

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

CASE NO. 8:18-cv-1003-T-23TGW

DIANE J. HARRISON, et al.,

Defendants.

ORDER

The Securities and Exchange Commission sues (Doc. 1) Catherine Bradaick-Zolla for her role in a securities fraud scheme organized by Michael J. Daniels and Diane J. Harrison between 2010 and 2014. The Commission alleges that Bradaick-Zolla provided substantial assistance to violations of Section 17(a) of the Securities Act of 1933 (Securities Act), 15 U.S.C. § 77q(a); Section 10(b) and Rule 10b-5 of the Securities Exchange Act of 1934 (Exchange Act), 15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5; and Section 9(a) of the Exchange Act, 15 U.S.C. § 78i(a). The Commission moves (Doc. 17) unopposed for judgment and a permanent injunction against Bradaick-Zolla. Appearing *pro se*, Bradaick-Zolla consents (Doc. 17-1) to both the judgment and the injunction. She waives several rights and neither admits nor denies the allegations against her.

In addition to disgorgement, a bankruptcy nondischargeability provision, a penny stock bar, and an officer-and-director bar, the parties' proposed judgment (Doc. 17-2) enjoins Bradaick-Zolla from aiding and abetting violations of Section 17(a) of the Securities Act, Section 10(b) and Rule 10b-5 of the Exchange Act, and Section 9(a) of the Exchange Act. An injunction must "clearly let [the] defendant know what [s]he is ordered to do or not to do." *John H. Harland Co. v. Clarke Checks, Inc.*, 711 F.2d 966, 984–85 (11th Cir. 1985). The Eleventh Circuit prohibits vague "obey-the-law" injunctions and particularly cautions against injunctions enjoining violations of Section 10(b) of the Exchange Act. *S.E.C. v. Goble*, 682 F.3d 934, 951 (11th Cir. 2012). Thus, a proposed injunction cannot parrot the encompassing statutory or regulatory language. Rather, the injunction must identify and announce the enjoined conduct with sufficient specificity to fairly notify the parties, the lawyers, and any other affected third person of any limitation on the enjoined person's behavior and must permit the court to fully and promptly determine whether any challenged conduct is prohibited and whether the injunction sufficiently notified a person against whom a party seeks contempt.

Section 9(a) of the Exchange Act specifies prohibited acts. Regarding Section 10(b) and Rule 10b-5 of the Exchange Act, and Section 17(a) of the Securities Act, the proposed injunction enjoins Bradaick-Zolla from (1) creating false appearances or otherwise deceiving third parties about the price of or trading market for any security and (2) making or disseminating false or misleading statements, documents,

materials, or information relating to an investor's decision to buy or sell securities.

Accordingly, the motion (Doc. 17) is **GRANTED** as follows:

I.
SECTION 17(a) OF THE SECURITIES ACT

Bradaick-Zolla, her agents, servants, employees, attorneys, and all persons in active concert or participation, are permanently enjoined from violating Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a), by:

(A) creating a false appearance or deceiving any person about the price or trading market for any security; or

(B) making any false or misleading statement, or disseminating any false or misleading documents, materials, or information, concerning matters relating to an investor's or prospective investor's decision to buy or sell securities of any company.

II.
SECTION 10(b) AND RULE 10b-5 OF THE EXCHANGE ACT

Bradaick-Zolla, her agents, servants, employees, attorneys, and all persons in active concert or participation, are permanently enjoined from violating Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Exchange Act Rule 10b-5, 17 C.F.R. § 240.10b-5, by:

(A) creating a false appearance or deceiving any person about the price or trading market for any security; or

(B) making any false or misleading statement, or disseminating any false or misleading documents, materials, or information, concerning matters relating to an investor's or prospective investor's decision to buy or sell securities of any company.

III.
SECTION 9(a) OF THE EXCHANGE ACT

Bradaick-Zolla, her agents, servants, employees, attorneys, and all persons in active concert or participation, are permanently enjoined from violating Section 9(a) of the Exchange Act, 15 U.S.C. § 78i(a), by using in connection with the purchase or sale of any security any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, to:

(A) enter for the purpose of creating a false or misleading appearance with respect to the market for the security any order for the purchase or sale of a security knowing that an order or orders for purchase or sale of substantially the same size of the security has been or will be entered by or for the same or different parties at substantially the same time and price; or

(B) effect, alone or with one or more other persons, a series of transactions in securities raising or depressing the price of those securities or otherwise creating actual or apparent active trading in those securities for the purpose of inducing the purchase or sale of those securities by others.

IV.
OFFICER-AND-DIRECTOR BAR

Bradaick-Zolla is prohibited from acting as an officer or director of any issuer that must register securities pursuant to Section 12 of the Exchange Act, 15 U.S.C. § 78l, or must file reports pursuant to Section 15(d) of the Exchange Act, 15 U.S.C. § 78o(d).

V.
PENNY STOCK BAR

Bradaick-Zolla is permanently prohibited from participating in an offering of penny stock.¹ Bradaick-Zolla must not engage in activities with a broker, dealer, or issuer for purposes of issuing, trading, inducing, or attempting to induce the purchase or sale of any penny stock.

VI.
DISGORGEMENT AND CIVIL PENALTY

Bradaick-Zolla must pay disgorgement of ill-gotten gains, prejudgment interest, and a civil penalty pursuant 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). Upon motion by the Commission, the court must determine the disgorgement and civil penalty. Prejudgment interest will be calculated from August 31, 2014, based on the interest rate 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 civil penalties, and in accord with her consent, Bradaick-Zolla may neither argue that she did not violate the federal securities laws as alleged in the complaint nor challenge the validity of her consent or this final judgment. In connection with the

¹ The term "penny stock" is defined by Exchange Act Rule 3a51-1, 17 C.F.R. § 240.3a51-1.

Commission's motion for disgorgement and civil penalties, the parties may take discovery, including discovery from appropriate non-parties.

**VII.
BANKRUPTCY NONDISCHARGEABILITY**

Exclusively for purposes of the exceptions to discharge under Section 523, Bankruptcy Code, 11 U.S.C. § 523, the allegations in the complaint are true and admitted by Bradaick-Zolla. Any debt for disgorgement, prejudgment interest, civil penalty, or other amounts due by Bradaick-Zolla under this final judgment or any other judgment, order, consent order, decree, or settlement agreement entered in connection with this proceeding is a debt for Bradaick-Zolla's violation of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19), Bankruptcy Code, 11 U.S.C. § 523(a)(19).

**VIII.
INCORPORATION OF CONSENT**

Bradaick-Zolla's consent (Doc. 17-1) is fully incorporated. Bradaick-Zolla with comply with all agreements and requirements in her consent.

**IX.
CONCLUSION**

The court retains jurisdiction to enforce the injunctive provisions of this order. The clerk will (1) enter judgment accordingly for the Securities and Exchange Commission and against Catherine Bradaick-Zolla on counts VII, VIII, IX, X, XI, XII, XIV, and XVI, (2) terminate any pending motions, and

(3) **ADMINISTRATIVELY CLOSE** the case against Bradaick-Zolla. The Commission's case against the other defendants remains open.²

ORDERED in Tampa, Florida, on September 20, 2018.



STEVEN D. MERRYDAY
UNITED STATES DISTRICT JUDGE

² No judgment as to Diane J. Harrison will issue at this time on counts VII, VIII, IX, X, XI, and XII.