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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

LEROY “LEE” YOUNG AND YOUNG
CAPITAL MANAGEMENT, LLC,

Defendants.

Case No.: 3:18-cv-02170-CAB-MDD

**ORDER ON CONSENT MOTION
FOR ENTRY OF FINAL JUDGMENT
AS TO DEFENDANT LEROY
YOUNG
[Doc. No. 3]**

Currently before the Court is the Securities and Exchange Commission’s (the “Commission”) Consent Motion for Entry of Final Judgment against Defendant Leroy L. Young. [Doc. No. 3.]

I. BACKGROUND.

On September 19, 2018, the Commission filed a Complaint against Defendants Leroy “Lee” Young and Young Capital Management, LLC alleging violations of the antifraud and registration provisions of the federal securities laws. [Doc. No. 1.]

On September 19, 2018, the Commission submitted a consent motion to the Court requesting entry of final judgment in accordance with the terms of the parties’ settlement. [Doc. No. 3.]

1 In the consent agreement Defendant Leroy K. Young: entered a general appearance;
2 consented to the Court’s jurisdiction over him and the subject matter of this action;
3 consented to entry of this Final Judgment; waived findings of fact and conclusions of law;
4 waived any right to appeal from this Final Judgment; admitted the facts alleged in the
5 Complaint and acknowledged that his conduct violated the federal securities laws. [Doc.
6 No. 3-1.]

7 **II. DISPOSITION**

8 Consistent with the foregoing and with the term of the parties’ settlement, it is hereby
9 ORDERED as follows:

10 **1.** Young is permanently restrained and enjoined from violating, directly or indirectly,
11 Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15
12 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5],
13 by using any means or instrumentality of interstate commerce, or of the mails, or of
14 any facility of any national securities exchange, in connection with the purchase or
15 sale of any security:

- 16 a) to employ any device, scheme, or artifice to defraud;
17 b) to make any untrue statement of a material fact or to omit to state a material
18 fact necessary in order to make the statements made, in the light of the
19 circumstances under which they were made, not misleading; or
20 c) to engage in any act, practice, or course of business which operates or would
21 operate as a fraud or deceit upon any person.

22 As provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph,
23 (1(a)-1(c)), also binds the following who receive actual notice of this Final Judgment
24 by personal service or otherwise: (a) Defendant’s officers, agents, servants,
25 employees, and attorneys; and (b) other persons in active concert or participation
26 with Defendant or with anyone described in (a).

27 **2.** Young is permanently restrained and enjoined from violating Section 17(a) of the
28 Securities Act of 1933 (the “Securities Act”) [15 U.S.C. § 77q(a)] in the offer or sale

1 of any security by the use of any means or instruments of transportation or
2 communication in interstate commerce or by use of the mails, directly or indirectly:

3 a) to employ any device, scheme, or artifice to defraud;

4 b) to obtain money or property by means of any untrue statement of a material
5 fact or any omission of a material fact necessary in order to make the
6 statements made, in light of the circumstances under which they were made,
7 not misleading; or

8 c) to engage in any transaction, practice, or course of business which operates or
9 would operate as a fraud or deceit upon the purchaser.

10 As provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph,
11 (2(a)-2(c)), also binds the following who receive actual notice of this Final Judgment
12 by personal service or otherwise: (a) Defendant's officers, agents, servants,
13 employees, and attorneys; and (b) other persons in active concert or participation
14 with Defendant or with anyone described in (a).

15 **3.** Young is permanently restrained and enjoined from violating Section 5 of the
16 Securities Act [15 U.S.C. § 77e] by, directly or indirectly, in the absence of any
17 applicable exemption:

18 a) Unless a registration statement is in effect as to a security, making use of any
19 means or instruments of transportation or communication in interstate
20 commerce or of the mails to sell such security through the use or medium of
21 any prospectus or otherwise;

22 b) Unless a registration statement is in effect as to a security, carrying or causing
23 to be carried through the mails or in interstate commerce, by any means or
24 instruments of transportation, any such security for the purpose of sale or for
25 delivery after sale; or

26 c) Making use of any means or instruments of transportation or communication
27 in interstate commerce or of the mails to offer to sell or offer to buy through
28 the use or medium of any prospectus or otherwise any security, unless a

1 registration statement has been filed with the Commission as to such security,
2 or while the registration statement is the subject of a refusal order or stop order
3 or (prior to the effective date of the registration statement) any public
4 proceeding or examination under Section 8 of the Securities Act [15 U.S.C. §
5 77h].

6 As provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph,
7 (3(a)-3(c)), also binds the following who receive actual notice of this Final Judgment
8 by personal service or otherwise: (a) Defendant's officers, agents, servants,
9 employees, and attorneys; and (b) other persons in active concert or participation
10 with Defendant or with anyone described in (a).

- 11 **4.** Young is liable for disgorgement of \$336,450, representing profits gained as a result
12 of the conduct alleged in the Complaint, together with prejudgment interest thereon
13 in the amount of \$18,923, and a civil penalty in the amount of \$336,450 pursuant to
14 Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the
15 Exchange Act [15 U.S.C. § 78u(d)(3)].

