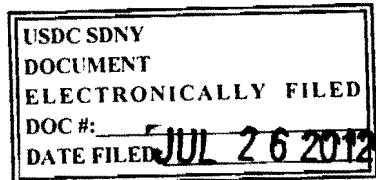


UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK



SECURITIES AND EXCHANGE COMMISSION,	:	
	:	
Plaintiff,	:	
	:	
v.	:	1:09-cv-07594-KBF-THK
	:	[rel. 04-cv-02322]
	:	
DOYLE SCOTT ELLIOTT,	:	
SCOTT ELLIOTT, INC.,	:	ECF Filing
MICHAEL J. XIRINACHS,	:	
EMERALD ASSET ADVISORS LLC,	:	
ROBERT L. WEIDENBAUM, and	:	
CLX & ASSOCIATES INC.,	:	
	:	
Defendants.	:	

Amended **JUDGMENT AGAINST MICHAEL J. XIRINACHS
AND EMERALD ASSET ADVISORS LLC**

In accordance with the Court’s Memorandum Opinion and Order dated August 11, 2011, [ECF # 103], the Opinion and Order dated June 12, 2012 [ECF # 148], Minute Order dated June 22, 2012 [ECF # 151] and Order dated July 19, 2012 [ECF # 156], judgment is entered on the Securities and Exchange Commission’s claim that defendants Michael J. Xirinachs (“Xirinachs”) and Emerald Asset Advisors LLC (“Emerald Asset Advisors”) violated Section 5 of the Securities Act of 1933, 15 U.S.C. § 77e, in their sales of the securities of Universal Express Inc.

I.

IT IS ORDERED, ADJUDGED, AND DECREED that Defendants Xirinachs and Emerald Asset Advisors and each of Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 5 of the Securities Act [15 U.S.C. § 77e] by, directly or indirectly, in the absence of any

applicable exemption:

- (a) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;
- (b) Unless a registration statement is in effect as to a security, carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale; or
- (c) Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed with the Commission as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or examination under Section 8 of the Securities Act [15 U.S.C. § 77h].

II.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants Xirinachs and Emerald Asset Advisors are barred for a period of three years from June 12, 2012, from participating in an offering of penny stock, including engaging in activities with a broker, dealer, or issuer for purposes of issuing, trading, or inducing or attempting to induce the purchase or sale of any penny stock. A penny stock is any equity security that has a price of less than five dollars, except as provided in Rule 3a51-1 under the Exchange Act [17 C.F.R. § 240.3a51-1]. Xirinachs and Emerald Asset Advisors may liquidate their penny stock positions held on June 12, 2012 over a period of not more than six months. If that timeframe is insufficient to allow orderly

This bar does not prevent defendants from acquiring penny stocks.

liquidation, then Xirinachs and Emerald Asset Advisors through counsel must show good cause for additional time to the Court.

III.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants Xirinachs and Emerald Asset Advisors are liable jointly and severally for disgorgement of \$3,052,752 representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon of \$730,621, and a civil penalty of \$3,835,000 pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], for a total of \$7,618,373. Defendants shall satisfy this obligation by paying \$7,618,373 within 14 days after entry of this Judgment by the Clerk of this Court, 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 Xirinachs and Emerald Asset Advisors as defendants 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 Judgment. Defendant shall pay post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961. The Commission shall remit the funds paid pursuant to this paragraph to the United States Treasury.

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant Xirinachs is liable for disgorgement of \$345,462 representing his additional profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon of \$82,680.01, and a civil penalty of \$2,119,000 pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)],

for a total of \$2,547,142.01. Defendant shall satisfy this obligation by paying \$2,547,142.01 within 14 days after entry of this Judgment by the Clerk of this Court, 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 Xirinachs 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 Judgment. Defendant shall pay post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961. The Commission shall remit the funds paid pursuant to this paragraph to the United States Treasury.

V.

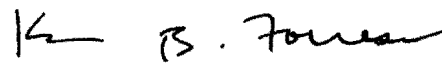
IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for purposes of enforcing the terms of this Judgment.

VI.

IT IS FURTHER ORDERED that there being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is to enter this Judgment forthwith and without further notice.

SO ORDERED.

