

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 25-cv-21892-JB

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

DANIEL J. MOTHAS,

Defendants.

_____ /

PLAINTIFF SECURITIES AND EXCHANGE COMMISSION’S
UNOPPOSED MOTION FOR ENTRY OF JUDGMENT

Plaintiff Securities and Exchange Commission (“Commission” or “SEC”) moves for entry of Judgment against Defendant Daniel Motha (“Defendant”), and states:

I. PROCEDURAL BACKGROUND

On April 25, 2025, the Commission filed its Complaint (ECF No. 1) against the Defendant for violations of Section 17(a) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. § 77q(a)] and Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5]. The Commission’s case seeks permanent injunctive relief as to the securities violations charged, an officer and director bar, disgorgement, with prejudgment interest thereon, and a civil penalty against the Defendant.

By his Consent, attached hereto as **Exhibit 1**, Defendant agrees to the entry of the proposed Judgment attached hereto as **Exhibit 2**, which will resolve the issues of liability and the Commission’s claim for injunctive relief. The proposed Judgment further orders that, upon motion of the Commission, the Court shall determine: (i) whether it is appropriate to order disgorgement of ill-gotten gains, with prejudgment interest thereon, and/or a civil penalty 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)] and, if so, the amount(s) of the disgorgement and/or civil penalty; and (ii) whether Defendant should be barred 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)] (“Officer and Director Bar”). Therefore, if entered by the Court, the only issues remaining in this matter are the amounts of the Commission’s monetary claims and the Officer and Director Bar. In addition, following the entry of the proposed Judgment, the parties intend to file a separate motion as to their proposed resolution of the monetary claims and the Officer and Director Bar.

II. MEMORANDUM OF LAW

The proposed Judgment complies with Federal Rule of Civil Procedure 65(d), which provides that “[e]very order granting an injunction . . . must: (A) state the reasons why it issued; (B) state its terms specifically; and (C) describe in reasonable detail—and not by referring to the complaint or other document—the act or acts sought to be restrained or required.” See Fed. R. Civ. P. 65(d). “This specificity requirement is necessary to protect those who are enjoined by informing them of what they are called upon to do or to refrain from doing in order to comply with the injunction or restraining order.” *Burton v. City of Belle Glade*, 178 F.3d 1175, 1200 (11th Cir. 1999) (internal quotations omitted).

The proposed Judgment also conforms with Eleventh Circuit law, which requires that judgments for injunctive relief describe in reasonable detail the acts or conduct sought to be restrained. *SEC v. Goble*, 682 F.3d 934, 951-52 (11th Cir. 2012); *see also SEC v. Graham*, 823 F.3d 1357, 1362 n.2 (11th Cir. 2016) (noting that the court has repeatedly said “in the context of SEC enforcement actions and otherwise, ‘obey-the-law’ injunctions are unenforceable.”). The

Eleventh Circuit held in *Goble* that because some “obey-the-law” injunctions lack specificity, they “deprive defendants of procedural safeguards that would ordinarily accompany a future charge of a violation of the securities laws.” *Goble*, 682 F.3d at 949. The court questioned whether an injunction that merely repeats the language of Section 10(b) and Rule 10b-5 of the Exchange Act would survive judicial scrutiny. *Id.* at 951. The court expressed concern that given the wide range of conduct covered by Section 10(b) and Rule 10b-5 of the Exchange Act, and the large amount of case law interpreting those provisions, simply reciting the language of the statute and rule in an injunction fails to provide the detail needed to “inform the defendant of precisely what conduct is forbidden.” *Id.*

However, *Goble* acknowledged that an obey the law injunction based on a statutory provision that states specifically what is required to comply with it could satisfy Fed. R. Civ. P. 65(d)(1). Applying this principle, the court indicated that an injunction against violations of Exchange Act Sections 15(c)(3) and 17(a), and Exchange Act Rules 15c3-3 and 17a-3, may be permissible because the rules “specifically describe the acts required of the person enjoined.” *Id.* at 952. Thus, under *Goble*, “a broad, but properly drafted injunction, which largely uses the statutory or regulatory language may satisfy the specificity requirement of Rule 65(d) so long as it clearly lets the defendant know what he is ordered to do or not.” *Id.* at 952.

