

Term #126

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

LFS FUNDING LIMITED
PARTNERSHIP, a private Wyoming
Limited Partnership; STEPHEN MICHAEL
THOMPSON; STEVEN ROBERT
COMISAR; DALE JAY ENGELHARDT;
and, ROSS GREGORY ERSKINE,

Defendants,

and

BROOKDALE CONSULTING LLC, a
private California Limited Liability
Company; EXECUTIVE PERFORMANCE
GROUP, INC., a private California
corporation; MERIDIAN POINT, LLC, a
private Nevada Limited Liability Company;
and PERSONAL GROUP, LLC, a private
Nevada Limited Liability Company,

Relief Defendants.

Case No. 2:21-cv-04211-HDV-MAR

**FINAL JUDGMENT AS TO
DEFENDANT
DALE JAY ENGELHARDT
AND RELIEF DEFENDANTS
BROOKDALE CONSULTING
LLC AND EXECUTIVE
PERFORMANCE GROUP, INC.**

1 The Securities and Exchange Commission having filed a Complaint and
2 Defendant Dale Jay Engelhardt (“Defendant”) and Relief Defendants Brookdale
3 Consulting LLC (“Brookdale”) and Executive Performance Group, Inc. (“EPG” and
4 collectively, with Brookdale, “Relief Defendants”) having entered a general
5 appearance; consented to the Court’s jurisdiction over Defendant and the subject
6 matter of this action; consented to entry of this Final Judgment without admitting or
7 denying the allegations of the Complaint (except as to jurisdiction and except as
8 otherwise provided herein in paragraph X); waived findings of fact and conclusions
9 of law; and waived any right to appeal from this Final Judgment:

10 I.

11 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is
12 permanently restrained and enjoined from violating, directly or indirectly, Section
13 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. §
14 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using
15 any means or instrumentality of interstate commerce, or of the mails, or of any
16 facility of any national securities exchange, in connection with the purchase or sale of
17 any security:

- 18 (a) to employ any device, scheme, or artifice to defraud;
- 19 (b) to make any untrue statement of a material fact or to omit to state a
20 material fact necessary in order to make the statements made, in the light
21 of the circumstances under which they were made, not misleading; or
- 22 (c) to engage in any act, practice, or course of business which operates or
23 would operate as a fraud or deceit upon any person.

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

1 with anyone described in (a).

2 II.

3 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
4 Defendant is permanently restrained and enjoined from violating Section 17(a) of the
5 Securities Act of 1933 (the “Securities Act”) [15 U.S.C. § 77q(a)] in the offer or sale
6 of any security by the use of any means or instruments of transportation or
7 communication in interstate commerce or by use of the mails, directly or indirectly:

- 8 (a) to employ any device, scheme, or artifice to defraud;
- 9 (b) to obtain money or property by means of any untrue statement of a
10 material fact or any omission of a material fact necessary in order to
11 make the statements made, in light of the circumstances under which
12 they were made, not misleading; or
- 13 (c) to engage in any transaction, practice, or course of business which
14 operates or would operate as a fraud or deceit upon the purchaser.

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

21 III.

22 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
23 Defendant is permanently restrained and enjoined from violating Section 5 of the
24 Securities Act [15 U.S.C. § 77e] by, directly or indirectly, in the absence of any
25 applicable exemption:

- 26 (a) unless a registration statement is in effect as to a security, making use of
27 any means or instruments of transportation or communication in
28 interstate commerce or of the mails to sell such security through the use

1 or medium of any prospectus or otherwise;

2 (b) unless a registration statement is in effect as to a security, carrying or
3 causing to be carried through the mails or in interstate commerce, by any
4 means or instruments of transportation, any such security for the purpose
5 of sale or for delivery after sale; or

6 (c) making use of any means or instruments of transportation or
7 communication in interstate commerce or of the mails to offer to sell or
8 offer to buy through the use or medium of any prospectus or otherwise
9 any security, unless a registration statement has been filed with the
10 Commission as to such security, or while the registration statement is the
11 subject of a refusal order or stop order or (prior to the effective date of
12 the registration statement) any public proceeding or examination under
13 Section 8 of the Securities Act [15 U.S.C. § 77h].

