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ROBERT H. SHERWELL, CLERK
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT, LOUISIANA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
FILED

JAN - 5 1998

ROBERT H. SHERWELL, CLERK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

SUNBELT DEVELOPMENT CORPORATION,
WENDELL ROGERS, DONALD HAMMOND, and
WILLIE DAVIS,

Defendants.

Civil Action No.

1:97-CV-1387

Judge Little
Magistrate Simon

DEFAULT JUDGMENT AND ORDER OF PERMANENT INJUNCTION AND
OTHER RELIEF AGAINST DEFENDANTS SUNBELT AND ROGERS

Plaintiff Securities and Exchange Commission ("Commission") filed its Complaint herein on July 15, 1997 and perfected personal service on defendants Sunbelt Development Corporation ("Sunbelt") and Wendell Rogers ("Rogers") on July 18, 1997. Rogers acting pro se twice sought extensions of time to answer on his personal behalf, which the Court granted. Both extensions have expired and neither Sunbelt nor Rogers has entered a general appearance or otherwise answered. The Clerk of the Court properly entered a default against Sunbelt and Rogers on October 29, 1997. Plaintiff's motion for default judgment is now properly before the Court. For good cause shown, default judgment is granted against defendants Sunbelt and Rogers. The facts and allegations contained in the Complaint are deemed as true against these two defendants and the Court makes the following findings of fact and conclusions of law under Rules 52 and 65 of the Federal Rules of Civil Procedure with respect to the relief granted in this Order:

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1. This matter involves the fraudulent sale of more than \$3.5 million of unregistered securities issued by defendant Sunbelt to over 200 individuals in at least 16 states and the subsequent misappropriation and misapplication of the investors' money.

2. Defendant Rogers is or was a minister who misrepresented material facts and omitted other material facts when selling the securities to members of his church, members of other churches in his denomination, and friends and relatives of those members.

3. Between July 1993 and May 1994 defendant Rogers represented to numerous investors that Sunbelt was raising money to finance the expansion and initial public offering of Cedar Hill Game Call Company ("Cedar Hill"), that investors would receive stock valued at two, three or four times their initial investment when Cedar Hill went public, that investors would earn returns of 60% to 100% each year until Cedar Hill went public, and that investors' principal would be returned.

4. In addition, defendant Rogers told some investors that their principal was guaranteed by the Securities Investor Protection Corporation ("SIPC"); defendant Rogers told investors that Rogers had worked for Merrill Lynch, Pierce, Fenner and Smith ("Merrill Lynch"); and defendant Rogers represented to investors that he was Cedar Hill's Chief Executive Officer ("CEO").

5. Sunbelt was actually operating a Ponzi scheme and each of these representations was false.

6. In April 1994, defendant Sunbelt informed investors that it was liquidating its assets, would return all money invested and would pay all interest owed.

7. Defendant Sunbelt then stopped paying returns to investors and never returned most of the principal fraudulently obtained from the investors.

8. The sale of these investment contracts by defendant Rogers and the misrepresentations and omissions associated with their offer and sale, violated Sections 5 and 17(a) of the Securities Act, Sections 10(b) and 15(a) of the Exchange Act and Rule 10b-5 thereunder.

9. Sunbelt Development Corporation of Jonesville, Louisiana, was incorporated in Louisiana by defendant Rogers and his wife, Kimberly, on or about February 28, 1991.

10. Corporate documents identify defendant Rogers as a director and his wife as the secretary/treasurer.

11. A document distributed by defendant Rogers indicates that Sunbelt is in the business of raising capital for businesses and investment purposes.

12. Wendell Rogers, director and co-founder of Sunbelt, is the former pastor of the First Apostolic Church in El Dorado, Arkansas.

13. During 1993 and early 1994, defendant Rogers was a high-ranking official in his denomination, the Assemblies of the Lord Jesus Christ ("ALJC").

14. In 1993 and 1994, defendant Rogers also owned and operated a number of businesses in Farmerville, Louisiana including a furniture store, a shoe store, an oil-change business for automobiles, and a cattle company.

15. Rogers sold Sunbelt securities in a number of states.

16. The Commission brings this action pursuant to Sections 20(b), 20(d), and 22(a) of the Securities Act of 1933 ("Securities Act"), [15 U.S.C. 77t(b), 77t(d) and 77v(a)] and Sections 21(d) and 21(e) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. 78u(d) and 78u(e)] to enjoin the defendants from engaging in transactions, acts, practices and courses of business alleged in this complaint and transactions, acts, practices and courses of similar purport and object, for disgorgement of illegally obtained funds and for other equitable relief, and for civil money penalties.

