

MAR 22 2017

US District Court
Western District of NC

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:12-CV-803 (GCM)

SECURITIES AND EXCHANGE COMMISSION,)
)
 Plaintiff,)
)
 v.)
)
 JOHN W. FEMENIA, et al.,)
)
 Defendants,)
 and)
)
 KRISTINE LACK and CHRISTINE MUSANTE,)
)
 Relief Defendants.)

JUDGMENT AND ORDER

THIS MATTER IS BEFORE THE Court on the plaintiff Securities and Exchange Commission's Motion for Disgorgement, Civil Penalties and Interest, [Dkt. 318] filed with the Court on February 21, 2017. The defendant, Kenneth M. Raby has previously executed a consent Judgment, which among other things, included a waiver of findings of fact and conclusions of law, a permanent injunction against the violation of Section 10(b) of the Securities Exchange Act of 1934, the payment of disgorgement of illegal proceeds, with the amount of that disgorgement, civil penalties and interest to be determined by the Court. Additionally the consent Judgment provided that the allegations contained in the plaintiff's first Amended Complaint were deemed to be accepted as true.

IT FURTHER APPEARING TO THE COURT that the defendant, Kenneth M. Raby filed his Declaration, together with attachments, reflecting his financial and personal condition, the circumstances surrounding his prosecution and incarceration, losses incurred as a result of the trading, commissions paid, and his cooperation with both the Securities and Exchange

Commission and the United States government. The Defendant also caused to be filed tax information concerning the tax implications of the trading. The defendant previously surrendered to the United States the sum of \$200,000.00, on January 23, 2014.

AFTER CONSIDERATION OF THE FOREGOING, a review of the documentation filed by the parties, and considering the positions and arguments proffered by the parties,

IT IS THEREFORE ORDERED:

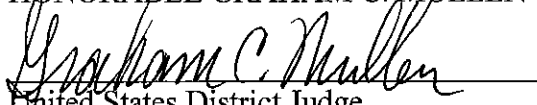
1. The plaintiff's Motion for disgorgement is GRANTED.
2. The defendant, Kenneth Michael Raby shall be disgorged of, and pay to the United States Treasury, the sum of \$2,150,000.00, in addition to the \$200,000.00 previously surrendered.
3. The \$200,000.00 previously surrendered to the United States shall be the property of the United States Treasury.
4. This disgorgement shall be effectuated in the following manner:
 - (a) All amounts in the TD Ameritrade Account, XXXXX-6037, totaling \$1,705,034.34 shall be paid by TD Ameritrade to the United States Treasury as soon as is commercially practical. The defendant shall cooperate in any and all manners requested by the plaintiff or TD Ameritrade in order to effectuate this transfer. The amount of \$444,965.66 in the TD Ameritrade Account XXXXX-9915 shall be paid to the United States Treasury as soon as is commercially practical. The defendant shall cooperate in any and all manners requested by the plaintiff or TD Ameritrade in order to effectuate this transfer.
 - (b) The remaining amount in TD Ameritrade Account XXXX-9915 shall be property of, and immediately paid to Kenneth Michael Raby
5. The plaintiff's Motion for civil penalty is DENIED.

6. The plaintiff's Motion for pre-judgment interest is DENIED.

7. This Judgment and Order resolves and concludes any and all claims the plaintiff has against the defendant, and terminates this case against the defendant, Kenneth Michael Raby. To that end, upon the filing of this Judgment and Order, any and all Temporary Restraining Orders, the Preliminary Injunctions and the Asset Freeze against any and all assets belonging to Kenneth Michael Raby or any entity owned or controlled by Kenneth Michael Raby, in whole or in part, are hereby Vacated and Dissolved and the Asset Freeze is lifted, vacated and dissolved.

SO ORDERED this the 21st day of March, 2017

HONORABLE GRAHAM C. MULLEN

A handwritten signature in cursive script, reading "Graham C. Mullen", is written over a horizontal line.

United States District Judge
Western District of North Carolina