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

20 IV.

21 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
22 Defendant is permanently restrained and enjoined from violating, directly or
23 indirectly, Section 15(a)(1) of the Exchange Act [15 U.S.C. § 78o(a)(1)] by making
24 use of the mails or any means or instrumentality of interstate commerce, to effect any
25 transactions in, or to induce or attempt to induce the purchase or sale of any security
26 (other than an exempt security or commercial paper, bankers' acceptance, or
27 commercial bills) unless Defendant is registered in accordance with Section 15(b) of
28 the Exchange Act [15 U.S.C. § 78o(b)].

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

7 V.

8 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
9 Defendant is permanently restrained and enjoined from violating, directly or
10 indirectly, Section 15(b)(6)(B)(i) of the Exchange Act [15 U.S.C. § 78o(b)(6)(B)(i)]
11 by, without the consent of the Securities and Exchange Commission and while an
12 order, issued pursuant to Section 15(b)(6)(A) of the Exchange Act [15 U.S.C. §
13 78o(b)(6)(A)], is in effect in regard to Defendant, willfully becoming or associating
14 with a broker or dealer in contravention of such order.

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

21 VI.

22 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that,
23 pursuant to Section 21(d)(5) of the Exchange Act [15 U.S.C. § 78u(d)(5)], Defendant
24 is permanently restrained and enjoined from, directly or indirectly, including, but not
25 limited to, through any entity owned or controlled by Defendant, soliciting any
26 person or entity to purchase or sell any security.

27 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as
28 provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also

1 binds the following who receive actual notice of this Final Judgment by personal
2 service or otherwise: (a) Defendant's officers, agents, servants, employees, and
3 attorneys; and (b) other persons in active concert or participation with Defendant or
4 with anyone described in (a).

5 VII.

6 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
7 Defendant is liable for disgorgement of \$54,620.00 (\$10,500 of which Defendant is
8 liable, on a joint and several basis, with Brookdale, and \$44,120 of which Defendant
9 is liable, on a joint and several basis, with EPG), representing net profits gained as a
10 result of the conduct alleged in the Complaint, together with prejudgment interest
11 thereon in the amount of \$7,011.65, and Defendant is liable for a civil penalty in the
12 amount of \$109,240.00 pursuant to Section 20(d) of the Securities Act [15 U.S.C. §
13 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. Defendant
14 and Relief Defendant shall satisfy this obligation by paying \$170,511.65 to the
15 Securities and Exchange Commission pursuant to the terms of the payment schedule
16 set forth in paragraph VIII below after entry of this Final Judgment.

17 Defendant and Relief Defendants may transmit payment electronically to the
18 Commission, which will provide detailed ACH transfer/Fedwire instructions upon
19 request. Payment may also be made directly from a bank account via Pay.gov through
20 the SEC website at <http://www.sec.gov/about/offices/ofm.htm>. Defendant may also
21 pay by certified check, bank cashier's check, or United States postal money order
22 payable to the Securities and Exchange Commission, which shall be delivered or
23 mailed to:

24 Enterprise Services Center
25 Accounts Receivable Branch
26 6500 South MacArthur Boulevard
27 Oklahoma City, OK 73169

28 and shall be accompanied by a letter identifying the case title, civil action number,

1 and name of this Court; Defendant's name as a defendant in this action; and
2 specifying that payment is made pursuant to this Final Judgment.

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

8 The Commission may enforce the Court's judgment for disgorgement and
9 prejudgment interest by using all collection procedures authorized by law, including,
10 but not limited to, moving for civil contempt at any time after 30 days following entry
11 of this Final Judgment.

12 The Commission may enforce the Court's judgment for penalties by the use of
13 all collection procedures authorized by law, including the Federal Debt Collection
14 Procedures Act, 28 U.S.C. § 3001 *et seq.*, and moving for civil contempt for the
15 violation of any Court orders issued in this action. Defendant and Relief Defendants
16 shall pay post-judgment interest on any amounts due after 30 days of the entry of this
17 Final Judgment pursuant to 28 U.S.C. § 1961. The Commission shall hold the funds,
18 together with any interest and income earned thereon (collectively, the "Fund"),
19 pending further order of the Court.

20 The Commission may propose a plan to distribute the Fund subject to the
21 Court's approval. Such a plan may provide that the Fund shall be distributed pursuant
22 to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. The
23 Court shall retain jurisdiction over the administration of any distribution of the Fund,
24 and the Fund may only be disbursed pursuant to an Order of the Court.