17. This Court has jurisdiction over this action pursuant to Sections 20(b), 20(d) and 22(a) of the Securities Act and Sections 21(d) and 21(e) of the Exchange Act.

18. Venue lies in this Court pursuant to Section 22(a) of the Securities Act and Section 27 of the Exchange Act in that defendant Sunbelt is a Louisiana corporation with its principal place of business situated in Jonesville, Louisiana; defendant Rogers is a resident of Farmerville, Louisiana; and because a substantial portion of the conduct from which this action arose occurred within this district.

19. Defendants Sunbelt and Rogers, singly and in concert, directly and indirectly, have made use of the means and instruments of interstate commerce and of the mails in connection with the acts, practices, transactions and courses of business described in this complaint.

20. Certain of the transactions, acts, practices and courses of business constituting violations of the Securities Act and the Exchange Act have occurred in the Western District of Louisiana, including the solicitation of investors who reside within the Western District of Louisiana.

21. The defendants, unless restrained and enjoined by this Court, will continue to engage in the transactions, acts, practices and courses of business alleged in this complaint, and in transactions, acts, practices and courses of business of similar purport and object.

22. In July 1993, defendant Rogers began representing to friends and acquaintances that defendant Sunbelt would invest money on their behalf and obtain high returns.

23. Over the next ten months defendant Rogers personally offered investments to many potential investors which resulted in approximately 200 investors in 16 states sending over \$3.5 million to defendant Sunbelt.

24. Some investors received notes from Sunbelt evidencing their investment.

25. Other investors were told that notes would be mailed but never received them.

26. Still other investors were neither promised nor given any documents evidencing their investment.

27. Investors, regardless of whether they received a note, were told that their money was being combined with that of other investors, and used in the manner described by defendants Rogers.

28. Only a handful of investors appear to have received any documents discussing defendant Sunbelt, its activities, its history, or defendant Rogers.

29. Defendants Rogers informed potential investors that Sunbelt would invest their money in Cedar Hill Game Call Company, a small manufacturer of game calls and equipment used by hunters.

30. Some investors were simply told that defendant Sunbelt made short term loans to doctors and lawyers who were willing to pay very high interest rates to obtain money to invest in real estate.

31. Many of those who took advantage of this investment opportunity were elderly and retired.

32. Several defrauded investors were widowed.

33. Defendant Rogers spoke to groups of potential investors about Cedar Hill at meetings held in the fall of 1993 in two restaurants in Portsmouth, Ohio, a hotel in Columbus, Ohio, a restaurant in Jena, Louisiana, and a home in Somerset, Pennsylvania.

34. These meetings were arranged by defendant Rogers with the help of others.

Misrepresentations Made by Rogers

35. Defendant Rogers told investors who attended the meetings in Ohio and Louisiana that defendant Sunbelt would invest their money in Cedar Hill for two or three years to enable it to open retail outlets of Cedar Hill in several states and to finance an initial public offering of Cedar Hill stock.

36. Defendant Rogers informed those in attendance that during those two or three years, investors would earn a return of 100% each year.

37. Rogers also stated at those meetings that when Cedar Hill went public its stock would be listed on the American Stock Exchange ("AMEX") and that investors would receive shares worth up to four times their initial investment in addition to having their principal returned.

38. Although there were some variations in the promised rate of return, defendant Rogers and others made the misrepresentations regarding rate of return to virtually all of the investors.

39. Contrary to the representations of defendant Rogers, some of the notes that were sent to investors, only entitled the holder to 6% interest each year until the note was paid. Other notes specified that Sunbelt would make a large payment to the investor each month.

40. Rogers made essentially the same representations to investors who attended a meeting in Somerset, Pennsylvania.

41. Defendant Rogers also gave investors at the Somerset meeting a document which represented that he was Cedar Hill's CEO and that Sunbelt was acquiring a 70% interest in Cedar Hill.

42. The owner of Cedar Hill has testified that he and Rogers had some initial discussions about expanding Cedar Hill and taking it public. That owner has denied that Rogers was on Cedar Hill's Board of Directors, that Rogers owned an interest in Cedar Hill, or that he had agreed to sell Sunbelt a 70% interest in Cedar Hill.

43. Moreover, defendant Rogers with the help of others raised over \$3.5 million by representing that it would be invested in Cedar Hill.

44. In reality, Cedar Hill received approximately \$20,000 from either defendant Sunbelt or Rogers.

45. Any discussions between defendant Rogers and the Cedar Hill owner regarding new stores and taking the company public were merely preliminary.

46. Furthermore, Rogers was not authorized to make representations regarding either the opening of new stores or an initial public offering of Cedar Hill stock.