16 Young shall satisfy this obligation by paying **\$691,823** to the Securities and
17 Exchange Commission pursuant to the terms of the payment schedule set forth in
18 paragraph 5 below after entry of this Final Judgment.

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

25 Enterprise Services Center
26 Accounts Receivable Branch
27 6500 South MacArthur Boulevard
28 Oklahoma City, OK 73169

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2 and shall be accompanied by a letter identifying the case title, civil action number,
3 and name of this Court; Young as a defendant in this action; and specifying that
4 payment is made pursuant to this Final Judgment.

5 Young shall simultaneously transmit photocopies of evidence of payment and case
6 identifying information to the Commission's counsel in this action. By making this
7 payment, Young relinquishes all legal and equitable right, title, and interest in such
8 funds and no part of the funds shall be returned to him.

9 The Commission may enforce the Court's judgment for disgorgement and
10 prejudgment interest by moving for civil contempt (and/or through other collection
11 procedures authorized by law) at any time after 14 days following entry of this Final
12 Judgment. Young shall pay post judgment interest on any delinquent amounts
13 pursuant to 28 U.S.C. § 1961. The Commission shall hold the funds, together with
14 any interest and income earned thereon (collectively, the "Fund"), pending further
15 order of the Court.

16 The Commission may propose a plan to distribute the Fund subject to the Court's
17 approval. Such a plan may provide that the Fund shall be distributed pursuant to the
18 Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. The
19 Court shall retain jurisdiction over the administration of any distribution of the Fund.
20 If the Commission staff determines that the Fund will not be distributed, the
21 Commission shall send the funds paid pursuant to this Final Judgment to the United
22 States Treasury.

23 Regardless of whether any such Fair Fund distribution is made, amounts ordered to
24 be paid as civil penalties pursuant to this Judgment shall be treated as penalties paid
25 to the government for all purposes, including all tax purposes. To preserve the
26 deterrent effect of the civil penalty, Young shall not, after offset or reduction of any
27 award of compensatory damages in any Related Investor Action based on
28 Defendant's payment of disgorgement in this action, argue that he is entitled to, nor

1 shall he further benefit by, offset or reduction of such compensatory damages award
2 by the amount of any part of Defendant’s payment of a civil penalty in this action
3 (“Penalty Offset”). If the court in any Related Investor Action grants such a Penalty
4 Offset, Young shall, within 30 days after entry of a final order granting the Penalty
5 Offset, notify the Commission’s counsel in this action and pay the amount of the
6 Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission
7 directs. Such a payment shall not be deemed an additional civil penalty and shall
8 not be deemed to change the amount of the civil penalty imposed in this Judgment.
9 For purposes of this paragraph, a “Related Investor Action” means a private damages
10 action brought against Defendant by or on behalf of one or more investors based on
11 substantially the same facts as alleged in the Complaint in this action.

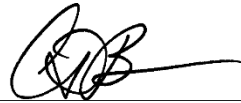
12 5. Young shall pay the total of disgorgement, prejudgment interest, and penalty due of
13 **\$691,823** in **five** installments to the Commission according to the following
14 schedule: (1) \$69,182 within 14 days of entry of this Final Judgment; (2)
15 \$155,660.25 within 90 days of entry of this Final Judgment; (3) \$155,660.25 within
16 180 days of entry of this Final Judgment; (4) \$155,660.25 within 270 days of entry
17 of this Final Judgment; and (5) \$155,660.25 within 364 days of entry of this Final
18 Judgment. Payments shall be deemed made on the date they are received by the
19 Commission and shall be applied first to post-judgment interest, which accrues
20 pursuant to 28 U.S.C. § 1961 on any unpaid amounts due after 14 days of the entry
21 of Final Judgment. Prior to making the final payment set forth herein, Young shall
22 contact the staff of the Commission for the amount due for the final payment.

23 If Young fails to make any payment by the date agreed and/or in the amount agreed
24 according to the schedule set forth above, all outstanding payments under this Final
25 Judgment, including post-judgment interest, minus any payments made, shall
26 become due and payable immediately at the discretion of the staff of the Commission
27 without further application to the Court.
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- 1 **6.** The Consent is incorporated herein with the same force and effect as if fully set forth
2 herein, and Young shall comply with all of the undertakings and agreements set forth
3 therein.
- 4 **7.** For purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy
5 Code, 11 U.S.C. §523, the allegations in the complaint are true and admitted by
6 Young. Any debt for disgorgement, prejudgment interest, civil penalty or other
7 amounts due by Young under this Final Judgment or any other judgment, order,
8 consent order, decree or settlement agreement entered in connection with this
9 proceeding, is a debt for the violation by Young of the federal securities laws or any
10 regulation or order issued under such laws, as set forth in Section 523(a)(19) of the
11 Bankruptcy Code, 11 U.S.C. §523(a)(19).
- 12 **8.** This Court shall retain jurisdiction of this matter for the purposes of enforcing the
13 terms of this Final Judgment.

14 It is **SO ORDERED.**

15 Dated: September 25, 2018



Hon. Cathy Ann Bencivengo
United States District Judge