entered against him as follows:

**I.**

**PERMANENT INJUNCTION**

**SECTION 17(a)(1) OF THE SECURITIES ACT OF 1933**

**IT IS ORDERED AND ADJUDGED** that Cimino and his 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)(1) of the Securities Act, 15 U.S.C. § 77q(a)(1), by, in the offer or sale of any security, using any means or instruments of transportation or communication in interstate commerce or the mails, to employ any device, scheme, or artifice to defraud 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 Defendant,
- (D) Defendant's qualifications to advise investors; or
- (E) the misappropriation of investor funds or investment proceeds.

**SECTION 10(b) OF THE SECURITIES EXCHANGE ACT OF 1934**

**IT IS FURTHER ORDERED AND ADJUDGED** that Cimino and his 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 Securities Exchange Act of 1934 (the "Exchange Act"), 15 U.S.C. § 78j(b), and Exchange Act Rule 10b-5(a), 17 C.F.R. § 240.10b-5(a), 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, to employ any device, scheme, or artifice to defraud 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 Defendant,
- (D) Defendant's qualifications to advise investors; or
- (E) the misappropriation of investor funds or investment proceeds.

**II.**

**DISGORGEMENT**

**IT IS FURTHER ORDERED AND ADJUDGED** that Cimino is liable for disgorgement of \$28,000 on a joint and several basis with Defendants Joseph Repko and Sure Trace Security Corp. Cimino is further liable for pre-judgment interest of \$3,662.18 on a joint and several basis with Sure Trace Security Corp., for a total of \$31,662.18, representing profits gained as a result of the conduct alleged in the complaint, for which let execution issue.

The Commission may enforce the Court's judgment for disgorgement and prejudgment interest against Cimino 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.

**III.**

**CIVIL MONEY PENALTY**

**IT IS FURTHER ORDERED AND ADJUDGED** that Cimino 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 90 days of the date of this Order.

IV.

**PENNY STOCK BAR**

**IT IS FURTHER ORDERED AND ADJUDGED** that Cimino is permanently barred from participating in an offering of penny stock, including engaging 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.

V.

**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), and Section 20(e) of the Securities Act, 15 U.S.C. § 77t(e), Cimino 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).

VI.

**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.

VII.

**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 27 day of November, 2012.

  
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HON. KATHLEEN M. WILLIAMS  
UNITED STATES DISTRICT JUDGE

Copies to counsel and parties of record