

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

DEYONTE JAHTORI ANTHONY,

Defendant.

1:23CV726

ORDER

Plaintiff Securities and Exchange Commission (the “Commission” or “SEC”) has filed its Complaint herein. Defendant Deyonte Anthony (“Defendant” or “Anthony”) has previously entered his general appearance and has admitted the in personam jurisdiction of this Court over him and the jurisdiction of this Court over the subject matter of the action.

In an order of this Court entered December 1, 2023, Defendant was permanently restrained and enjoined from further violations of Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5] and was ordered to comply with certain restrictions and conditions in opening brokerage accounts and trading in stocks in the future. The order of permanent injunction against Anthony also directed that, upon motion of the Commission, “that Defendant shall pay a civil penalty pursuant to

Section 21(d)(3) of the Exchange Act [15 U.S.C. §78u(d)(3)]. The Court shall determine the amount of civil penalty upon motion of the Commission.” [Order of Permanent Injunction and Other Relief as to Deyonte Jahtori Anthony, ¶ III].

The Order further states that in connection with the Commission’s motion for civil penalties, and at any hearing held on such a motion, “(a) Defendant will be precluded from arguing that he did not violate the federal securities laws as alleged in the Complaint; (b) Defendant may not challenge the validity of the Consent or this Order of Permanent Injunction; (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.” [Order of Permanent Injunction and Other Relief as to Deyonte Jahtori Anthony], ¶ III].

Defendant consented to the terms of the December 1, 2023 order of permanent injunction against him. The Commission’s motion for summary judgment and to order a civil penalty against Anthony is currently before this Court. All of the allegations of the Commission’s complaint are deemed to be true for purposes of this motion for summary judgment. The Commission’s motion is also based upon the selected provisions of the sworn testimony, including various admissions, of Defendant, taken during the Commission’s investigation of the fraudulent free-riding

scheme. To that end, and by his fraudulent conduct, Anthony's conduct gives rise to a civil penalty in an amount set by the Court in this final judgment.

Based upon all of the information before this Court, the Court concludes that summary judgment on the issue of a civil penalty against Anthony is appropriate.

Material Facts To Which No Genuine Issue Exists

From all of the evidence before the Court, it appears that no genuine issue exists as to the following facts:

On June 23, 2023, Anthony executed his written consent to the entry of an order of permanent injunction and other relief in this litigation. (Ex. 1—Consent signed by Deyonte Anthony, filed 8/25/2023). (Statement of Material Facts (“SMF”)
¶1). The Order of Permanent Injunction and Other Relief against Anthony, entered by the Court on December 1, 2023 directed, with Anthony's stipulation thereto, *“that Defendant shall pay a civil penalty pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. The Court shall determine the amount of civil penalty upon motion of the Commission.”*

The Order further states that: *“[i]n connection with the Commission's motion for civil penalties, and at any hearing held on such a motion: (a) Defendant will be precluded from arguing that he did not violate the federal securities laws as alleged in the Complaint; (b) Defendant may not challenge the validity of the Consent or the Order of Permanent Injunction; (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.” (SMF ¶2).

Deyonte Anthony’s Conduct

The allegations of the Complaint, which are accepted as true for purposes of this motion against the Defendant, can be summarized as follows:

The Commission brought this action against Defendant for direct violations of the securities antifraud provisions of the federal securities laws, namely, Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78j(b)], and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5]. (SMF ¶3). This matter concerns a \$1 million “free-riding” scheme perpetrated by Concord, North Carolina based resident Deyonte Jahtori Anthony. (SMF ¶4). “Free-riding,” in this matter, describes the fraudulent practice used by securities traders who seek to exploit the “immediate access” or “instant deposit” credit extended by certain broker-dealers in advance of incoming fund deposits. (SMF ¶5). By depositing funds into their brokerage accounts from bank accounts that they know lack sufficient funds, these traders use the “immediate access” credit extended by the broker-dealers to buy and sell securities, hoping to earn and withdraw trading profits before the broker-dealer is notified of the insufficient funds and freezes the account. (SMF ¶6).

Specifically, between July 1, 2022 and July 6, 2022 (the “Relevant Period”), Anthony engaged in a free-riding scheme using his online brokerage account at Broker A [Citigroup Global Markets, Inc./Citi Personal Wealth Management

(hereinafter, “Citi”)], which he opened using falsely inflated information about his income. (SMF ¶7). After making \$1 million in unfunded deposits from his bank account, Anthony then made a series of exchange-traded fund (“ETF”) and equity purchases—including Apple, Inc. (“Apple”), AMC Entertainment Holdings, Inc. (“AMC”), GameStop Corporation (“GameStop”) and Tesla, Inc. (“Tesla”)—totaling \$199,956.65 using the “immediate access” credit extended to him by Broker A. (SMF ¶8). All of Anthony’s \$1 million in deposits later reversed due to insufficient funds in his bank account. (SMF ¶9). Broker A [Citi] discovered the scheme, froze Anthony’s account, and liquidated his holdings for a \$7,127.25 profit. (SMF ¶10). Anthony obtained neither ill-gotten gains, nor net losses avoided from his scheme, and his trading did not cause losses to the broker-dealer. (SMF ¶11). Anthony admitted under oath during investigative testimony that he made the \$1 million in deposits without having corresponding funds in his bank account. He also admitted that he made misstatements and lied to Broker A in order to make multiple securities purchases. (SMFs ¶12; 41; 42; 43).

