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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

JOHN F. THOMAS [aka JOHN
RODGERS, JONATHAN WEST,
JOHN FRANK, and JOHN
MARSHALL], THOMAS BECKER,
DOUGLAS MARTIN, PAUL
HANSON, DAMIAN OSTERTAG,
EINSTEIN SPORTS ADVISORY,
LLC, QSA, LLC,
VEGAS BASKETBALL CLUB, LLC,
VEGAS FOOTBALL CLUB, LLC,
WELLINGTON SPORTS CLUB,
LLC, WELSCORP, INC., and
EXECUTIVE FINANCIAL
SERVICES, INC.,

Defendants.

Case No. 2:19-cv-01515-APG-VCF

**CORRECTED FINAL JUDGMENT
AS TO JOHN F. THOMAS, AKA JOHN
RODGERS, JONATHAN WEST, JOHN
FRANK, AND JOHN MARSHALL**

Judge: Hon. Andrew P. Gordon

1 This matter came before the Court upon Plaintiff Securities and Exchange
2 Commission's ("SEC") Motion for Default Judgments against Defendants: (1) John
3 F. Thomas, aka John Rodgers, Jonathan West, John Frank, and John Marshall; (2)
4 Thomas Becker; (3) Einstein Sports Advisory, LLC; (4) QSA, LLC; (5) Vegas
5 Basketball Club, LLC; (6) Vegas Football Club, LLC; (7) Wellington Sports Club,
6 LLC; (8) Welscorp, Inc.; (9) Paul Hanson; and (10) Executive Financial Services,
7 Inc., made pursuant to Federal Rule of Civil Procedure 55(b). The Court having
8 considered the memoranda and evidence filed by the parties, and all other argument
9 and evidence presented to it, and good cause appearing therefor, GRANTS the SEC's
10 Motion and enters this Final Judgment against John F. Thomas, aka John Rodgers,
11 Jonathan West, John Frank, and John Marshall ("Defendant").

12 I.

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

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

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

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

3 II.

4 I FURTHER ORDER that Defendant is permanently restrained and enjoined
5 from violating Section 17(a) of the Securities Act of 1933 (the “Securities Act”) [15
6 U.S.C. § 77q(a)] in the offer or sale of any security by the use of any means or
7 instruments of transportation or communication in interstate commerce or by use of
8 the mails, directly or indirectly:

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

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

21 III.

22 I FURTHER ORDER that Defendant is permanently restrained and enjoined
23 from violating Section 5 of the Securities Act [15 U.S.C. § 77e] by, directly or
24 indirectly, in the absence of any applicable exemption:

- 25 (a) Unless a registration statement is in effect as to a security, making use of
26 any means or instruments of transportation or communication in
27 interstate commerce or of the mails to sell such security through the use
28 or medium of any prospectus or otherwise;

- 1 (b) Unless a registration statement is in effect as to a security, carrying or
2 causing to be carried through the mails or in interstate commerce, by any
3 means or instruments of transportation, any such security for the purpose
4 of sale or for delivery after sale; or
- 5 (c) Making use of any means or instruments of transportation or
6 communication in interstate commerce or of the mails to offer to sell or
7 offer to buy through the use or medium of any prospectus or otherwise
8 any security, unless a registration statement has been filed with the
9 Commission as to such security, or while the registration statement is the
10 subject of a refusal order or stop order or (prior to the effective date of
11 the registration statement) any public proceeding or examination under
12 Section 8 of the Securities Act [15 U.S.C. § 77h].

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

18 IV.

19 I FURTHER ORDER that pursuant to Section 21(d)(5) of the Exchange Act
20 [15 U.S.C. § 78u(d)(5)], Defendant is permanently restrained and enjoined from
21 directly or indirectly, including but not limited to, through any entity owned or
22 controlled by him, participating in the issuance, purchase, offer, or sale of any
23 security in an unregistered offering provided, however, that such injunction shall not
24 prevent him from purchasing or selling securities for his own personal account.

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

3 V.

4 I FURTHER ORDER that Defendant is jointly and severally liable with
5 Thomas Becker for disgorgement of \$8,053,285.75, representing net profits gained as
6 a result of the conduct alleged in the Complaint, together with prejudgment interest
7 thereon in the amount of \$403,152.99, and separately liable for a civil penalty in the
8 amount of \$4,000,000 pursuant to Section 20(d) of the Securities Act, 15 U.S.C. §
9 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3), for a total of
10 \$12,456,438.74, due to the Securities and Exchange Commission within 30 days after
11 entry of this Final Judgment.

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

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

22 and shall be accompanied by a letter identifying the case title, civil action number,
23 and name of this Court; John F. Thomas, aka John Rodgers, Jonathan West, John
24 Frank, and John Marshall 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
27 and case identifying information to the Commission's counsel in this action. By
28 making this payment, Defendant relinquishes all legal and equitable right, title, and

1 interest in such funds and no part of the funds shall be returned to Defendant.

2 The Commission may enforce the Court's judgment for disgorgement and
3 prejudgment interest by using all collection procedures authorized by law at any time
4 after 30 days following entry of this Final Judgment.

5 The Commission may enforce the Court's judgment for penalties by the use of
6 all collection procedures authorized by law at any time after 30 days following entry
7 of this Final Judgment. Defendant shall be liable to pay post judgment interest on
8 any amounts due after 30 days of the entry of this Final Judgment pursuant to 28
9 U.S.C. § 1961. The Commission shall hold the funds, together with any interest and
10 income earned thereon (collectively, the "Fund"), pending further order of the Court.

11 The Commission may propose a plan to distribute the Fund subject to the
12 Court's approval. Such a plan may provide that the Fund shall be distributed
13 pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of
14 2002. The Court shall retain jurisdiction over the administration of any distribution
15 of the Fund and the Fund may only be disbursed pursuant to an Order of the Court.

16 Regardless of whether any such Fair Fund distribution is made, civil penalties
17 pursuant to this Judgment shall be treated as penalties paid to the government for all
18 purposes, including all tax purposes. To preserve the deterrent effect of the civil
19 penalty, Defendant shall not, after offset or reduction of any award of compensatory
20 damages in any Related Investor Action based on Defendant's payment of
21 disgorgement in this action, argue that he is entitled to, nor shall he further benefit by,
22 offset or reduction of such compensatory damages award by the amount of any part
23 of Defendant's payment of a civil penalty in this action ("Penalty Offset"). If the
24 court in any Related Investor Action grants such a Penalty Offset, Defendant shall,
25 within 30 days after entry of a final order granting the Penalty Offset, notify the
26 Commission's counsel in this action and pay the amount of the Penalty Offset to the
27 United States Treasury or to a Fair Fund, as the Commission directs. Such a payment
28 shall not be deemed an additional civil penalty and shall not be deemed to change the

1 amount of the civil penalty imposed in this Judgment. For purposes of this
2 paragraph, a “Related Investor Action” means a private damages action brought
3 against Defendant by or on behalf of one or more investors based on substantially the
4 same facts as alleged in the Complaint in this action.


5 VI.

6 I FURTHER ORDER that this Court shall retain jurisdiction of this matter for
7 the purposes of enforcing the terms of this Final Judgment.

8 VII.

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

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13 Dated: April 7, 2021

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16 THE HON. ANDREW P. GORDON
17 UNITED STATES DISTRICT JUDGE
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