

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO.: 14-cv-80675-DIMITROULEAS/SNOW**

**SECURITIES AND EXCHANGE COMMISSION,** )  
)  
**Plaintiff,** )  
**v.** )  
**JEFFREY M. BERKOWITZ,** )  
)  
**Defendant.** )  
\_\_\_\_\_)

**ORDER GRANTING PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT  
AND ENTERING 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 Jeffrey M. Berkowitz. 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 Berkowitz as follows:

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. This Court has personal jurisdiction over Berkowitz and the subject matter of this action. Venue is proper in the Southern District of Florida.
2. Berkowitz was properly served with a summons and a copy of the Complaint pursuant to Rule 4 of the Federal Rules of Civil Procedure. Thus, he has proper notice of this action.
3. As of the date of this Order, Berkowitz 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 entered a default against Berkowitz on June 20, 2014. (DE 8.)

5. By virtue of the default and failure to respond to the Complaint, Berkowitz 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 Berkowitz committed the violations alleged in the Complaint.

6. Berkowitz 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 a Default Judgment of Permanent Injunction and Other Relief against Defendant Jeffrey M. Berkowitz is **GRANTED**. Default Judgment is entered against Berkowitz as follows:

**I.**

**SECTION 10(b) OF THE SECURITIES EXCHANGE ACT OF 1934  
AND EXCHANGE ACT RULES 10b-5(a) and (c)**

**IT IS FURTHER ORDERED AND ADJUDGED** that Berkowitz 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) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78j(b), and Exchange Act Rules 10b-5(a) and (c), 17 C.F.R. § 240.10b-5(a) and (c), 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, or
- (b) 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 about the price or trading market for any security, or (ii) making any false or misleading statement, or disseminating any false or misleading documents, materials, or information, concerning matters relating to a decision by an investor or prospective investor to buy or sell securities of any company.

## II.

### **PENNY STOCK BAR**

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

## III.

### **DISGORGEMENT AND CIVIL PENALTY**

**IT IS FURTHER ORDERED AND ADJUDGED** that Berkowitz shall pay disgorgement of ill-gotten gains, prejudgment interest, and a civil penalty pursuant to Section 21(d) of the Exchange Act, 15 U.S.C. § 78u(d)(3). The Court shall determine the amounts of the disgorgement and civil penalty upon motion of the Commission, which motion shall be filed within 90 days after Berkowitz is sentenced in the parallel criminal proceeding, *USA v. Berkowitz*, Case No. 14-20342-CR-SCOLA/VALLE (S.D. Fla. May 15, 2014). Prejudgment interest shall be calculated from February 8, 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 Commission's motion for disgorgement and/or civil penalty, and at any hearing held on such a motion: (a) Berkowitz will be precluded from arguing

he did not violate the federal securities laws as alleged in the Complaint; (b) Berkowitz 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.

**IV.**

**RETENTION OF JURISDICTION**

**IT IS FURTHER ORDERED AND ADJUDGED** that this Court shall retain jurisdiction over this matter and over Berkowitz 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 this Court deems appropriate under the circumstances.

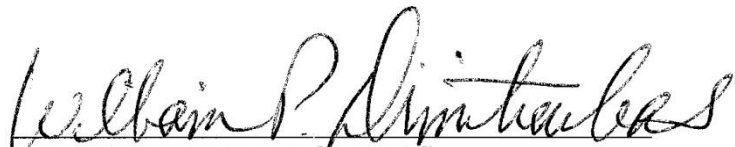
**VII.**

**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.

The clerk shall close this case.

**DONE AND ORDERED** in Chambers in Fort Lauderdale, Florida, this 14th day of July, 2014.

  
WILLIAM P. DIMITROULEAS  
United States District Judge

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