

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 0:22-cv-60733-WPD

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

JOSEPH SALVATORE DEVITO
(A/K/A SALVATORE DEVITO) and
DEAN ANTHONY ESPOSITO
(A/K/A DEAN ANTHONY),

Defendants.

**FINAL DEFAULT JUDGMENT AGAINST
DEFENDANTS JOSEPH SALVATORE DEVITO AND DEAN ANTHONY ESPOSITO**

THIS CAUSE is before the Court on Plaintiff Securities and Exchange Commission (“Plaintiff”)’s Motion for Default Final Judgment Against Defendants Joseph Salvatore DeVito a/k/a Salvatore DeVito (“DeVito”) and Dean Anthony Esposito a/k/a Dean Anthony (“Esposito”) (collectively “Defendants”) (the “Motion”) [DE 21], filed herein on September 13, 2022. The Court granted the Motion in an Order entered separately today. Pursuant to Federal Rule of Civil Procedure 58(a), the Court enters this separate final judgment.

Accordingly, it is hereby **ORDERED AND ADJUDGED** that Final Default Judgment is hereby entered in favor of Plaintiff and against Defendants as follows:

I. PERMANENT INJUNCTIVE RELIEF

A. Section 5 of the Securities Act

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendants are permanently restrained and enjoined from violating Section 5 of the Securities Act of 1933

(“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) Defendants’ officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendants or with anyone described in (a).

B. Section 17(a)(1) and Section 17(a)(3) of the Securities Act

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendants are permanently restrained and enjoined from violating Section 17(a)(1) and Section 17(a)(3) of the Securities Act of 1933 [15 U.S.C. § 77q(a)(1); 15 U.S.C. § 77q(a)(3)] 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; and
- (b) 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, creating a false appearance or otherwise deceiving any person about:

- (a) Defendant's disciplinary history; or
- (b) Defendant's qualifications to advise investors.

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) Defendants' officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendants or with anyone described in (a).

C. Section 10(b) of the Exchange Act and Rule 10b-5(a) and Rule 10b-5(c) thereunder

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendants are 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(a) and Rule 10b-5(c) promulgated thereunder [17 C.F.R. § 240.10b-5(a); 17 C.F.R. § 240.10b-5(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; and
- (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, creating a false appearance or otherwise deceiving any person

- (a) Defendant's disciplinary history; or
- (b) Defendant's qualifications to advise investors.

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) Defendants' officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendants or with anyone described in (a).

D. Section 15(a)(1) of the Exchange Act

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendants are permanently restrained and enjoined from violating, directly or indirectly, Section 15(a) of the Exchange Act of 1934 [15 U.S.C. § 78o(a)(1)] by 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, while not registered with the Commission in accordance with Section 15(b) of the Exchange Act, 15 U.S.C. § 78o(b), or while not associated with a broker-dealer that was so registered.

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) Defendants' officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendants or with anyone described in (a).

E. Section 15(b)(6)(B) of the Exchange Act

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendants are permanently restrained and enjoined from violating, directly or indirectly, Section 15(b)(6)(B) of the Exchange Act [15 U.S.C. §78o(b)(6)(B)], by, without the consent of the Commission, willfully

becoming or associating with a broker or dealer in contravention of a Commission order that bars Defendant from acting as or associating with a broker or dealer.

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) Defendants' officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendants or with anyone described in (a).

F. Section 21(d)(5) of the Exchange Act – Conduct-Based Injunction

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that pursuant to Section 21(d)(5) of the Exchange Act [15 U.S.C. § 78u(d)(5)], Defendants are permanently restrained and enjoined from, directly or indirectly, including through any entity they own or control: (1) participating in the issuance, offer, purchase or sale of any securities except for transactions involving his own personal brokerage account; and (2) participating in the management, administration, supervision of, or otherwise exercising any control over, any commercial enterprise or project that issues, purchases or sells securities.

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) Defendants' officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendants or with anyone described in (a).

II. ADDITIONAL RELIEF

A. Officer and Director Bar

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED 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)], Defendants are prohibited 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)].

B. Penny Stock Bar

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that, pursuant to Section 20(g) of the Securities Act 15 U.S.C. § 77t(g)] and Section 21(d)(6) of the Exchange Act [15 U.S.C. § 78u(d)(6)], Defendants are permanently prohibited from participating in an offering of penny stock.

