

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

SECURITIES AND EXCHANGE COMMISSION,	:	
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
DAVID RONALD ALLEN, et al.,	:	Civil Action No.:3:11-CV-882-O
	:	
Defendants,	:	
	:	
and	:	
	:	
PATRICIA ALLEN, et al.,	:	
	:	
Relief Defendants.	:	
	:	

CORRECTED FINAL JUDGMENT *NUNC PRO TUNC* AS TO DEFENDANTS ILYA DRAPKIN AND MG TK CORP. AND RELIEF DEFENDANT SMI CHIPS, INC.

Before the Court is the Plaintiff’s Motion to Correct Final Judgment *nunc pro tunc* (ECF No. 241). Having considered the Motion, the Court finds that it should be an is hereby **GRANTED**. Accordingly, the Court amends its July 6, 2012 Final Judgment Order (ECF No. 238) as follows:

By Order of September 26, 2011, the Court granted the Unopposed Motion of Plaintiff Securities and Exchange Commission (“Commission”) for Judgment against Defendants Drapkin and MG TK Corp. (“Defendants”) and Relief Defendant SMI Chips, Inc. (“Relief Defendant”) and provided that Defendants would pay disgorgement, prejudgment interest and a civil penalty, the amounts to be determined by the Court upon motion by the Commission, and that Relief Defendant would pay disgorgement and prejudgment interest, the amounts to be determined by the Court upon motion by the Commission. The Commission has now moved, pursuant to the September 26, 2011 Judgment, which is incorporated by reference, for entry of final judgment

against Defendants and Relief Defendant SMI Chips, Inc., including injunctive relief, disgorgement, prejudgment interest, and a civil penalty against Defendants, a bar on participating in penny stock offerings against Drapkin, and disgorgement and prejudgment interest against Relief Defendant. It is hereby ORDERED, ADJUDGED, and DECREED that:

I.

Defendant Ilya Drapkin and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section 17(a)(3) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. § 77q(a)(3)] in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- (c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

II.

Defendant Ilya Drapkin is permanently barred 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 3a5-1 under the Exchange Act [17 C.F.R. § 240.3a51-1].

III.

Defendants Ilya Drapkin and MG TK Corp. are jointly and severally liable for disgorgement of \$452,750, representing profits gained as a result of the conduct alleged in the

Complaint related to payments from the Ponzi scheme fraud, together with prejudgment interest thereon in the amount of \$40,856, for a total of \$493,606. Defendants shall satisfy this obligation by paying \$493,606 within fourteen business days after entry of this Final Judgment to the Clerk of the Court, together with a cover letter identifying Defendants Drapkin and MG TK Corp. 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 Final Judgment. Defendants shall simultaneously transmit photocopies of such payment and letter to the Commission's counsel in this action. By making this payment, Defendants relinquish all legal and equitable right, title, and interest in such funds, and no part of such funds shall be returned to Defendants. Defendants shall pay post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

The Clerk shall deposit the funds into an interest bearing account with the Court Registry Investment System ("CRIS") or any other type of interest bearing account that is utilized by the Court. These funds, together with any interest and income earned thereon (collectively, the "Fund"), shall be held in the interest bearing account until further order of the Court. In accordance with 28 U.S.C. § 1914, and the guidelines set by the Director of the Administrative Office of the United States, 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.

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. Regardless of whether any such Fair Fund distribution is made, amounts to be paid as civil penalties pursuant to this Judgment shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Defendants shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on

Defendants' payment of disgorgement in this action, argue that they are entitled to, nor shall they further benefit by, offset or reduction of such compensatory damages award by the amount of any part of Defendants' payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Defendants shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this Judgment. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Defendants by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.

IV.

Defendants Ilya Drapkin and MG TK Corp. are jointly and severally liable for additional disgorgement of \$3,108,160, representing profits gained as a result of the conduct alleged in the Complaint related to the stock promotion fraud, together with prejudgment interest thereon in the amount of \$636,884, for a total of \$3,745,044 and a civil penalty of \$1,554,080 pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)]. Defendants shall satisfy this obligation by paying \$5,299,124 to the Securities and Exchange Commission within fourteen business days after entry of this Final Judgment.

Defendants may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account or by credit or debit card via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>. Defendants may also pay by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
6500 South MacArthur Boulevard
Oklahoma, City, OK 73169

and shall be accompanied by a letter identifying the case title, civil action number, and name of this Court; Defendants Drapkin and MG TK Corp. as defendants in this action; and specifying that payment is made pursuant to this Final Judgment.

Defendants shall simultaneously transmit photocopies of evidence of payment and case identifying information to the Commission's counsel in this action. By making this payment, Defendants relinquish all legal and equitable right, title, and interest in such funds, and no part of such funds shall be returned to Defendants. The Commission shall send the funds paid pursuant to this Final Judgment to the United States Treasury.

The Commission may enforce the Court's judgment for disgorgement and prejudgment interest by moving for civil contempt (and/or through other collections procedures authorized by law) at any time after 14 days following entry of this Final Judgment. Defendant shall pay post judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

V.

Relief Defendant SMI Chips, Inc. and Defendant Drapkin are jointly and severally liable for additional disgorgement of \$69,000, representing profits gained as a result of the conduct alleged in the Complaint related to payments from the Ponzi scheme fraud, together with prejudgment interest thereon in the amount of \$5,270, for a total of \$74,270. Relief Defendant and Defendant Drapkin shall satisfy this obligation by paying \$74,270 within fourteen business days after entry of this Final Judgment to the Clerk of the Court, together with a cover letter identifying Relief Defendant SMI Chips, Inc. and Defendant Drapkin as a relief defendant and 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. Relief Defendant and Defendant Drapkin shall simultaneously transmit photocopies of such payment and letter to the Commission's counsel in this action. By making this payment, Relief Defendant and Defendant Drapkin relinquish all legal and equitable right, title, and interest in such funds, and no part of such funds shall be returned to Relief Defendant and Defendant Drapkin. Relief Defendant and Defendant Drapkin shall pay post-judgment interest on any delinquent amounts

pursuant to 28 U.S.C. § 1961.

The Clerk shall deposit the funds into an interest bearing account with the Court Registry Investment System (“CRIS”) or any other type of interest bearing account that is utilized by the Court. These funds, together with any interest and income earned thereon (collectively, the “Fund”), shall be held in the interest bearing account until further order of the Court. In accordance with 28 U.S.C. § 1914, and the guidelines set by the Director of the Administrative Office of the United States, 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.

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. Regardless of whether any such Fair Fund distribution is made, amounts to be paid as civil penalties pursuant to this Judgment shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Relief Defendant and Defendant Drapkin shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on Relief Defendant and Defendant Drapkin’s payment of disgorgement in this action, argue that they are entitled to, nor shall they further benefit by, offset or reduction of such compensatory damages award by the amount of any part of Relief Defendant and Defendant Drapkin’s payment of a civil penalty in this action (“Penalty Offset”). If the court in any Related Investor Action grants such a Penalty Offset, Relief Defendant and Defendant Drapkin shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission’s counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this Judgment. For purposes of this paragraph, a “Related Investor Action” means a private damages

action brought against Defendants by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.

VI.

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

SO ORDERED on this **11th day of October, 2012.**


Reed O'Connor
UNITED STATES DISTRICT JUDGE