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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

JAMMIN' JAVA CORP., dba MARLEY
COFFEE, SHANE G. WHITTLE, WAYNE
S. P. WEAVER, MICHAEL K. SUN, RENE
BERLINGER, STEPHEN B. WHEATLEY,
KEVIN P. MILLER, MOHAMMED A. AL-
BARWANI, ALEXANDER J. HUNTER,
and THOMAS E. HUNTER,

Defendants.

Case No. 2:15-cv-08921 SVW (MRWx)

**FINAL JUDGMENT AS TO
DEFENDANT SHANE G.
WHITTLE**

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1 The Securities and Exchange Commission (“Commission”) having filed an Amended
2 Complaint and Defendant Shane G. Whittle (“Defendant”) having entered a general
3 appearance; consented to the Court’s jurisdiction over Defendant and the subject matter of this
4 action; consented to entry of this Final Judgment without admitting or denying the allegations
5 of the Amended Complaint (except as to jurisdiction and except as otherwise provided herein
6 in paragraph X); waived findings of fact and conclusions of law; and waived any right to
7 appeal from this Final Judgment:

8 I.

9 IT IS HEREBY ordered, adjudged, and decreed that Defendant is permanently
10 restrained and enjoined from violating Section 5 of the Securities Act of 1933 (“Securities
11 Act”), 15 U.S.C. § 77e, by, directly or indirectly, in the absence of any applicable exemption:

12 (a) unless a registration statement is in effect as to a security, making use of any
13 means or instruments of transportation or communication in interstate commerce or of the
14 mails to sell such security through the use or medium of any prospectus or otherwise;

15 (b) unless a registration statement is in effect as to a security, carrying or causing to
16 be carried through the mails or in interstate commerce, by any means or instruments of
17 transportation, any such security for the purpose of sale or for delivery after sale; or

18 (c) making use of any means or instruments of transportation or communication in
19 interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of
20 any prospectus or otherwise any security, unless a registration statement has been filed with the
21 Commission as to such security, or while the registration statement is the subject of a refusal
22 order or stop order or (prior to the effective date of the registration statement) any public
23 proceeding or examination under Section 8 of the Securities Act, 15 U.S.C. § 77h.

24 IT IS FURTHER ordered, adjudged, and decreed that, as provided in Federal Rule of
25 Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual
26 notice of this Final Judgment by personal service or otherwise: (a) Defendant’s officers, agents,
27 servants, employees, and attorneys; and (b) other persons in active concert or participation
28 with Defendant or with anyone described in (a).

1 II.

2 IT IS HEREBY FURTHER ordered, adjudged, and decreed that Defendant is
3 permanently restrained and enjoined from violating, directly or indirectly, Section 13(d) of the
4 Securities Exchange Act of 1934 (the "Exchange Act"), 15 U.S.C. § 78m(d), and Rules 13d-1
5 and 13d-2 thereunder, 17 C.F.R. §§ 240.13d-1 and 240.13d-2, by failing to file with the
6 Commission a statement on Schedule 13D, 17 C.F.R. § 240.13d-101, after acquiring directly or
7 indirectly the beneficial ownership of more than 5% of a class of equity securities registered
8 pursuant to Section 12 of the Exchange Act, 15 U.S.C. § 78l, or failing to file with the
9 Commission an amendment disclosing a material increase or decrease in the percentage of the
10 class beneficially owned in accordance with the requirements of Section 13(d) of the Exchange
11 Act, 15 U.S.C. § 78m(d), and Rules 13d-1 and 13d-2 thereunder.

12 IT IS FURTHER ordered, adjudged, and decreed that, as provided in Federal Rule of
13 Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual
14 notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents,
15 servants, employees, and attorneys; and (b) other persons in active concert or participation
16 with Defendant or with anyone described in (a).

17 III.

18 IT IS HEREBY FURTHER ordered, adjudged, and decreed that Defendant is
19 permanently restrained and enjoined from violating, directly or indirectly, Section 16(a) of the
20 Exchange Act, 15 U.S.C. § 78p, and Rule 16a-3 thereunder, 17 C.F.R. § 240.16a-3, by, as a
21 person who directly or indirectly is the beneficial owner of more than 10% of any class of any
22 equity security which is registered pursuant to Section 12 of the Exchange Act, or as a director
23 or officer of the issuer of such security, failing to report his beneficial ownership of such
24 securities, or changes in his beneficial ownership, on filings with the Commission on Forms 4
25 or 5 in accordance with the requirements of Section 16(a) of the Exchange Act.

26 IT IS FURTHER ordered, adjudged, and decreed that, as provided in Federal Rule of
27 Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual
28 notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents,

1 servants, employees, and attorneys; and (b) other persons in active concert or participation
2 with Defendant or with anyone described in (a).

3 IV.

4 IT IS HEREBY ordered, adjudged, and decreed that Defendant is permanently
5 restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Exchange
6 Act, 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated thereunder, 17 C.F.R. § 240.10b-5, by
7 using any means or instrumentality of interstate commerce, or of the mails, or of any facility of
8 any national securities exchange, in connection with the purchase or sale of any security:

- 9 (a) to employ any device, scheme, or artifice to defraud;
- 10 (b) to make any untrue statement of a material fact or to omit to state a material fact
11 necessary in order to make the statements made, in the light of the circumstances
12 under which they were made, not misleading; or
- 13 (c) to engage in any act, practice, or course of business which operates or would
14 operate as a fraud or deceit upon any person.

