

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
Tampa Division**

CASE NO.: 8:09-CV-01046-T-30TGW

SECURITIES AND EXCHANGE COMMISSION,)
)
Plaintiff,)
)
v.)
)
WALL STREET COMMUNICATIONS, INC.,)
HOWARD A. SCALA, ROSS E. BARALL, and)
DONALD R. McKELVEY,)
)
Defendants.)

FINAL JUDGMENT OF DISGORGEMENT, PREJUDGMENT INTEREST AND CIVIL PENALTY AS TO DEFENDANT DONALD R. McKELVEY

The Court previously entered Partial Final Judgment of Permanent Injunction and Other Relief (Dkt. #133) against Donald R. McKelvey and ordered the amounts of disgorgement, prejudgment interest, and civil money penalty against him be determined upon the Commission’s motion. On July 20, 2011, the Plaintiff filed its motion (Dkt. #144) and memorandum of law to set disgorgement, prejudgment interest, and civil penalty amounts. On July 26, 2011, the Court held a hearing on such matters. The Court being fully advised in the premises, grants the motion (Dkt. #144) and orders as follows:

I.

CIVIL PENALTY, DISGORGEMENT AND PREJUDGMENT INTEREST

IT IS ORDERED AND ADJUDGED that McKelvey is liable for disgorgement of \$266,780, representing profits gained as a result of the conduct alleged in the

Complaint, together with prejudgment interest in the amount of \$127,711.82, for a total of \$394,491.82. McKelvey shall also pay a civil penalty in the amount of \$50,000, pursuant to Section 20(d) of the Securities Act, 15 U.S.C. §77t(d). Plaintiff is granted final judgment against DONALD R. McKELVEY in the amount of \$444,491.82 for which let execution issue.

II.

PAYMENT INSTRUCTIONS

IT IS FURTHER ORDERED AND ADJUDGED that McKelvey shall satisfy this obligation by paying \$444,491.82 within 14 days after entry of this Final Judgment by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission. The payment shall be delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, 100 F Street, NE, Stop 6042, Washington DC 20549, and shall be accompanied by a letter identifying McKelvey 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 Final Judgment. McKelvey shall send a copy of the letter and payment form to: Christine Nestor, Senior Trial Counsel, U.S. Securities and Exchange Commission, Miami Regional Office, 801 Brickell Avenue, Suite 1800, Miami, Florida 33131. McKelvey shall pay post-judgment interest on any delinquent amounts pursuant to 28 USC § 1961. The Commission shall remit the funds paid pursuant to this paragraph to the United States Treasury.

McKelvey shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made pursuant to

any insurance policy, with regard to any civil penalty amount he pays pursuant to this Final Judgment, regardless of whether such penalty amounts or any party thereof are added to a distribution fund or otherwise used for the benefit of investors. McKelvey further shall not claim, assert, or apply for tax deduction or tax credit with regard to any federal, state, or local tax for any penalty amounts he pays pursuant to this Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors.


III.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED AND ADJUDGED that this Court shall retain jurisdiction of this matter for one (1) year for the purpose of enforcing the terms of this Final Judgment.

DONE and ORDERED in Tampa, Florida on July 26, 2011.

Copies furnished to:
Counsel/Parties of Record



JAMES S. MOODY, JR.
UNITED STATES DISTRICT JUDGE

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