47. Rogers falsely guaranteed to numerous investors that their principal was secure.

49. For example, two Louisiana couples were falsely told by defendant Rogers during at a meeting in his office that their principal was guaranteed by the Securities Investor Protection Corporation ("SIPC").

50. A Louisiana pastor and his brother were falsely told by Rogers that SIPC guaranteed their investment.

51. Similarly, another Louisiana investor was falsely told by defendant Rogers that there was no way he could lose his principal.

52. Rogers advised still another investor that "it would take an idiot" to lose someone's principal.

53. An Ohio pastor testified before Commission staff that Rogers personally guaranteed his investment.

54. SIPC does not guarantee this type of investment.

55. Moreover, despite Rogers's guarantees, neither these investors, nor the majority of Sunbelt investors, ever had their entire principal returned.

56. At the meeting in Columbus, Ohio, Rogers also misrepresented his background.

57. A pastor who invested \$95,000 recalls Rogers stating at that meeting that he relinquished his securities license so that he could utilize inside information when trading.

59. Defendant Rogers has never held a securities license.

The Receipt and Disposition of Investor Money

60. Between July 1, 1993, and May 31, 1994, when Cedar Hill was being promoted to investors, bank records for defendants Rogers and Sunbelt indicate that, contrary to the representations of defendants Rogers and others, money raised from investors was not being invested in Cedar Hill.

61. Using information it had compiled regarding the identity of investors, plaintiff has determined that more than \$2.2 million of investors' money was deposited in two of defendant Rogers's accounts between July 1, 1993, and May 31, 1994.

62. However, the banks' records indicate that Rogers's and Sunbelt's only payment to Cedar Hill in excess of \$5,000 in that period occurred on January 21, 1994, when defendant Rogers wrote a check to the company for \$10,000.

63. Apparently, a tiny portion of the funds that Rogers raised from investors was used to finance the expansion of Cedar Hill.

64. The analysis of defendants' bank records also reflect that a large portion of the money raised from investors could not have generated the promised returns or, for that matter, any returns.

65. In the ten months at issue, defendants Rogers and Sunbelt invested \$150,000 of the funds collected from investors in a Louisiana bank's Certificates of Deposit ("CD") on behalf of Sunbelt and approximately \$400,000 in real estate.

66. Aside from those transactions, there is no evidence that Rogers or Sunbelt invested any of the investors' money in anything capable of generating the significant returns promised to investors.

67. Defendants Rogers's and Sunbelt's bank records also indicate that investor money was used to pay a variety of business and personal expenses.

68. In the ten months at issue, defendants Rogers and Sunbelt spent \$161,000 on expenses related to the use of a small plane, \$400,000 acquiring real estate, \$226,000 paying American Express bills, and over \$300,000 on personal expenses such as construction projects, insurance premiums, and legal fees.

69. An examination of the transactions in the accounts of five of defendant Rogers's businesses for that same period,

revealed that only two of those businesses, a furniture store and a cattle company, had total deposits in excess of \$100,000.

70. Thus, Rogers's bank accounts show that his businesses were not generating sufficient income to pay for his and Sunbelt's expenditures.

71. This evidence establishes that Rogers and Sunbelt were using investors' funds for business expenses and Rogers's personal expenses.

72. Those records also reflect that Rogers and Sunbelt were operating a Ponzi scheme.

73. Almost \$900,000 was paid directly to investors out of the same accounts into which Rogers and Sunbelt deposited \$2.2 million of investor money.

74. None of the money paid to investors came from Cedar Hill.

75. Not a single bank produced a document showing that Cedar Hill or its owner ever made a deposit in excess of \$5,000 into any of Rogers' or Sunbelt's accounts.

76. Neither of the defendants is an infant nor is an incompetant person nor is engaged in military service with the armed forces of the United States.

With these facts set forth in the complaint deemed as true for purposes of this default judgment, the Court enjoins defendants Sunbelt and Rogers as follows:

I.

IT IS HEREBY ORDERED that defendants Sunbelt and Rogers as well as their officers, agents, servants, employees, attorneys, and

those persons in active concert or participation with them who receive actual notice of this order by personal service, facsimile transmission or otherwise, and each of them, be and hereby are hereby permanently enjoined from violating Section 17(a) of the Securities Act, 15 U.S.C. 77q(a), by, directly or indirectly, through the use of any means or instrument of transportation and communication in interstate commerce, or of the mails,

- a. employing any device, scheme, or artifice to defraud;
- b. obtaining money or property by means of any untrue statement of a material fact or any omission 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. engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon a purchaser,

in the offer or sale of any security.

