

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-80038-CV-MARRA/JOHNSON

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

PETROLEUM UNLIMITED, LLC,
PETROLEUM UNLIMITED II, LLC,
ROGER A. KIMMEL, JR., HARRY NYCE,
MICHEL-JEAN GERAUD, ROBERT ROSSI,
JOSEPH VALKO, and
MORGAN KIMMEL, n/k/a MORGAN PETITTI,

Defendants.

**ORDER GRANTING PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT AGAINST
DEFENDANT ROBERT ROSSI AND ENTERING JUDGMENT OF
PERMANENT INJUNCTION AND OTHER RELIEF**

THIS MATTER is before the Court on Plaintiff Securities and Exchange Commission's Motion for Entry of a Default Judgment of Permanent Injunction and Other Relief Against Defendant Robert Rossi and Joseph Valko. Having considered the motion and the entire record, the Court enters the following order granting Plaintiff's motion, and imposing a Default Judgment of Permanent Injunction and Other Relief against Robert Rossi:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. This Court has personal jurisdiction over Rossi and the subject matter of this action. Venue is proper in the Southern District of Florida.
2. Rossi was properly served with a summons and a copy of the Complaint pursuant to Rule 4 of the Federal Rules of Civil Procedure. Thus, Rossi has proper notice of this action.
3. As of the date of this Order, Rossi has failed to answer or otherwise file a

responsive pleading to the Complaint as required by the Federal Rules of Civil Procedure.

4. The Clerk of the Court entered a default against Rossi on February 15, 2011. By virtue of the default and the failure to respond to the Complaint, Rossi is deemed to have admitted the allegations of the Complaint and liability is established against him. *Buchanan v. Bowman*, 820 F.2d 359, 361 (11th Cir. 1987). Accordingly, the Court finds Rossi committed the violations alleged in the Complaint.

5. Rossi is not an infant or an incompetent person and has no guardian, committee, conservator or other such persons appearing on his behalf. Accordingly, it is:

ORDERED AND ADJUDGED that Plaintiff's Motion for Entry of a Default Judgment of Permanent Injunction and Other Relief Against Defendant Robert Rossi is **GRANTED**. Default Judgment is entered against Rossi as follows:

I.

PERMANENT INJUNCTION

IT IS ORDERED AND ADJUDGED that Rossi, his officers, agents, servants, representatives, 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:

Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5

A. Directly or indirectly, by use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any securities, knowingly or recklessly: (i) employing devices, schemes or artifices to defraud; (ii) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in light of the circumstances

under which they were made, not misleading; or (iii) engaging in acts, practices and courses of business which have operated, are now operating or will operate as a fraud upon the purchasers of such securities in violation of Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5, thereunder;

Section 15(a) of the Exchange Act

B. Directly or indirectly, by making use of any means or instrumentality of interstate commerce or of the mails and engaging in the business of effecting transactions in securities for the accounts of others, or inducing or effecting the purchase and sale of securities, while not registered with the Commission in accordance with the provisions of Section 15(b) of the Exchange Act, 15 U.S.C. § 78o(b), or while not associated with a broker-dealer that was so registered;

Section 17(a)(1) of the Securities Act of 1933

C. Directly or indirectly, by use of any means or instruments of transportation or communication in interstate commerce, or by the use of the mails, in the offer or sale of securities, knowingly or recklessly employing devices, schemes or artifices to defraud, in violation of Section 17(a) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C. § 77q(a)(1); and

Section 17(a)(2) & (3) of the Securities Act of 1933

D. Directly or indirectly, by use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, in the offer or sale of securities, (i) obtaining money or property by means of untrue statements of material facts or omissions to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading; or (ii) engaging in acts, practices

and courses of business which have operated and will operate as a fraud or deceit upon purchasers and prospective purchasers of such securities, in violation of Sections 17(a)(2) & (3) of the Securities Act, 15 U.S.C. §§ 77(q)(a)(2) & (3).

II.

DISGORGEMENT AND PREJUDGMENT INTEREST

IT IS FURTHER ORDERED AND ADJUDGED that Rossi is liable for disgorgement of \$36,400.00, representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$4,751.22, for a total of \$41,151.22. The Commission may enforce the Court's judgment for disgorgement and prejudgment interest by moving for civil contempt (and/or through other collection procedures authorized by law) at any time after 14 days following entry of this Judgment. In response to any such civil contempt motion by the Commission, the defendant may assert any legally permissible defense.

III.

PAYMENT INSTRUCTIONS

IT IS FURTHER ORDERED AND ADJUDGED that Rossi shall satisfy his obligation to pay disgorgement and prejudgment interest by paying \$41,151.22 within fourteen (14) days of entry of this Judgment. Rossi shall pay this sum by sending a U.S. postal money order, certified check, bank cashier's check or bank 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, Mail Stop 6042, Washington, DC 20549, and shall be accompanied by a letter identifying Rossi 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 being made on Rossi's behalf and pursuant to this Judgment. Rossi

shall simultaneously transmit photocopies of such payment and letter to Christine Nestor, Esq., the Commission's counsel in this action at U.S. Securities and Exchange Commission, Miami Regional Office, 801 Brickell Avenue, Suite 1800, Miami, Florida 33131. The Commission shall remit the funds paid pursuant to this paragraph to the United States Treasury.

IV.

CIVIL MONEY PENALTY

IT IS FURTHER ORDERED AND ADJUDGED that Rossi shall pay a civil penalty pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d) of the Exchange Act, 15 U.S.C. § 78u(d). The amount of the civil penalty shall be determined by the Court upon motion of the Commission that shall be filed within 120 days of the date of this Order.

V.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED AND ADJUDGED that this Court will retain jurisdiction over this matter and Rossi in order to implement and carry out the terms of all Orders and Decrees that may be entered and/or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court, and will order other relief that this Court deems appropriate under the circumstances.

VI.

RULE 54(b) CERTIFICATION

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

DONE AND ORDERED in Chambers at West Palm Beach, Florida, this 8th day of NOVEMBER, 2011.


KENNETH A. MARRA
UNITED STATES DISTRICT JUDGE

Copies to counsel and parties of record