

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 03-80612-CIV-MARRA/JOHNSON

SECURITIES AND EXCHANGE COMMISSION,)
)
Plaintiff,)
)
v.)
)
MICHAEL LAUER,)
LANCER MANAGEMENT GROUP, LLC, and)
LANCER MANAGEMENT GROUP II, LLC,)
)
Defendants,)
and)
)
LANCER OFFSHORE, INC.,)
LANCER PARTNERS, LP,)
OMNIFUND, LTD.,)
LSPV, INC., and)
LSPV, LLC,)
)
Relief Defendants.)

**ORDER SETTING DISGORGEMENT AND PREJUDGMENT INTEREST AGAINST
DEFENDANT MICHAEL LAUER**

THIS CAUSE is before the Court upon Plaintiff Securities and Exchange Commission’s Motion for Summary Judgment Against Defendant Michael Lauer. [DE 1737]. On September 23, 2008, the Court entered its Order and Opinion on Motion for Summary Judgment. [DE 2133]. Therein the Court granted the Commission’s Motion for Summary Judgment, permanently enjoined Lauer, and reserved jurisdiction on the Commission’s request for disgorgement, prejudgment interest and civil penalties until the Court could hold an evidentiary hearing. On December 12, 2008, the Court held the evidentiary hearing on the SEC’s request for disgorgement and prejudgment interest only. The Court after fully considering the evidence

presented at the December 12, 2008 evidentiary hearing, the record herein and being fully advised of the premises, Orders as follows:

I.

**DISGORGEMENT AND PREJUDGMENT
INTEREST AS TO MICHAEL LAUER**

IT IS ORDERED AND ADJUDGED that Defendant Michael Lauer, a resident of New York, New York, shall pay disgorgement in the amount of \$43,688,249.00, representing the ill-gotten gains he received as a result of his violations of the federal securities laws. Defendant Michael Lauer shall pay the disgorgement amount within fifteen (15) days from the date of issuance of this order. In addition, Michael Lauer shall pay prejudgment interest in the amount of \$ 18,908,558.74, for a total of \$62,596,807.74. Defendant Michael Lauer shall pay the prejudgment interest amount within fifteen (15) days from the date of issuance of this order. The Court rejects Defendant's defense that the amount of disgorgement should either be eliminated or reduced because all or part of the monies in question were earned as fees prior to the fraudulent period found by the Court. All of the monies ultimately received by Defendant were acquired by the relevant relief defendants during the fraudulent period as a result of Defendant's fraudulent conduct. To hold otherwise would permit Defendant to profit from his wrongful conduct.

II.

PAYMENT INSTRUCTIONS

IT IS FURTHER ORDERED AND ADJUDGED that Defendant Michael Lauer shall make all payments due under this Order to the United States Securities and Exchange Commission, by sending a U.S. postal money order, certified check, bank cashier's check or bank money order payable to the Clerk of this Court, under cover of a letter that identifies the payee as a Defendant in this action, setting forth the title and civil action number of this action and the name

of this Court, and specifying that payment is made pursuant to this Order. Copies of such check and accompanying cover letter shall be simultaneously transmitted to Christopher E. Martin, Senior Trial Counsel, U.S. Securities and Exchange Commission, Miami Regional Office, 801 Brickell Avenue, Suite 1800, Miami, Florida 33131.

By making the payments due under this Order, Defendant Michael Lauer relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to him. The Clerk shall deposit the funds into an interest bearing account with the Court Registry Investment System (“CRIS”). These funds, together with any interest and income earned thereon (collectively, the “Fund”) shall be held by the CRIS until further order of the Court. In accordance with the guidelines set by the Director of the Administrative Office of the United States Courts (“DAOUSC”), the Clerk is directed, without further order of this Court, to deduct from the income earned on the money in the Fund a fee equal to ten percent of the income earned on the Fund. Such fee shall not exceed that authorized by the Judicial Conference of the United States (“JCUS”). The Commission may by motion 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.

III.

THE COMMISSION MAY RECOMMEND A SPECIFIC PENALTY AMOUNT

IT IS FURTHER ORDERED AND ADJUDGED that in accordance with the Court’s November 19, 2008 Order (DE 2171), the Commission may have up to thirty days to recommend a specific civil penalty amount that Lauer should pay.

IV.

ASSET FREEZE REMAINS IN FULL FORCE AND EFFECT

IT IS FURTHER ORDERED AND ADJUDGED that the Court's Preliminary Injunction Order (DE 22 at 5-6) remains in full force and effect, except that the Commission or the Court-appointed Receiver, Marty Steinberg, may transfer frozen assets, or direct third-parties to transfer frozen assets, to this Court's Registry in order to effect payment of disgorgement and prejudgment interest as required by this Order.

V.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED AND ADJUDGED that this Court shall retain jurisdiction of this matter 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.

VI.

CERTIFICATION UNDER RULE 54(b)

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

DONE AND ORDERED in Chambers at West Palm Beach in the Southern District of Florida, this 7th day of May, 2009



**KENNETH A. MARRA
UNITED STATES DISTRICT JUDGE**

Copies to:

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