Dated: New York, New York
July 26, 2012



KATHERINE B. FORREST
United States District Judge

United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213

Date:

In Re:

-v-

Case #: ()

Dear Litigant,

Enclosed is a copy of the judgment entered in your case.

Your attention is directed to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, which requires that if you wish to appeal the judgment in your case, you must file a notice of appeal within 30 days of the date of entry of the judgment (60 days if the United States or an officer or agency of the United States is a party).

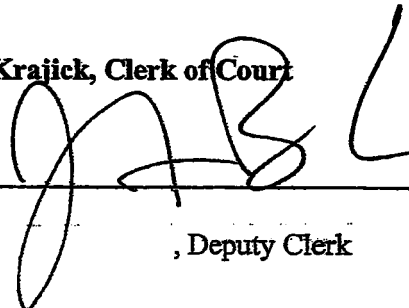
If you wish to appeal the judgment but for any reason you are unable to file your notice of appeal within the required time, you may make a motion for an extension of time in accordance with the provision of Fed. R. App. P. 4(a)(5). That rule requires you to show "excusable neglect" or "good cause" for your failure to file your notice of appeal within the time allowed. Any such motion must first be served upon the other parties and then filed with the Pro Se Office no later than 60 days from the date of entry of the judgment (90 days if the United States or an officer or agency of the United States is a party).

The enclosed Forms 1, 2 and 3 cover some common situations, and you may choose to use one of them if appropriate to your circumstances.

The Filing fee for a notice of appeal is \$5.00 and the appellate docketing fee is \$450.00 payable to the "Clerk of the Court, USDC, SDNY" by certified check, money order or cash. No personal checks are accepted.

Ruby J. Krajick, Clerk of Court

by: _____



, Deputy Clerk

APPEAL FORMS

United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213

-----X
|
-V-
|
-----X

NOTICE OF APPEAL

civ. ()

Notice is hereby given that _____
(party)
hereby appeals to the United States Court of Appeals for the Second Circuit from the Judgment [describe it]

entered in this action on the _____ day of _____, _____
(day) (month) (year)

(Signature)

(Address)

(City, State and Zip Code)

Date: _____

() _____
(Telephone Number)

Note: You may use this form to take an appeal provided that it is received by the office of the Clerk of the District Court within 30 days of the date on which the judgment was entered (60 days if the United States or an officer or agency of the United States is a party).

FORM 1

United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213

MOTION FOR EXTENSION OF TIME
TO FILE A NOTICE OF APPEAL

-V-

civ. ()

Pursuant to Fed. R. App. P. 4(a)(5), _____ respectfully
requests leave to file the within notice of appeal out of time.

_____ (party)
desires to appeal the judgment in this action entered on _____ (party)
_____ (day) but failed to file a
notice of appeal within the required number of days because:

[Explain here the "excusable neglect" or "good cause" which led to your failure to file a notice of appeal within the required number of days.]

(Signature)

(Address)

(City, State and Zip Code)

Date: _____

() _____
(Telephone Number)

Note: You may use this form, together with a copy of Form 1, if you are seeking to appeal a judgment and did not file a copy of Form 1 within the required time. If you follow this procedure, these forms must be received in the office of the Clerk of the District Court no later than 60 days of the date which the judgment was entered (90 days if the United States or an officer or agency of the United States is a party).

APPEAL FORMS

District Court will receive it within the 30 days of the date on which the judgment was entered (60 days if the United States or an officer or agency of the United States is a party).

FORM 3

United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213

-----X
-V-
-----X

AFFIRMATION OF SERVICE

civ. ()

I, _____, declare under penalty of perjury that I have served a copy of the attached _____

upon _____

whose address is: _____

Date: _____
New York, New York

(Signature)

(Address)

(City, State and Zip Code)

FORM 4

APPEAL FORMS

FORM 2

**United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213**

-V-

**NOTICE OF APPEAL
AND
MOTION FOR EXTENSION OF TIME**

civ. ()

1. Notice is hereby given that _____ hereby appeals to
(party)
the United States Court of Appeals for the Second Circuit from the judgment entered on _____.
[Give a description of the judgment]

2. In the event that this form was not received in the Clerk's office within the required time
_____ respectfully requests the court to grant an extension of time in
(party)
accordance with Fed. R. App. P. 4(a)(5).

