

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
Miami Division

Case Number: 13-23115-CIV-MARTINEZ-MCALILEY

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

BERNARD H. BUTTS, JR., *et al.*,
Defendants,

_____ /

ORDER OF PERMANENT INJUNCTION AGAINST JAMES BAGGS

THIS CAUSE came before the Court on the unopposed motion of Plaintiff Securities and Exchange Commission (“SEC”) and the consent of Defendant James Baggs (“Baggs”) for entry of a permanent injunction against Baggs prohibiting him from further violations of the federal securities laws, but leaving the issues of disgorgement, prejudgment interest, and civil penalties to be resolved by a later motion. (D.E. No. 49). The SEC filed its complaint on August 29, 2013. (D.E. No. 1). Baggs was served with the complaint and summons on September 4, 2013, through his counsel who was authorized to accept service on his behalf. (D.E. No. 42). Baggs consents to entry of this Order of Permanent Injunction (“Permanent Injunction”) without admitting or denying the allegations of the complaint, waives findings of fact and conclusions of law, and waives any right to appeal from this Permanent Injunction. The Court finds there is good cause to grant the request for entry of the permanent injunction. After careful consideration, it is hereby:

ORDERED AND ADJUDGED that

1. Plaintiff’s unopposed motion for entry of a permanent injunction against James Baggs (D.E. No. 49) is **GRANTED**.

2. IT IS FURTHER ORDERED AND ADJUDGED that James Baggs, and his agents, servants, employees, attorneys, and those persons in active concert or participation with them, and each of them, are hereby restrained and enjoined from 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 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, 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 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 of 1933 ("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).

3. IT IS FURTHER ORDERED AND ADJUDGED that James Baggs and his agents, servants, employees, attorneys, and those persons in active concert or participation with them, and each of them, are hereby restrained and enjoined from violating, directly or indirectly, Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a), 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 the use of the mails,

directly or indirectly, 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 the light of the circumstances under which they were made, not misleading either orally or in writing, concerning (i) any investment strategy or investment in securities, (ii) any investment in prime bank instrument securities trading programs, (iii) the safety and security of any investment, (iv) the use of investor's funds or proceeds, (v) the compensation or commission to be received related to the offer or sale of securities, (vi) the success of any prime bank instrument trading program, and (vii) the risk involved in investing in a securities offering.

4. IT IS FURTHER ORDERED AND ADJUDGED that James Baggs, and his agents, servants, employees, attorneys, and those persons in active concert or participation with them, and each of them, are hereby 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 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: to make any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading either orally or in writing, concerning (i) any investment strategy or investment in securities, (ii) any investment in prime bank instrument securities trading programs, (iii) the safety and security of any investment, (iv) the use of investor's funds or proceeds, (v) the compensation or commission to be received related to the offer or sale of securities, (vi) the success of any prime bank instrument trading program, and (vii) the risk involved in investing in a securities offering.

5. IT IS FURTHER ORDERED AND ADJUDGED that James Baggs, and his agents, servants, employees, attorneys, and those persons in active concert or participation with them, and each of them, are hereby restrained and enjoined from violating, directly or indirectly, Section 15(a)(1) of the Exchange Act, 15 U.S.C. § 78o(a)(1), while engaged in the business of effecting transactions in the securities for their accounts or the account of others, making use of the means or instruments of transportation or communication in interstate commerce or of the mails to effect transactions in or to induce or attempt to induce the purchase or sale of, securities, without registration with the Commission as a broker-dealer.

6. IT IS FURTHER ORDERED AND ADJUDGED that James Baggs shall pay disgorgement of ill-gotten gains, prejudgment and post-judgment interest thereon, and civil penalties 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 amounts of the disgorgement and civil penalties shall be determined by the Court upon motion of the SEC, and prejudgment interest shall be calculated from February 22, 2013, 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 SEC's motion for disgorgement and civil penalties, and at any hearing held on such a motion: (a) Baggs will be precluded from arguing that he did not violate the federal securities laws as alleged in the Complaint; (b) Baggs may not challenge the validity of this Consent or the Permanent Injunction; (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 SEC's motion for

disgorgement and civil penalties, the parties may take discovery, including discovery from appropriate non-parties.

7. IT IS FURTHER ORDERED AND ADJUDGED that the Consent of Baggs is incorporated herein with the same force and effect as if fully set forth herein, and that the Defendant shall comply with all the undertakings and agreements set forth therein.

8. IT IS FURTHER ORDERED AND ADJUDGED that this Court shall retain jurisdiction over this matter for purposes of enforcing the terms of this Permanent Injunction.

DONE AND ORDERED in Chambers at Miami, Florida, this 10 day of October, 2013.



JOSE E. MARTINEZ
UNITED STATES DISTRICT JUDGE

Copies provided to:
Magistrate Judge McAliley
All Counsel of Record