25 Regardless of whether any such Fair Fund distribution is made, amounts
26 ordered to be paid as civil penalties pursuant to this Final Judgment shall be treated as
27 penalties paid to the government for all purposes, including all tax purposes. To
28 preserve the deterrent effect of the civil penalty, Defendant shall not, after offset or

1 reduction of any award of compensatory damages in any Related Investor Action
2 based on Defendant’s payment of disgorgement in this action (if any), argue that
3 Defendant is entitled to, nor shall Defendant further benefit by, offset or reduction of
4 such compensatory damages award by the amount of any part of Defendant’s
5 payment of a civil penalty in this action (“Penalty Offset”). If the court in any Related
6 Investor Action grants such a Penalty Offset, Defendant shall, within 30 days after
7 entry of a final order granting the Penalty Offset, notify the Commission’s counsel in
8 this action and pay the amount of the Penalty Offset to the United States Treasury or
9 to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an
10 additional civil penalty and shall not be deemed to change the amount of the civil
11 penalty imposed in this Final Judgment. For purposes of this paragraph, a “Related
12 Investor Action” means a private damages action brought against Defendant by or on
13 behalf of one or more investors based on substantially the same facts as alleged in the
14 Complaint in this action.

15 VIII.

16 Defendant and Relief Defendants (on a joint and several basis with respect to
17 disgorgement, as set forth in Paragraph VII) shall pay the total of disgorgement,
18 prejudgment interest, and penalty due of \$170,511.65 in 4 installments to the
19 Commission according to the following schedule: (1) \$42,627.90, within 90 days of
20 entry of this Final Judgment; (2) \$42,627.90, within 180 days of entry of this Final
21 Judgment; (3) \$42,627.90, within 270 days of entry of this Final Judgment; (4)
22 \$42,627.90, within 360 days of entry of this Final Judgment. Payments shall be
23 deemed made on the date they are received by the Commission and shall be applied
24 first to post judgment interest, which accrues pursuant to 28 U.S.C. § 1961 on any
25 unpaid amounts due after 30 days of the entry of Final Judgment. Prior to making the
26 final payment set forth herein, Defendant and Relief Defendants shall contact the
27 staff of the Commission for the amount due for the final payment.

28 If Defendant and Relief Defendants fail to make any payment by the date

1 agreed and/or in the amount agreed according to the schedule set forth above, all
2 outstanding payments under this Final Judgment, including post-judgment interest,
3 minus any payments made, shall become due and payable immediately at the
4 discretion of the staff of the Commission without further application to the Court.

5 IX.

6 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that,
7 within three days after being served with a copy of this Final Judgment, the law firm
8 of Edmundson, Shelton, & Weiss, PLLC (“Law Firm”) shall transfer the entire
9 balance of any and all moneys received from Defendant Dale Engelhardt or Relief
10 Defendants in escrow in connection with this Final Judgment, or held for the benefit
11 of Dale Engelhardt in escrow in connection with this Final Judgment, to the
12 Commission. Law Firm may transmit payment electronically to the Commission,
13 which will provide detailed ACH transfer/Fedwire instructions upon request.
14 Payment may also be made directly from a bank account via Pay.gov through the
15 SEC website at <http://www.sec.gov/about/offices/ofm.htm>. Law Firm also may
16 transfer these funds by certified check, bank cashier’s check, or United States postal
17 money order payable to the Securities and Exchange Commission, which shall be
18 delivered or mailed to:

19 Enterprise Services Center
20 Accounts Receivable Branch
21 6500 South MacArthur Boulevard
22 Oklahoma City, OK 73169

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

26 X.

27 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that,
28 solely for purposes of exceptions to discharge set forth in Section 523 of the

1 Bankruptcy Code [11 U.S.C. § 523], the allegations in the complaint are true and
2 admitted by Defendant, and further, any debt for disgorgement, prejudgment interest,
3 civil penalty, or other amounts due by Defendant under this Final Judgment or any
4 other judgment, order, consent order, decree, or settlement agreement entered in
5 connection with this proceeding, is a debt for the violation by Defendant of the federal
6 securities laws or any regulation or order issued under such laws, as set forth in Section
7 523(a)(19) of the Bankruptcy Code [11 U.S.C. § 523(a)(19)].

8 XI.

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

12 XII.

13 There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules
14 of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith and
15 without further notice.

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17 Dated: 10/24/2023



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19 _____
20 HERNÁN D. VERA
21 UNITED STATES DISTRICT JUDGE
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