UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

Securities and Exchange Commission v. John Mark Marino

No. 2:23-cv-00403 CAS(AFMx) (C.D. Cal. Aug. 26, 2025) · No. 2:23-cv-00403 CAS(AFMx) · Decided August 26, 2025

SUMMARY

The United States District Court for the Central District of California entered a default final judgment against John Mark Marino in an enforcement action brought by the Securities and Exchange Commission. The judgment permanently enjoins Marino from violating specified federal securities laws, participating in certain unregistered securities offerings, and serving as an officer or director of certain issuers, and requires payment of $323,547.52 in disgorgement, prejudgment interest, and civil penalties.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Christina A. Snyder
JURISDICTION	United States District Court for the Central District of California
DECIDED	August 26, 2025
DOCKET	2:23-cv-00403 CAS(AFMx)
DISPOSITION	other
PROCEDURAL POSTURE	The Securities and Exchange Commission applied for default judgment against Defendant John Mark Marino after default was entered.
STANDARD OF REVIEW	The court applied the Rule 55 default-judgment framework, including the Eitel factors.
PRECEDENTIAL VALUE	Unknown

TOPICS

default judgment · injunctions · remedies · commercial litigation · civil procedure

PRACTICE AREAS

Securities enforcement · Civil procedure · Federal remedies

QUESTIONS PRESENTED

1. Whether default judgment should be entered against Marino under Federal Rule of Civil Procedure 55 and the Eitel factors.
2. What injunctive, officer-and-director, disgorgement, prejudgment-interest, and civil-penalty remedies should be imposed upon entry of default judgment.

HOLDINGS

1. Default judgment against Marino was appropriate and the SEC's application for default judgment was granted.
2. Marino was permanently restrained and enjoined from directly or indirectly violating Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5.
3. Marino was permanently restrained and enjoined from directly or indirectly violating Section 17(a) of the Securities Act of 1933 in the offer or sale of securities.
4. Marino was permanently restrained and enjoined from participating directly or indirectly in the issuance, purchase, offer, or sale of securities in an unregistered offering, subject to an exception for securities transactions in his own personal account.
5. Marino was prohibited from acting as an officer or director of an issuer subject to the specified Exchange Act registration or reporting requirements.
6. Marino was held liable for $65,700 in disgorgement, $21,396.52 in prejudgment interest, and a $236,451 civil penalty, for a total payment of $323,547.52 to the SEC within 30 days after entry of judgment.

KEY QUOTATIONS

> *"The Court finds that entry of default judgment is appropriate"* (at 1)

> *"Defendant is liable for disgorgement of $65,700, representing net profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of $21,396.52, and a civil penalty in the amount of $236,451"* (at 3)

FACTUAL BACKGROUND

The SEC alleged that Marino engaged in conduct violating federal securities laws, including Sections 10(b) and 17(a), and participated in an unregistered securities offering. The judgment states that the court considered the SEC's complaint, application for default judgment, supporting declaration, and other evidence and argument, but does not provide detailed factual findings concerning the underlying conduct.

PROCEDURAL HISTORY

The SEC filed an enforcement action against Marino and other defendants. On the SEC's application for default judgment, the court considered the complaint, supporting materials, evidence, argument, Federal Rule of Civil Procedure 55, Local Rule 55-1, and the Eitel factors, granted the application, and entered final judgment against Marino.