Accordingly, district courts in this Circuit have entered injunctions consistent with *Goble* that incorporate the actual language of the relevant statute or rule *and also* specifically describe the acts required of the person enjoined. *See, e.g., SEC v. Natural Diamonds Invst. Co., et al*, No. 19-cv-80633-RLR (S.D. Fla. Oct. 18, 2023) (final judgments of permanent injunction and other relief against the individual defendants that included specific language identifying prohibited

conduct); *SEC v. Fettner*, No. 9:19-cv-80613-RLR (S.D. Fla. May 30, 2019) (same); *SEC v. Schneider*, No. 9:17-cv-81142-RLR (S.D. Fla. Apr. 5, 2019) (same).

Here, the Commission has filed a proposed Judgment that includes a permanent injunction that “largely uses” the language of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, but also, pursuant to *Goble*, specifically describes the enjoined conduct. Incorporated at the end of the anti-fraud provisions alleged, the proposed Judgment includes the following descriptive language:

by, directly or indirectly, (i) creating a false appearance or otherwise deceiving any person, or (ii) disseminating false or misleading documents, materials, or information or making, either orally or in writing, any false or misleading statement in any communication with any investor or prospective investor, about:

- (A) any investment strategy or investment in securities,
- (B) the prospects for success of any product or company,
- (C) the use of investor funds,
- (D) compensation to any person,
- (E) Defendant’s qualifications to advise investors; or
- (F) the misappropriation of investor funds or investment proceeds.

See Ex. 2.

Thus, in addition to tracking the requisite statutory language, the injunctive language includes specific prohibitions which are directly tied to the allegations in the Complaint and properly puts the Defendant on notice of the prohibited conduct. Thus, the proposed Judgment is consistent with *Goble* and the permanent injunctions previously entered by courts in this district. Also, the Defendant explicitly consented to the permanent injunction language through his Consent filed herewith. See Ex. 1.

WHEREFORE, the Commission respectfully requests that this Court grant the motion and enter the proposed Judgment attached hereto.

LOCAL RULE 7.1(a)(2) CERTIFICATION OF PRE-FILING CONFERENCE

The Commission has conferred with counsel for the Defendant, who do not object to the relief requested in this motion.

Dated: August 11, 2025

Respectfully submitted,

By: **Russell R. O'Brien**
Russell R. O'Brien, Esq.
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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 1:25-cv-21892-JB

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

DANIEL J. MOTHAS,

Defendant.

_____ /

CONSENT OF DEFENDANT DANIEL J. MOTHAS

1. Defendant Daniel J. Motha (“Defendant”) acknowledges having been served with the Complaint in this action, enters a general appearance, and admits the Court’s jurisdiction over Defendant and over the subject matter of this action.

2. Without admitting or denying the allegations of the Complaint (except as provided herein in paragraph 13 and except as to personal and subject matter jurisdiction, which Defendant admits), Defendant consents to the entry of the Judgment in the form attached hereto (“Judgment”) and incorporated by reference herein, which, among other things, permanently restrains and enjoins Defendant from violating:

a) Section 17(a) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. § 77q(a)]; and

b) Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”), and Exchange Act Rule 10(b)-5 [15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10-5].

3. Defendant agrees that, upon motion of the Commission, the Court shall determine: (i) whether it is appropriate to order disgorgement of ill-gotten gains and/or a civil

EXHIBIT

1

penalty 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)] and, if so, the amount(s) of the disgorgement and/or civil penalty; and (ii) whether Defendant should be barred 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)] (“Officer and Director bar”). Defendant further understands that, if disgorgement is ordered, Defendant shall pay prejudgment interest thereon, calculated from August 26, 2022, based on the rate of interest used by the Internal Revenue Service for the underpayment of federal income tax as set forth in 26 U.S.C. § 6621(a)(2).

4. Defendant further agrees that in connection with the Commission’s motion for disgorgement, civil penalties, and/or an Officer and Director bar, at any hearing held on such a motion: (a) Defendant will be precluded from arguing that he did not violate the federal securities laws as alleged in the Complaint; (b) Defendant may not challenge the validity of this Consent or the Judgment; (c) solely for the purposes of such motion, the allegations of the Complaint shall be accepted as and deemed true by the Court; and (d) the Court may determine the issues raised in the motion on the basis of affidavits, declarations, excerpts of sworn deposition or investigative testimony, and documentary evidence, without regard to the standards for summary judgment contained in Rule 56(c) of the Federal Rules of Civil Procedure. In connection with the Commission’s motion for disgorgement, civil penalties, and/or an Officer and Director bar, the parties may take discovery, including discovery from appropriate non-parties.

