

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

GARRETT O’ROURKE AND  
MICHAEL J. BLACK,

Defendants.

Case No.: 19-CV-4137 (KAM)

AMENDED **ORDER** **FINAL** **AS TO DEFENDANT GARRETT O’ROURKE**

The Securities and Exchange Commission having filed a Complaint and Defendant Garrett O’Rourke (“O’Rourke” or “Defendant”) having entered a general appearance; consented to the Court’s jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final Judgment; waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is 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 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:

- (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.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in **Federal Rule of Civil Procedure 65(d)(2)**, the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

## II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 (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.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in **Federal Rule of Civil Procedure 65(d)(2)**, the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating Section 5 of the Securities Act [**15 U.S.C. § 77e**] 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].

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

IV.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant 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.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for disgorgement of \$5,315,186, representing net profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$448,533, for a total of \$5,763,719. Defendant shall satisfy this obligation by paying \$5,763,719 to the Securities and Exchange Commission within 30 days after entry of this Final Judgment.

Defendant may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account via Pay.gov through the SEC website at

<http://www.sec.gov/about/offices/ofm.htm>. Defendant may also pay by certified check, bank

cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to

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Accounts Receivable Branch  
6500 South MacArthur Boulevard  
Oklahoma City, OK 73169

and shall be accompanied by a letter identifying the case title, civil action number, and name of this Court; O'Rourke's name as a defendant in this action; and specifying that payment is made pursuant to this Final Judgment.

Defendant shall simultaneously transmit photocopies of evidence of payment and case identifying information to the Commission's counsel in this action. By making this payment, Defendant relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to Defendant.

The Commission shall hold the funds (collectively, the "Fund") until further order of this Court. The SEC may propose a plan to distribute the Fund subject to the Court's approval, and the Court shall retain jurisdiction over the administration of any distribution of the Fund.

The Commission may enforce the Court's judgment for disgorgement and prejudgment interest by using all collection procedures authorized by law, including, but not limited to, moving for civil contempt at any time after 30 days following entry of this Final Judgment. Defendant shall pay post judgment interest on any amounts due after 30 days of entry of this Final Judgment pursuant to **28 U.S.C. §1961**.

VI.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the sums on deposit in the Court’s Registry Account for this case, which total \$105,000 and which represent proceeds transferred for Defendant’s behalf, shall be transferred to the Commission in partial satisfaction of this monetary judgment. The Court’s Registry Account may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>. The Court’s Registry Account also may transfer these funds by certified check, bank cashier’s check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to

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 Oklahoma City, OK 73169

and shall be accompanied by a letter identifying the case title, civil action number, and name of this Court; and specifying that payment is made pursuant to this Final Judgment.

VII.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that within 3 days after being served with a copy of this Final Judgment, JP Morgan Chase Bank N.A. shall transfer to the Commission the sum of \$5,658,719 from the following JP Morgan Chase Bank N.A. account which was frozen pursuant to an Order of this Court:

<b>Account Owner</b>	<b>Acct. Ending in:</b>
<b>Lion Media Corporation</b>	<b>*8308</b>

JP Morgan Chase Bank N.A. may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also

be made directly from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>. JP Morgan Chase Bank N.A. also may transfer these funds by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to

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and shall be accompanied by a letter identifying the case title, civil action number, and name of this Court; and specifying that payment is made pursuant to this Final Judgment.

The remaining balance in the Lion Media Corporation account ending in \*8308 shall be unfrozen, and returned to the control of the Defendant without the restrictions of the Court's Preliminary Injunction Order.

The following JP Morgan Chase Bank N.A. accounts which were frozen pursuant to an Order of this Court shall also be returned to the control of the Defendant without the restrictions of the Court's Preliminary Injunction Order:

<b>Account Owner</b>	<b>Acct. Ending in:</b>
<b>Tactical Holdings Corp.</b>	*2139
<b>Tactical Holdings Corp.</b>	*8628
<b>DRG America LLC</b>	*3375
<b>Garrett O'Rourke</b>	*1167

## VIII.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the following accounts which were frozen pursuant to an Order of this Court shall be unfrozen, and returned to the control of the Defendant without the restrictions of the Court's Preliminary Injunction Order, which hereby cease as to Defendant :

<b>Financial Institution</b>	<b>Account Owner</b>	<b>Acct. Ending in:</b>
<b>CIT Bank</b>	<b>Garrett O'Rourke</b>	*7064
<b>Citibank</b>	<b>DRG America LLC</b>	*8657
<b>Fifth Third Bank</b>	<b>Tactical Holdings Corp.</b>	*4515, *4671, *6219
<b>Wells Fargo Bank</b>	<b>Tactical Holdings Corp.</b>	*7515, *2349
<b>Wells Fargo Bank</b>	<b>DRG America LLC</b>	*7549, *2363
<b>Wells Fargo Clearing</b>	<b>Tactical Holdings Corp.</b>	*8615
<b>Wells Fargo Clearing</b>	<b>DRG America LLC</b>	*8076
<b>Philippines National Bank</b>	<b>Garrett O'Rourke</b>	*6612
<b>WB21 Pte Ltd.</b>	<b>Garrett O'Rourke</b>	*1243, *9923

## IX.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED 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 Defendant, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Defendant 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 the violation by Defendant 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)**.



X.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

XI.

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 [REDACTED] Final Judgment forthwith and without further notice.

Dated: [REDACTED], 12/7/2020

/s/ Kiyoo A. Matsumoto

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UNITED STATES DISTRICT JUDGE

The court notes that its Memorandum and Order entered on November 9, 2020 (ECF No. 75) provided that the defendant would “have seven days to submit any objections to [the SEC’s] calculation” of prejudgment interest. The SEC submitted its calculation on November 16, 2020 (ECF No. 76), and Mr. O’Rourke has not objected.

Accordingly, it is ORDERED that the parties shall comply with the terms of this ORDER; and

This Order amends the amount of prejudgment interest listed in the court’s November 30, 2020 Order (ECF No. 77). The Clerk of Court shall separately enter an amended final judgment against Mr. O’Rourke in the amount of \$5,315,186 in disgorgement, plus \$448,533 in prejudgment interest, and shall terminate Mr. O’Rourke as a party in this action.