II.

IT IS FURTHER ORDERED that, until further order of this Court, defendants Sunbelt and Rogers as well as their officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of this order by personal service, facsimile transmission or otherwise, and each of them, be and hereby are permanently enjoined and restrained from violating Section 10(b) of the Exchange Act, 15 U.S.C. 78j(b), and Rule 10b-5, 17 C.F.R. 240.10b-5, promulgated thereunder by,

directly or indirectly, through the use of any means or instrumentalities of interstate commerce, or of the mails or of any facility of a national securities exchange,

- a. employing any device, scheme, or artifice to defraud;
- b. making any untrue statement of a material fact or omitting 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. engaging in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person,

in connection with the purchase or sale of any security.

III.

IT IS FURTHER ORDERED that, until further order of this Court, defendants Sunbelt and Rogers as well as their officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of this order by personal service, facsimile transmission or otherwise, and each of them, be and hereby are permanently enjoined and restrained from violating Section 5 of the Securities Act by directly and indirectly making use of means and instruments of transportation and communication in interstate commerce and of the mails to offer to sell and to sell securities and to carry and cause to be carried through the mails and in interstate commerce, by means and instruments of transportation, said securities for the purpose of

sale and for delivery for sale without having registration statements filed with the Commission with respect to the securities.

IV.

IT IS FURTHER ORDERED that, defendant Rogers, his agents, servants, employees, attorneys, and all persons in active concert or participation with him who receive actual notice of this Order, and each of them, be and hereby are permanently enjoined and restrained from violating Section 15(a)(1) of the Exchange Act [15 U.S.C. § 78o(a)(1)] by directly or indirectly engaging in business as a broker and making use of the mails and instrumentalities of interstate commerce to effect transactions in or to induce or attempt to induce the purchase and sale of securities in the form of common stock (other than an exempted security or commercial paper, banker's acceptances or commercial bills), otherwise than on a national securities exchange, when not registered with the Commission as a broker in accordance with Section 15(b) of the Exchange Act, 15 U.S.C. § 78o(b).

V.

IT IS FURTHER ORDERED that, pending final determination as to all of the parties to this action, defendants Sunbelt and Rogers as well as their officers, agents, servants, employees, attorneys, and those persons in active concert or participation with it who receive actual notice of this order by personal service, facsimile transmission or otherwise, and each of them, are hereby enjoined from destroying, mutilating, concealing, altering, or disposing of

any document referring or relating in any manner to any defendants herein. As used in this order, "document" means the original and all non-identical copies (whether non-identical because of handwritten notation or otherwise) and all written or graphic matter, however produced, and any other tangible record, or electronic data compilation of any sort, including, without limitation, computer disks, computer diskettes, computer tapes, correspondence, memoranda, notes, minutes, telephone records, reports, studies, telexes, diaries, calendar entries, contracts, and letters of agreement, and including any and all existing drafts of all documents.

VI.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the amount of disgorgement to be ordered against Defendant Sunbelt shall be \$2,560,842 representing the gains it received from sales of interests outlined in the Commission's complaint in violation of the securities laws, plus prejudgment interest thereon. The calculation of prejudgment interest Sunbelt is ordered to pay is computed at the Internal Revenue Service rate for unpaid taxes.

VII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the amount of disgorgement to be ordered against Defendant Rogers shall be \$1,502,842 representing the gains he received from sales of interests outlined in the Commission's complaint in violation of the securities laws, plus prejudgment interest thereon. The

calculation of prejudgment interest Sunbelt is ordered to pay is computed at the Internal Revenue Service rate for unpaid taxes.

VIII.

IT IS FURTHER ORDERED that defendants Sunbelt and Rogers shall pay disgorgement in this matter in the above amounts to the registry of the Clerk of this Court. Disgorgement shall be fully paid within 30 days of the entry of this Order.

IX.

IT IS FURTHER ORDERED that the Court is ordering defendants Sunbelt and Rogers to pay a civil penalty in an amount to be determined at a later date, upon motion by the Commission.

X.

IT IS FURTHER ORDERED that this judgment does not resolve any claims against Sunbelt or Rogers which have been or may be asserted by any third parties arising from their actions in this matter.

XI.

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for the purpose of enforcing this Order.

XII.

IT IS FURTHER ORDERED that there is no just reason for delay and the Clerk is directed to enter this judgment forthwith.

SO ORDERED, this 8 day of January, 1998

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JUDGEMENT ENTERED

BY

COPY TO

01/06/98
Gold
Sullivan
Gallilurton
Rogers
Financial Section

F.A. LITTLE JR.
UNITED STATES DISTRICT JUDGE