

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

CASE NO. 8:20-cv-921-SDM-SPF

STEVEN L. BRICKNER,

Defendant.

ORDER

The Securities and Exchange Commission moves (Doc. 32) against Steven L. Brickner for a final judgment of “disgorgement,” including prejudgment interest and a civil penalty. Brickner opposes (Doc. 37) the motion. In essence, the SEC’s claim arises from an injunctive order (Doc. 28), which incorporates an agreement negotiated between the SEC and Brickner and which states:

Without admitting or denying the complaint’s allegations, Brickner consents (Doc. 26-2) to the entry of judgment against him and for the SEC. The SEC reports that after entry of the revised judgment, “the only issues remaining for . . . determination against Brickner will be the amount of disgorgement and prejudgment interest on disgorgement, and whether to impose a civil penalty and the amount of any penalty.”

....

Bricker shall pay disgorgement of ill-gotten gains, prejudgment interest on disgorgement, and a civil penalty in accord with Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3).

Upon motion by the Commission, the court will determine the disgorgement and civil penalty. Prejudgment interest will be calculated from June 13, 2019, based on the interest rate used by the Internal Revenue Service for the underpayment of federal income tax as stated in 26 U.S.C. § 6621(a)(2). In connection with the Commission's motion for disgorgement or a civil penalty, and in accord with Brickner's consent, Brickner may neither argue that he did not violate the federal securities laws as alleged in the complaint nor challenge the validity of his consent or this judgment. In connection with the Commission's motion for disgorgement, the parties may conduct discovery, including discovery from appropriate non-parties.

(Doc. 28 at 2 and 3)

In the motion and the attachments and in the balance of the record the SEC offers a detailed and sufficient showing of Brickner's misconduct and the financial consequences of his misconduct to investors. The SEC summarizes part of the record as follows:

For example, Brickner told investors he would use their money for costs associated with taking the companies public as well as operational expenses. Tetta Dec., Ex. 8 to Ex. A, at ¶10; Jones Dec., Ex. 9 to Ex. A, at ¶¶10-11; Greiner Dec., Ex. C, at ¶¶5 and 10-11 and Ex. K; Licitra Dec., Ex. H, at ¶¶10-11.

In reality, Brickner used more than \$2.4 million of investor funds on what can only be classified as extravagant personal purchases, including almost \$1 million on 14 mostly classic cars, \$580,000 to pay off the mortgage on his house, almost \$373,000 on hundreds of trips to adult entertainment clubs, approximately \$266,000 to buy cryptocurrency, and approximately \$216,000 on dozens of direct payments to himself. Dee Dec., Ex. A, at ¶4 and Ex. 1 (showing payments to buy, among other things, a Bentley, a Rolls Royce, a Jeep, 1967 and 1969 Chevrolet Camaros, and 1963 and 1965 Chevrolet Corvettes); Galdencio Dec., Ex. I, at ¶¶9(b)-9(e) and Exs. E, F, G, and H. Although Brickner commingled his investor funds with other money, those close to him or who worked with him said his only source of income during the time he raised money for High Country and the FirstCanna companies was those investor funds. Reinert Dec., Ex. E,

at ¶¶5 and 7; Hattery Dec., Ex. F, at ¶7. Furthermore, many of Brickner's purchases occurred shortly after receiving influxes of investor money. Reinert Dec., Ex. E, at ¶¶6 and 8; Hattery Dec., Ex. F, at ¶¶6 and 7.

(Doc. 32 at 9 and 10) Also, the SEC offers a record that is sufficient to establish prejudgment interest of \$181,306 and a civil penalty of \$390,094.

During the SEC's discovery, contemplated in the injunctive order, Brickner asserted his Fifth Amendment privilege "in response to all questions." (Doc. 32 at 11). Now, in opposing SEC's motion for a judgment, Brickner offers no matters of record; Brickner offers only jabs at the SEC's record and unsupported speculation, theories, possibilities, and prospects that the SEC's showing might not negate. For example, Brickner complains about the absence from the SEC's presentation of a profit and loss statement that negates the possibility that Brickner's purchase — with investors' money — of extravagant classic vehicles and extravagant expenses at "adult entertainment" facilities and Brickner's satisfaction of a personal mortgage had some "business purpose" or that Brickner did not effect a simple "return of capital."

However, what Brickner demands is that the SEC prove a negative, that is, that the SEC negate any possible theory of lawful use by Brickner of investors' money. Neither the SEC nor any other claimant is required to, or could, meet that burden. Each of Brickner's theories, speculations, and objections is without record support, and the SEC has no obligation to negate them. For the reasons stated in

this order and in the SEC's motion and reply, Brickner's objections are

OVERRULED.

The SEC's motion (Doc. 32) is **GRANTED**. The clerk must enter judgment for the SEC and against Brickner for \$2,423,229 plus prejudgment interest of \$186,306 plus a civil penalty of \$390,094.

ORDERED in Tampa, Florida, on July 19, 2021.



STEVEN D. MERRYDAY
UNITED STATES DISTRICT JUDGE