Anthony, 23, of Concord, North Carolina, is a fast-food service worker who has worked with several restaurant chains and other retail employers. During the Relevant Period, Anthony worked part-time at Auntie Anne’s (“Auntie Anne’s”), a pretzel vendor. (SMF ¶13). Prior to the Relevant Period, Anthony had occasionally engaged in small securities trades through an online investing platform. (SMF ¶14).

On July 1, 2022, Anthony applied for a new Broker A brokerage account by submitting an online application in which he falsely inflated his personal finances,

claiming he had a total annual income between \$25,000 and \$50,000. In reality, Anthony's bank records show that he made less than \$400 per month from his part-time jobs at fast-food restaurants and other retail employers where he occasionally worked. (SMF ¶15). Around the time of Anthony's free-riding, employment records show that Anthony was hired on June 23, 2022, as a fast-food restaurant worker at an Auntie Anne's pretzel franchise in Concord, North Carolina, where he worked four shifts totaling 21 hours between June 25, 2022 and July 2, 2022. (SMF ¶16). For his work, Anthony earned a total of \$333.09, and was then terminated from his job on July 9, 2022, after failing to show up to work. (SMF ¶17).

Anthony devised the idea to engage in free-riding on his own; no one worked with him or taught him how to perpetrate the fraud. (SMF ¶18). Specifically, Anthony opened a Broker A [Citi] "Self Invest" account, a type of account for which Broker A [Citi] extends up to \$200,000 in "immediate access" credit for pending deposits. Such accounts also are limited to \$500,000 in automated clearinghouse ("ACH") deposits per day, and deposits are subject to a seven-day hold before withdrawals are allowed. (SMF ¶19). Once his Broker A [Citi] brokerage account was open, Anthony linked it to a bank account in his name at Bank A [Varo Bank, hereinafter "Varo"], which had a balance of \$0.09 at the time of his brokerage account application. (SMF ¶20). Anthony's separate bank account at Bank B [CitiBank, N.A., hereinafter "CitiBank"] had \$13.26, but was not linked to his brokerage account. (SMF ¶21). Four days later, on July 5, 2022, Anthony used his

personal smartphone to initiate five ACH deposits online totaling \$1 million from his Bank A [Varo] account into his Broker A [Citi] brokerage account. (SMF ¶22).

Anthony began by making two small unfunded online deposits of \$10 and \$16, respectively, before making larger unfunded deposits of \$500,000 and \$499,958, as well as another unfunded \$16 deposit. He then used the “immediate access” credit granted to him by Broker A – credit which was extended based on Anthony’s \$1 million in unfunded pending deposits – to make \$199,956.65 in securities purchases using Broker A’s online trading application. (SMF ¶23). His securities purchases included, among others, stock in Apple, AMC, GameStop and Tesla, as well as shares of an exchange-traded fund called ETFMG Prime Cyber Security ETF (ticker “HACK”). (SMF ¶24). When asked why he made the \$1 million in unfunded deposits without having funds to cover the transactions, Anthony excused his conduct as “a joke” and said that he “never really thought of it as fraud,” claiming that he had money in his account to cover the small deposits of \$10 and \$16 that he first initiated. (SMF ¶25). However, Anthony’s Bank A [Varo] account only had a balance of \$0.09 and could not cover even those small transactions. (SMF ¶26).

Anthony knew his Bank A account had insufficient funds to cover the larger deposits of \$500,000 and \$499,958 when he initiated those subsequent bogus deposits, as well as another \$16 deposit. (SMF ¶27). Furthermore, Anthony also knew that his misrepresentations and lies to Broker A [Citi] about having a total of \$1 million to deposit enabled him to use the “immediate access” credit of the broker-dealer to make multiple securities purchases. (SMF ¶28). All five of Anthony’s deposits

ultimately reversed for lack of funds in his associated Bank A [Citi] account. (SMF ¶29).

On July 7, 2022, Broker A [Citi] discovered Anthony's fraud and froze his account. (SMF ¶30). Thereafter, Broker A [Citi] liquidated his holdings for a net profit of \$7,127.25. (SMF ¶31). Anthony was not able to sell any of his holdings for profit prior to the freezing of his account. (SMF ¶32). He also did not leave Broker A [Citi] with any losses. (SMF ¶33). As a result, Anthony obtained no ill-gotten gains or net losses avoided from his scheme. (SMF ¶34).

I.

IT IS ORDERED, ADJUDGED AND DECREED that Defendant Deyonte Jahtori Anthony shall pay a civil penalty in the amount of \$15,000 pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. Defendant Anthony shall make his payment within thirty (30) days after entry of this Final Judgment. Defendant Anthony 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

Enterprise Services Center
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; Deyonte Jahtori Anthony as the defendant in this action; and specifying that payment is made pursuant to this Final Judgment.

Defendant Anthony shall simultaneously transmit photocopies of evidence of payment and case identifying information to the Commission's counsel in this action to:

Edward G. Sullivan, Esq.
Securities and Exchange Commission
950 East Paces Ferry Road, NE, Suite 900
Atlanta, GA 30326

By making this payment, Defendant Anthony relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to him. 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. Defendant, with respect to the civil penalties ordered as to him individually, shall pay post judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

II.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the terms of the Final Judgment include the directives in this order, and further include the terms of the *Permanent Injunction and Other Relief as to Defendant Deyonte Jahtori Anthony* signed by this Court on December 1, 2023. There being no just reason for

delay, the Clerk is directed to enter this final judgment against Defendant Deyonte Jahtori Anthony forthwith. This Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

This, the 14th day of February 2024.

/s/ Loretta C. Biggs
United States District Judge