15 IT IS FURTHER ordered, adjudged, and decreed that, as provided in Federal Rule of
16 Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual
17 notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents,
18 servants, employees, and attorneys; and (b) other persons in active concert or participation
19 with Defendant or with anyone described in (a).

20 V.

21 IT IS FURTHER ordered, adjudged, and decreed that, pursuant to Section 21(d)(2) of
22 the Exchange Act, 15 U.S.C. § 78u(d)(2), Defendant is prohibited, for ten years following the
23 date of entry of this Final Judgment, from acting as an officer or director of any issuer that has
24 a class of securities registered pursuant to Section 12 of the Exchange Act, 15 U.S.C. § 78l, or
25 that is required to file reports pursuant to Section 15(d) of the Exchange Act, 15 U.S.C.
26 § 78o(d).

27 VI.

28 IT IS HEREBY FURTHER ordered, adjudged, and decreed that Defendant is barred,

1 for ten years following the date of entry of this Final Judgment, from participating in an
2 offering of penny stock, including engaging in activities with a broker, dealer, or issuer for
3 purposes of issuing, trading, or inducing or attempting to induce the purchase or sale of any
4 penny stock. A penny stock is any equity security that has a price of less than five dollars,
5 except as provided in Rule 3a51-1 under the Exchange Act, 17 C.F.R. § 240.3a51-1.

6 VII.

7 IT IS FURTHER ordered, adjudged, and decreed that Defendant is liable for
8 disgorgement in the amount of \$1,894,669.27, representing profits gained as a result of the
9 conduct alleged in the Amended Complaint, together with prejudgment interest thereon in the
10 amount of \$267,848.64, and a civil penalty in the amount of \$250,000.00 pursuant to Section
11 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15
12 U.S.C. § 78u(d)(3). Defendant shall make this payment pursuant to the terms of the payment
13 schedule set forth in paragraph VIII below.

14 Defendant may transmit payment electronically to the Commission, which will provide
15 detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly
16 from a bank account via Pay.gov through the SEC website at [http://www.sec.gov/about/
17 offices/ofm.htm](http://www.sec.gov/about/offices/ofm.htm). Defendant may also pay by certified check, bank cashier's check, or United
18 States postal money order payable to the Securities and Exchange Commission, which shall be
19 delivered or mailed to:

20 Enterprise Services Center
21 Accounts Receivable Branch
22 6500 South MacArthur Boulevard
Oklahoma City, OK 73169

23 and shall be accompanied by a letter identifying the case title, civil action number, and name of
24 this Court; Shane G. Whittle as a defendant in this action; and specifying that payment is
25 made pursuant to this Final Judgment.

26 Defendant shall simultaneously transmit photocopies of evidence of payment and case
27 identifying information to the Commission's counsel in this action. By making this payment,
28 Defendant relinquishes all legal and equitable right, title, and interest in such funds and no part

1 of the funds shall be returned to Defendant. The Commission shall send the funds paid
2 pursuant to this Final Judgment to the United States Treasury.

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

7 VIII.

8 Defendant shall pay the total of disgorgement, prejudgment interest, and penalty due of
9 \$2,412,517.91 in 4 installments to the Commission according to the following schedule: (1)
10 \$1,000,000 within 14 days of entry of this Final Judgment; (2) \$300,000 within four months of
11 entry of this Final Judgment; (3) \$556,258.96 within eight months of entry of this Final
12 Judgment; and (4) \$556,258.95 within 364 days of entry of this Final Judgment. Payments
13 shall be deemed made on the date they are received by the Commission and shall be applied
14 first to post judgment interest, which accrues pursuant to 28 U.S.C. § 1961 on any unpaid
15 amounts due after 14 days of the entry of Final Judgment. Prior to making the final payment
16 set forth herein, Defendant shall contact the staff of the Commission for the amount due for
17 the final payment.

18 If Defendant fails to make any payment by the date agreed and/or in the amount
19 agreed according to the schedule set forth above, all outstanding payments under this Final
20 Judgment, including post-judgment interest, minus any payments made, shall become due and
21 payable immediately at the discretion of the staff of the Commission without further
22 application to the Court.

23 IX.

24 IT IS FURTHER ordered, adjudged, and decreed that the Consent is incorporated
25 herein with the same force and effect as if fully set forth herein, and that Defendant shall
26 comply with all of the undertakings and agreements set forth therein.

27 X.

28 IT IS FURTHER ordered, adjudged, and decreed that, solely for purposes of exceptions

1 to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the allegations
2 in the Amended Complaint are true and admitted by Defendant, and further, any debt for
3 disgorgement, prejudgment interest, civil penalty or other amounts due by Defendant under
4 this Final Judgment or any other judgment, order, consent order, decree or settlement
5 agreement entered in connection with this proceeding, is a debt for the violation by Defendant
6 of the federal securities laws or any regulation or order issued under such laws, as set forth in
7 Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

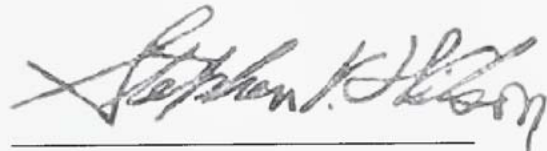
8 XI.

9 IT IS FURTHER ordered, adjudged, and decreed that this Court shall retain
10 jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

11 XII.

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

15 Dated: April 11, 2017



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17 STEPHEN V. WILSON
18 United States District Judge
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