5. Defendant agrees that he shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made

pursuant to any insurance policy, with regard to any civil penalty amounts that Defendant pays pursuant to the final judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors. Defendant further agrees that he shall not claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state, or local tax for any penalty amounts that Defendant pays pursuant to the final judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors.

6. Defendant waives the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure.

7. Defendant waives the right, if any, to a jury trial and to appeal from the entry of the Judgment.

8. Defendant enters into this Consent voluntarily and represents that no threats, offers, promises, or inducements of any kind have been made by the Commission or any member, officer, employee, agent, or representative of the Commission, to Defendant or to anyone acting on his behalf, to induce Defendant to enter into this Consent.

9. Defendant agrees that this Consent shall be incorporated into the Judgment with the same force and effect as if fully set forth therein.

10. Defendant will not oppose the enforcement of the Judgment on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure, and hereby waives any objection based thereon.

11. Defendant waives service of the Judgment and agrees that entry of the Judgment by the Court and filing with the Clerk of the Court will constitute notice to Defendant of its terms and conditions. Defendant further agrees to provide counsel for the Commission, within thirty

(30) days after the Judgment is filed with the Clerk of the Court, with an affidavit or declaration stating that Defendant has received and read a copy of the Judgment.

12. Consistent with 17 C.F.R. § 202.5(f), this Consent resolves only the claims asserted against Defendant in this civil proceeding. Defendant acknowledges that no promise or representation has been made by the Commission or any member, officer, employee, agent, or representative of the Commission with regard to any criminal liability that may have arisen or may arise from the facts underlying this action or immunity from any such criminal liability. Defendant waives any claim of Double Jeopardy based upon the settlement of this proceeding, including the imposition of any remedy or civil penalty herein. Defendant further acknowledges that the Court's entry of a permanent injunction may have collateral consequences under federal or state law and the rules and regulations of self-regulatory organizations, licensing boards, and other regulatory organizations. Such collateral consequences include, but are not limited to, a statutory disqualification with respect to membership or participation in, or association with a member of, a self-regulatory organization. This statutory disqualification has consequences that are separate from any sanction imposed in an administrative proceeding. In addition, in any disciplinary proceeding before the Commission based on the entry of the injunction in this action, Defendant understands that he shall not be permitted to contest the factual allegations of the Complaint in this action.

13. Defendant understands and agrees to comply with the terms of 17 C.F.R. § 202.5(e), which provides in part that it is the Commission's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings," and "a refusal to admit the allegations is equivalent to a denial, unless the defendant or respondent states that he neither admits nor denies

the allegations.” As part of Defendant’s agreement to comply with the terms of Section 202.5(e), Defendant: (i) will not take any action or make or permit to be made any public statement denying, directly or indirectly, any allegation in the Complaint or creating the impression that the Complaint is without factual basis; (ii) will not make or permit to be made any public statement to the effect that Defendant does not admit the allegations of the Complaint, or that this Consent contains no admission of the allegations, without also stating that he does not deny the allegations; (iii) upon the filing of this Consent, Defendant hereby withdraws any papers filed in this action to the extent that they deny any allegation in the Complaint; and (iv) stipulates solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, that the allegations in the Complaint are true, and further, that any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Defendant under the final judgment or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Defendant of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19). If Defendant breaches this agreement, the Commission may petition the Court to vacate the Judgment and restore this action to its active docket. Nothing in this paragraph affects Defendant’s: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which the Commission is not a party.

14. Defendant hereby waives any rights under the Equal Access to Justice Act, the Small Business Regulatory Enforcement Fairness Act of 1996, or any other provision of law to seek from the United States, or any agency, or any official of the United States acting in his or her official capacity, directly or indirectly, reimbursement of attorney’s fees or other fees,

expenses, or costs expended by Defendant to defend against this action. For these purposes, Defendant agrees that Defendant is not the prevailing party in this action since the parties have reached a good faith settlement.

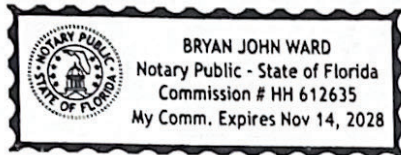
15. Defendant agrees that the Commission may present the Judgment to the Court for signature and entry without further notice.

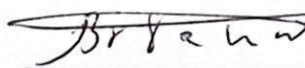
16. Defendant agrees that this Court shall retain jurisdiction over this matter for the purpose of enforcing the terms of the Judgment.

Dated: 8/8/25

By: 
DANIEL J. MOTHAS

On August 8th, 2025, Daniel J. Motha, a person who presented identification FLDL or who known to me personally _____, appeared before me and acknowledged executing the foregoing Consent.