a. In support of this request, _____ states that
(party)
this Court's judgment was received on _____ and that this form was mailed to the
(date)
court on _____
(date)

(Signature)

(Address)

(City, State and Zip Code)

Date: _____

() _____
(Telephone Number)

Note: You may use this form if you are mailing your notice of appeal and are not sure the Clerk of the

APPEAL FORMS

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED JUL 26 2012
--

SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

v. :

DOYLE SCOTT ELLIOTT, :
SCOTT ELLIOTT, INC., :
MICHAEL J. XIRINACHS, :
EMERALD ASSET ADVISORS LLC, :
ROBERT L. WEIDENBAUM, and :
CLX & ASSOCIATES INC., :

Defendants. :

1:09-cv-07594-KBF-THK
[rel. 04-cv-02322]

ECF Filing

Amended **JUDGMENT AGAINST MICHAEL J. XIRINACHS
AND EMERALD ASSET ADVISORS LLC**

In accordance with the Court’s Memorandum Opinion and Order dated August 11, 2011, [ECF # 103], the Opinion and Order dated June 12, 2012 [ECF # 148], Minute Order dated June 22, 2012 [ECF # 151] and Order dated July 19, 2012 [ECF # 156], judgment is entered on the Securities and Exchange Commission’s claim that defendants Michael J. Xirinachs (“Xirinachs”) and Emerald Asset Advisors LLC (“Emerald Asset Advisors”) violated Section 5 of the Securities Act of 1933, 15 U.S.C. § 77e, in their sales of the securities of Universal Express Inc.

I.

IT IS ORDERED, ADJUDGED, AND DECREED that Defendants Xirinachs and Emerald Asset Advisors and each of Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 5 of the Securities Act [15 U.S.C. § 77e] by, directly or indirectly, in the absence of any

applicable exemption:

- (a) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;
- (b) Unless a registration statement is in effect as to a security, carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale; or
- (c) Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed with the Commission as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or examination under Section 8 of the Securities Act [15 U.S.C. § 77h].

II.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants Xirinachs and Emerald Asset Advisors are barred for a period of three years from June 12, 2012, from participating in an offering of penny stock, including engaging in activities with a broker, dealer, or issuer for purposes of issuing, trading, or inducing or attempting to induce the purchase or sale of any penny stock. A penny stock is any equity security that has a price of less than five dollars, except as provided in Rule 3a51-1 under the Exchange Act [17 C.F.R. § 240.3a51-1]. Xirinachs and Emerald Asset Advisors may liquidate their penny stock positions held on June 12, 2012 over a period of not more than six months. If that timeframe is insufficient to allow orderly

This bar does not prevent defendants from acquiring penny stocks.

liquidation, then Xirinachs and Emerald Asset Advisors through counsel must show good cause for additional time to the Court.

III.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants Xirinachs and Emerald Asset Advisors are liable jointly and severally for disgorgement of \$3,052,752 representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon of \$730,621, and a civil penalty of \$3,835,000 pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], for a total of \$7,618,373. Defendants shall satisfy this obligation by paying \$7,618,373 within 14 days after entry of this Judgment by the Clerk of this Court, 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 Xirinachs and Emerald Asset Advisors as defendants 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 Judgment. Defendant shall pay post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961. The Commission shall remit the funds paid pursuant to this paragraph to the United States Treasury.

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant Xirinachs is liable for disgorgement of \$345,462 representing his additional profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon of \$82,680.01, and a civil penalty of \$2,119,000 pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)],

for a total of \$2,547,142.01. Defendant shall satisfy this obligation by paying \$2,547,142.01 within 14 days after entry of this Judgment by the Clerk of this Court, 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 Xirinachs 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 Judgment. Defendant shall pay post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961. The Commission shall remit the funds paid pursuant to this paragraph to the United States Treasury.

V.

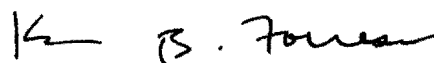
IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for purposes of enforcing the terms of this Judgment.

VI.

IT IS FURTHER ORDERED that there being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is to enter this Judgment forthwith and without further notice.

SO ORDERED.

Dated: New York, New York
July 26, 2012



KATHERINE B. FORREST
United States District Judge