C. Compliance with Commission Orders

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that, pursuant to Section 21(e) of the Exchange Act [15 U.S.C. § 78u(e)], Defendants are directed to comply with (i) the Commission's Order dated February 7, 2011, *In the Matter of Joseph DeVito* (Securities Exchange Rel. No. 63864, Admin. Proc. 3-14242), by which DeVito was previously barred from association with any broker or dealer with the right to reapply for association after a period of eighteen months; (ii) the Commission's Order dated August 10, 2015, *In the Matter of Joseph DeVito* (Securities Exchange Rel. No. 75654, Admin. Proc. 3-16737), by which DeVito was previously permanently barred from association with any broker, dealer investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; (iii) the

Commission's Order dated February 7, 2011, *In the Matter of Dean A. Esposito* (Securities Exchange Rel. No. 63863, Admin. Proc. 3-14241), by which Esposito was previously barred from association with any broker or dealer; and (iv) the Commission's Order dated August 10, 2015, *In the Matter of Dean A. Esposito* (Securities Exchange Rel. No. 75653, Admin. Proc. 3-16736), by which Esposito was previously permanently barred from association with any broker, dealer investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

III. DISGORGEMENT, PREJUDGMENT INTEREST, AND CIVIL PENALTY

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that

DeVito is liable to the Commission for \$298,500 in disgorgement, representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$3,271 for a total of \$301,771, for which sum let execution issue, and a civil penalty of \$298,500, for which sum let execution issue, 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)]; and

Esposito is liable to the Commission for \$297,750 in disgorgement, representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$3,263, for a total of \$301,013, for which sum let execution issue, and a civil penalty of \$298,500, for which sum let execution issue, 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)].

DeVito and Esposito shall pay the total of \$600,271 and \$598,763, respectively, to the Commission within 30 days of entry of this Final Judgment. DeVito and Esposito 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>. DeVito and Esposito 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

Enterprise Services Center
Accounts Receivable Branch
6500 South MacArthur Boulevard
HQ Bldg. Room 265, AMK-326
Oklahoma City, OK 73169

and shall be accompanied by a letter identifying the case title, civil action number, name of this Court, and Joseph Salvatore DeVito or Dean Anthony Esposito as a defendant in this action; and specifying that payment is made pursuant to this Final Judgment.

DeVito and Esposito shall simultaneously transmit photocopies of evidence of payment and case identifying information to the Commission's counsel in this action, Alice K. Sum, Trial Counsel, Securities and Exchange Commission, 801 Brickell Avenue, Suite 1950, Miami, FL 33131. By making this payment, DeVito and Esposito relinquish all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to DeVito or Esposito.

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.

The Commission may enforce the Court's judgment for penalties by the use of all collection procedures authorized by law, including the Federal Debt Collection Procedures Act, 28 U.S.C. § 3001 et seq., and moving for civil contempt for the violation of any Court orders issued in this action. DeVito and Esposito shall pay post judgment interest on any amounts due after 30

days of the entry of this Final Judgment pursuant to 28 U.S.C. § 1961. The Commission shall hold the funds, together with any interest and income earned thereon (collectively, the “Fund”), pending further order of the Court.

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

Regardless of whether any such Fair Fund distribution is made, amounts ordered to be paid as civil penalties pursuant to this Final Judgment shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, DeVito and Esposito shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on DeVito or Esposito’s payment of disgorgement in this action, argue that they are entitled to, nor shall he further benefit by, offset or reduction of such compensatory damages award by the amount of any part of DeVito or Esposito’s payment of a civil penalty in this action (“Penalty Offset”). If the court in any Related Investor Action grants such a Penalty Offset, DeVito and Esposito shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission’s counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this Final Judgment. For purposes of this paragraph, a “Related Investor Action” means a private damages action brought against DeVito and Esposito

by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.


IV. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction over this matter and Defendants 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.

Plaintiff is ordered to serve a copy of this Order upon Defendants and file a notice of compliance in the record indicating that it has done so.

The Clerk is **DIRECTED** to **CLOSE** this case and **DENY AS MOOT** any pending motions.

DONE AND ORDERED in Chambers in Fort Lauderdale, Broward County, Florida, this 3rd day of October, 2022.


WILLIAM P. DIMITROULEAS
United States District Judge

Copies provided to:
Counsel of Record