Notary Public
Commission expires:

Approved as to form:

Eric S. Rosen
ERIC S. ROSEN, Esq.
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Attorney for Defendant Daniel J. Motha

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 1:25-cv-21892-JB

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

DANIEL J. MOTHAS,

Defendant.

_____ /

JUDGMENT AS TO DEFENDANT DANIEL J. MOTHAS

The Securities and Exchange Commission (“Commission”) having filed a Complaint and Defendant Daniel J. Motha (“Defendant”) having entered a general appearance; consented to the Court’s jurisdiction over him and the subject matter of this action; consented to entry of this Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction and except as otherwise provided herein in Section III); waived findings of fact and conclusions of law; and waived any right to appeal from this Judgment:

I.

PERMANENT INJUNCTIVE RELIEF

A. Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) and Exchange Act Rule 10b-5

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-

EXHIBIT

2

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,

by, directly or indirectly, (i) creating a false appearance or otherwise deceiving any person, or (ii) disseminating false or misleading documents, materials, or information or making, either orally or in writing, any false or misleading statement in any communication with any investor or prospective investor, about:

- (A) any investment strategy or investment in securities,
- (B) the prospects for success of any product or company,
- (C) the use of investor funds,
- (D) compensation to any person,
- (E) Defendant's qualifications to advise investors; or
- (F) the misappropriation of investor funds or investment proceeds.

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 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).

B. Section 17(a) of the Securities Act of 1933 (“Securities Act”)

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating Section 17(a) of 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

by, directly or indirectly, (i) creating a false appearance or otherwise deceiving any person, or (ii) disseminating false or misleading documents, materials, or information or making, either orally or in writing, any false or misleading statement in any communication with any investor or prospective investor, about:

- (A) any investment strategy or investment in securities,
- (B) the prospects for success of any product or company,
- (C) the use of investor funds,
- (D) compensation to any person,
- (E) Defendant’s qualifications to advise investors; or
- (F) the misappropriation of investor funds or investment proceeds.

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 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).

II.

**DISGORGEMENT, PREJUDGMENT INTEREST, CIVIL PENALTY
AND OFFICER AND DIRECTOR BAR**

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that upon motion of the Commission, the Court shall determine whether it is appropriate to order disgorgement of ill-gotten gains, and/or a civil penalty 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)] and, if so, the amount(s) of the disgorgement and/or civil penalty. The Court shall determine the amounts of the disgorgement and civil penalty upon motion of the Commission. If disgorgement is ordered, Defendant shall pay prejudgment interest thereon, calculated from August 26, 2022, based on the rate of interest used by the Internal Revenue Service for the underpayment of federal income tax as set forth in 26 U.S.C. § 6621(a)(2).

Upon the Commission's motion, the Court shall further determine whether Defendant should be barred 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)], 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)] ("Officer and Director bar").

In connection with the Commission's motion for disgorgement, prejudgment interest, civil penalties, and/or an Officer and Director bar, and at any hearing held on such a motion: (a) Defendant will be precluded from arguing that he did not violate the federal securities laws as alleged in the Complaint; (b) Defendant may not challenge the validity of the Consent or this Judgment; (c) solely for the purposes of such motion, the allegations of the Complaint shall be accepted as and deemed true by the Court; and (d) the Court may determine the issues raised in the motion on the basis of affidavits, declarations, excerpts of sworn deposition or investigative testimony, and documentary evidence, without regard to the standards for summary judgment contained in Rule 56(c) of the Federal Rules of Civil Procedure. In connection with the Commission's motion for disgorgement, prejudgment interest, civil penalties, and/or an Officer and Director bar, the parties may take discovery, including discovery from appropriate non-parties.

III.

BANKRUPTCY NONDISCHARGEABILITY

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the allegations in the Complaint are true and admitted by Defendant, and further, any debt for disgorgement, prejudgment interest, civil penalty, or other amounts due by Defendant under this Judgment or any other judgment, order, consent order, decree, or settlement agreement entered in connection with this proceeding, is a debt for the violation by Defendant of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

IV.

INCORPORATION OF CONSENT

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent is incorporated herein with the same force and effect as if fully set forth herein, and that Defendant shall comply with all of the undertakings and agreements set forth therein.

V.

RETENTION OF JURISDICTION

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

VI.

RULE 54(b) CERTIFICATION

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.

Dated: _____, 2025

JACQUELINE BECERRA
UNITED STATES DISTRICT JUDGE