

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

CASE NO. 14-cv-23573-GAYLES/TURNOFF

SECURITIES AND EXCHANGE COMMISSION,	)
	)
Plaintiff,	)
	)
v.	)
	)
ERICK LASZLO MATHE and ASHIF JIWA,	)
	)
Defendants,	)
and	)
	)
BLUEMARK ASSET MANAGEMENT, LLC,	)
	)
Relief Defendant.	)
_____	)

**ORDER GRANTING PLAINTIFF’S MOTION FOR DEFAULT JUDGMENT AGAINST  
DEFENDANT ERICK LASZLO MATHE, AND ENTRY OF JUDGMENT  
OF PERMANENT INJUNCTION AND OTHER RELIEF**

**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 Erick Laszlo Mathe [DE 15]. Having considered the motion and the entire record, the Court enters the following order granting the motion and entering a Default Judgment of Permanent Injunction and Other Relief against Mathe as follows:

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. This Court has personal jurisdiction over Mathe and the subject matter of this action. Venue is proper in the Southern District of Florida.
2. Mathe was properly served on October 3, 2014, with a summons and a copy of the Complaint pursuant to Rule 4 of the Federal Rules of Civil Procedure [DE 6]. Thus, he has

proper notice of this action.

3. Pursuant to Fed. R. Civ. P. 12(a)(1)(A), Mathe's answer or other responsive filing to the Commission's Complaint was due on or before October 24, 2014.

4. Mathe failed to respond to the Complaint on or before October 24, 2014, and on October 28, 2014, the Clerk entered a default against him [DE 13].

5. Subsequent to the entry of the Clerk's default, Mathe filed his Answer and Affirmative Defenses on November 4, 2014 [DE 16].

6. By separate Order [DE 27], the Court has granted the Commission's Motion to Strike Defendant Erick Laszlo Mathe's Answer and Affirmative Defenses [DE 17]. Mathe's Answer and Affirmative Defenses were not timely filed, and Mathe has failed to respond to the Commission's Motion to Strike. Further, Mathe has not demonstrated good cause for setting aside the Clerk's default pursuant to Fed. R. Civ. P. 55(c).

7. As of the date of this Order, Mathe has failed to respond to the Commission's Motion for Entry of Default Judgment, and further failed to attend the Status Conference the Court held on January 7, 2015, despite being noticed by the Court.

5. By virtue of the Clerk's default and failure to respond to the Complaint, Mathe is deemed to have admitted the allegations of the Complaint, and the Commission has established liability against him. *Buchanan v. Bowman*, 820 F.2d 359, 361 (11th Cir. 1987). Thus, the Court finds Mathe committed the violations alleged in the Complaint.

6. Mathe is not an infant or 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 Erick Laszlo Mathe is **GRANTED**.

Default Judgment is entered against Mathe as follows:

**I.**

**SECTIONS 5(a) and 5(c) OF THE SECURITIES ACT**

**IT IS FURTHER ORDERED AND ADJUDGED** that Mathe and his agents, servants, employees, attorneys, representatives 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 5(c) of the Securities Act of 1933 (the "Securities Act"), 15 U.S.C. § 77e(a) and 77e(c), 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.

**II.**

**SECTION 15(a)(1) OF THE EXCHANGE ACT**

**IT IS FURTHER ORDERED AND ADJUDGED** that Mathe and his agents, servants, employees, attorneys, representatives 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 Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. § 78o(a)(1), by, directly or indirectly, while acting as or associated with a broker or dealer, making use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers’ acceptances, or commercial bills) unless Mathe and such persons are registered with the Commission as a broker or dealer or associated with a broker or dealer registered with the Commission.

**III.**

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

**IT IS FURTHER ORDERED AND ADJUDGED** that Mathe and his agents, servants, employees, attorneys, representatives 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, 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 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,

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:

- (1) any investment in or offering of securities,
- (2) the registration status of such offering or of such securities,
- (3) the prospects for success of any product or company,
- (4) the use of investor funds; or
- (5) the misappropriation of investor funds or investment proceeds.

#### IV.

#### **SECTION 10(b) AND RULE 10b-5 OF THE EXCHANGE ACT**

**IT IS FURTHER ORDERED AND ADJUDGED** that Mathe and his agents, servants, employees, attorneys, representatives 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) and Rule 10b-5 of the Exchange Act, 15 U.S.C. § 78j(b), and 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:

- (1) any investment in or offering of securities,
- (2) the registration status of such offering or of such securities,
- (3) the prospects for success of any product or company,
- (4) the use of investor funds; or
- (5) the misappropriation of investor funds or investment proceeds.

**V.**

**PENNY STOCK BAR**

**IT IS FURTHER ORDERED AND ADJUDGED** that Mathe 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.

**VI.**

**OFFICER AND DIRECTOR BAR**

**IT IS FURTHER ORDERED AND ADJUDGED** that, pursuant to Section 20(e) of the Securities Act, 15 U.S.C. § 77t(e), and Section 21(d)(2) of the Exchange Act, 15 U.S.C. § 78u(d)(2), Mathe is permanently barred 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).

**VII.**

**DISGORGEMENT AND CIVIL PENALTY**

**IT IS FURTHER ORDERED AND ADJUDGED** that Mathe shall pay disgorgement of ill-gotten gains, prejudgment interest, and a civil penalty pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3). The Court shall determine the amount of the disgorgement and civil penalty upon motion of the Commission, which motion shall be filed within 90 days after Mathe is sentenced in the parallel criminal proceeding, *USA v. Mathe et al.*, Case No. 14-cr-00528 (E.D. Pa. Sept. 25, 2014). Prejudgment interest shall be calculated from February 28, 2010, 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 penalty, and at any hearing held on such a motion: (a) Mathe will be precluded from arguing he did not violate the federal securities laws as alleged in the Complaint; (b) Mathe may not challenge the validity of this 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 penalty, the parties may take discovery, including discovery from appropriate non-parties.

**VIII.**

**BANKRUPTCY NONDISCHARGEABILITY**

**IT IS FURTHER ORDERED AND ADJUDGED** that, for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the allegations in the Complaint are true and admitted by Mathe, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Mathe under this Judgment or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Mathe of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

**IX.**

**RETENTION OF JURISDICTION**

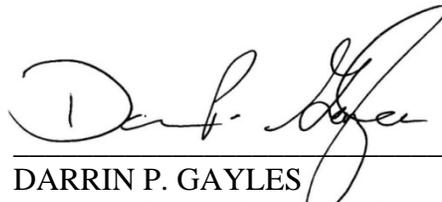
**IT IS FURTHER ORDERED AND ADJUDGED** that this Court shall retain jurisdiction over this matter and over Mathe in order to implement and carry out the terms of all orders and decrees that may be entered and/or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court, and will order other relief that this Court deems appropriate under the circumstances.

**X.**

**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** in Chambers at Miami, Florida this 8th day of January, 2015.

  
\_\_\_\_\_  
DARRIN P. GAYLES  
UNITED STATES DISTRICT JUDGE

Cc:

Counsel of Record

Erick Laszlo Mathe, *pro se*  
1900 South Treasure Drive, Apt. 8-E  
North Bay Village, FL 33141

**(via First-Class Mail)**