

FILED
CLERK, U.S. DISTRICT COURT
Nov 10, 2016
CENTRAL DISTRICT OF CALIFORNIA
BY: PMC DEPUTY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

JAMMIN' JAVA CORP., dba MARLEY
COFFEE, SHANE G. WHITTLE, WAYNE
S. P. WEAVER, MICHAEL K. SUN, RENE
BERLINGER, STEPHEN B. WHEATLEY,
KEVIN P. MILLER, MOHAMMED A. AL-
BARWANI, ALEXANDER J. HUNTER,
and THOMAS E. HUNTER,

Defendants.

Case No. 2:15-cv-08921 SVW (MRWx)

**FINAL JUDGMENT AS TO
DEFENDANT THOMAS E.
HUNTER**

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1 The Securities and Exchange Commission (“Commission”) having filed a Complaint
2 and Defendant Thomas E. Hunter (“Defendant”) having entered a general appearance;
3 consented to the Court’s jurisdiction over Defendant and the subject matter of this action;
4 consented to entry of this Final Judgment without admitting or denying the allegations of the
5 Complaint (except as to jurisdiction and except as otherwise provided herein in Paragraph VI);
6 waived findings of fact and conclusions of law; and waived any right to appeal from this Final
7 Judgment:

8 I.

9 IT IS HEREBY ordered, adjudged, and decreed that Defendant is permanently
10 restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities
11 Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated
12 thereunder, 17 C.F.R. § 240.10b-5, by using any means or instrumentality of interstate commerce,
13 or of the mails, or of any facility of any national securities exchange, in connection with the
14 purchase or sale of any security:

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

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

26 II.

27 IT IS FURTHER ordered, adjudged, and decreed that Defendant is permanently
28 restrained and enjoined from violating Section 17(b) of the Securities Act of 1933 (the

1 “Securities Act”), 15 U.S.C. § 77q(b), by using any means or instruments of transportation or
2 communication in interstate commerce or by use of the mails, directly or indirectly:

- 3 (a) to publish, give publicity to, or circulate any notice, circular, advertisement,
4 newspaper, article, letter, investment service, or communication which, though
5 not purporting to offer a security for sale, describes such security;
- 6 (b) for a consideration received or to be received, directly or indirectly, from an
7 issuer, underwriter, or dealer;
- 8 (c) without fully disclosing the receipt, whether past or prospective, of such
9 consideration and the amount thereof.

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

15 III.

16 IT IS HEREBY FURTHER ordered, adjudged, and decreed that, for five years from
17 the date of entry of this Final Judgment, Defendant is barred from participating in an offering
18 of penny stock, including engaging in activities with a broker, dealer, or issuer for purposes of
19 issuing, trading, or inducing or attempting to induce the purchase or sale of any penny stock. A
20 penny stock is any equity security that has a price of less than five dollars, except as provided
21 in Rule 3a51-1 under the Exchange Act, 17 C.F.R. § 240.3a51-1.

22 IV.

23 IT IS FURTHER ordered, adjudged, and decreed that Defendant shall pay a civil
24 penalty in the amount of \$300,000 to the Commission pursuant to Section 20(d) of the
25 Securities Act and Section 21(d)(3) of the Exchange Act. Defendant shall make this payment
26 within 14 days after entry of this Final Judgment.

27 Defendant may transmit payment electronically to the Commission, which will provide
28 detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly

1 from a bank account via Pay.gov through the SEC website at [http://www.sec.gov/about/](http://www.sec.gov/about/offices/ofm.htm)
2 offices/ofm.htm. Defendant may also pay by certified check, bank cashier's check, or United
3 States postal money order payable to the Securities and Exchange Commission, which shall be
4 delivered or mailed to:

5 Enterprise Services Center
6 Accounts Receivable Branch
7 6500 South MacArthur Boulevard
8 Oklahoma City, OK 73169

9 and shall be accompanied by a letter identifying the case title, civil action number, and name of
10 this Court; Thomas E. Hunter as a defendant in this action; and specifying that payment is
11 made pursuant to this Final Judgment.

12 Defendant shall simultaneously transmit photocopies of evidence of payment and case
13 identifying information to the Commission's counsel in this action. By making this payment,
14 Defendant relinquishes all legal and equitable right, title, and interest in such funds and no part
15 of the funds shall be returned to Defendant. The Commission shall send the funds paid
16 pursuant to this Final Judgment to the United States Treasury. Defendant shall pay post-
17 judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

18 V.

19 IT IS FURTHER ordered, adjudged, and decreed that the Consent is incorporated
20 herein with the same force and effect as if fully set forth herein, and that Defendant shall
21 comply with all of the undertakings and agreements set forth therein.

22 VI.

23 IT IS FURTHER ordered, adjudged, and decreed that, solely for purposes of exceptions
24 to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the allegations
25 in the complaint are true and admitted by Defendant, and further, any debt for disgorgement,
26 prejudgment interest, civil penalty or other amounts due by Defendant under this Final
27 Judgment or any other judgment, order, consent order, decree or settlement agreement entered
28 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

1 Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

2 VII.

3 IT IS FURTHER ordered, adjudged, and decreed that this Court shall retain
4 jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

5 VIII.

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

9 Dated: November 10, 2016



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11 United States District Judge
12 STEPHEN V. WILSON
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