DISPOSITION

other

CASES CITED

- Eitel v. McCool, 782 F.2d 1470

OPINION

Securities and Exchange Commission v. John Mark Marino
PER CURIAM.
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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10 Western Division 11 12 SECURITIES AND EXCHANGE Case No. 2:23-cv-00403 CAS(AFMx)
COMMISSION,
13 Plaintiff, FINAL JUDGMENT AS TO 14
DEFENDANT JOHN MARK
15 vs. MARINO
16 JOHN MARK MARINO, JASON
“JAI” JOHNSON, ABRAHAM
17 BORENSTEIN, AND ANTHONY
BROWN,
18 Defendants. 19
20 21 This matter came before the Court on the Plaintiff Securities and Exchange 22 Commission’s (“SEC”) Application for Default Judgment against Defendant John 23 Mark Marino (“Defendant”). The Court finds that entry of default judgment is 24 appropriate, having considered the SEC’s Complaint, Application for Default 25 Judgment, supporting declaration, and the other evidence and argument presented to 26 the Court, and having considered the applicable legal requirements, including Fed. R. 27 Civ. P. 55, Local Rule 55-1, and the factors listed in Eitel v. McCool, 782 F.2d 1470, 1 the merits of plaintiff’s substantive claim, (3) the sufficiency of the complaint, (4) the 2 sum of money at stake in the action, (5) the possibility of a dispute concerning 3 material facts, (6) whether the default was due to excusable neglect, and (7) the 4 strong policy underlying the Federal Rules of Civil Procedure favoring decisions on 5 the merits. Accordingly, the Court enters judgments as follows: 6 I. 7 IT IS HEREBY ORDERED that the SEC’s Application for Default Judgment 8 against Defendant is GRANTED. 9 II. 10 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is 11 permanently restrained and enjoined from violating, directly or indirectly, Section 12 10(b) of the Securities Exchange Act of

1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using 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 security: (a) to employ any device, scheme, or artifice to defraud; (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or

III.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. § 77q(a)] in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly: (a) to employ any device, scheme, or artifice to defraud; (b) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or (c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

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

IV.

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

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as

binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

V.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that, pursuant to

Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)] and Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)], Defendant is prohibited from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

VI.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for disgorgement of $65,700, representing net profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of $21,396.52, and a civil penalty in the amount of $236,451 pursuant to 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)]. Defendant shall satisfy this obligation by paying $323,547.52 to the Securities and Exchange Commission within 30 days after entry of this Final Judgment. Defendant may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account via Pay.gov through the SEC website at http://www.sec.gov/about/offices/ofm.htm. Defendant may also pay by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to Enterprise Services Center 6500 South MacArthur Boulevard Oklahoma City, OK 73169 and shall be accompanied by a letter identifying the case title, civil action number, and name of this Court; John Mark Marino as a defendant in this action; and specifying that payment is made pursuant to this Final Judgment. Defendant shall simultaneously transmit photocopies of evidence of payment and case identifying information to the Commission's counsel in this action. By making this payment, Defendant relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to Defendant. The Commission may enforce the Court's judgment for disgorgement and prejudgment interest by using all collection procedures authorized by law, including, but not limited to, moving for civil contempt at any time after 30 days following entry of this Final Judgment. The Commission may enforce the Court's judgment for penalties by the use of all collection procedures authorized by law, including the Federal Debt Collection Procedures Act, 28 U.S.C. § 3001 et seq., and moving for civil contempt for the violation of any Court orders issued in this action. Defendant shall pay post judgment interest on any amounts due after 30 days of the entry of this Final Judgment pursuant to 28 U.S.C. § 1961. The Commission shall hold the funds, together with any interest and income earned thereon (collectively, the "Fund"), pending further order of the Court. The Commission may propose a plan to distribute the Fund subject to the Court's approval. Such a plan may provide that the Fund shall be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. The Court shall retain jurisdiction over the administration of any distribution of the Fund and the Fund may only be disbursed pursuant to an Order of the Court. Regardless of whether any such Fair Fund distribution is made, amounts penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Defendant shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on Defendant's payment of disgorgement in this action, argue that he is entitled to, nor shall he further benefit by, offset or reduction of such compensatory damages award by the amount of any part of Defendant's payment of a civil penalty in this action ("Penalty Offset'). If the court in any Related Investor Action grants such a Penalty Offset, Defendant shall, within 30 days after entry of a final order granting Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty shall not be deemed to change the amount of the civil penalty imposed in this Judgment. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Defendant by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.

VII.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

VII.

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 Final Judgment forthwith and without further notice.

Dated: August 26, 2025 hana 2 bright

UNITED STATES DISTRICT JUDGE