

THE HONORABLE RICARDO S. MARTINEZ

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION

SECURITIES AND EXCHANGE COMMISSION,
Plaintiff,
vs.
KIRK SPERRY, and
SPERRY AND SONS CAPITAL INVESTMENTS,
LLC,
Defendants.

Civil Action No. 2:20-cv-01337-RSM

**JUDGMENT AS TO DEFENDANT
KIRK SPERRY**

The Securities and Exchange Commission having filed a Complaint and Defendant Kirk Sperry (“Defendant”) having entered a general appearance; consented to the Court’s jurisdiction over him and the subject matter of this action; consented to entry of this Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction and except as otherwise provided herein in paragraph V); waived findings of fact and conclusions of law; and waived any right to appeal from this Judgment:

I.

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

1 permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the
2 Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5
3 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of
4 interstate commerce, or of the mails, or of any facility of any national securities exchange, in
5 connection with the purchase or sale of any security:

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

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

17 II.

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

- 23 (a) to employ any device, scheme, or artifice to defraud;
- 24 (b) to obtain money or property by means of any untrue statement of a material
25 fact or any omission of a material fact necessary in order to make the
26 statements made, in light of the circumstances under which they were made,
27 not misleading; or
- 28 (c) to engage in any transaction, practice, or course of business which operates or

1 would operate as a fraud or deceit upon the purchaser.

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

7 III.

8 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
9 Defendant shall pay a civil penalty pursuant to Section 20(d) of the Securities Act [15 U.S.C.
10 § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. The Court shall
11 determine the amount of the civil penalty upon motion of the Commission. In connection
12 with the Commission's motion for civil penalties, and at any hearing held on such a motion:
13 (a) Defendant will be precluded from arguing that he did not violate the federal securities laws
14 as alleged in the Complaint; (b) Defendant may not challenge the validity of the Consent or
15 this Judgment; (c) solely for the purposes of such motion, the allegations of the Complaint
16 shall be accepted as and deemed true by the Court; and (d) the Court may determine the issues
17 raised in the motion on the basis of affidavits, declarations, excerpts of sworn deposition or
18 investigative testimony, and documentary evidence, without regard to the standards for
19 summary judgment contained in Rule 56(c) of the Federal Rules of Civil Procedure. In
20 connection with the Commission's motion for civil penalties, the parties may take discovery,
21 including discovery from appropriate non-parties.

22 IV.

23 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent is
24 incorporated herein with the same force and effect as if fully set forth herein, and that
25 Defendant shall comply with all of the undertakings and agreements set forth therein.

26 V.

27 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, solely for
28 purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11

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

7 VI.

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

10 VII.

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

14
15 Dated: May 5, 2021

16
17 

18 RICARDO S. MARTINEZ
19 CHIEF UNITED STATES DISTRICT JUDGE
20
21
22
23
24
25
26
27
28