

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 07-10712-RGS

SECURITIES AND EXCHANGE COMMISSION

v.

GLENN MANTERFIELD

MEMORANDUM AND ORDER

April 8, 2009

STEARNS, D.J.

On December 19, 2008, the court allowed the Securities and Exchange Commission's (SEC) motion for the entry of a default against Glenn Manterfield for his refusal to appear at a deposition convened (in part for his convenience) in London.¹ In its Order, the court noted that its decision was based inter alia on Manterfield's failure to honor his representation to the court that he would cooperate with the deposition as noticed. On December 27, 2008, Manterfield informed the court that "I am not appealing the Order. His Honor Judge Stearns has made his ruling and I accept it."

Despite the assurance, on March 8, 2009, after the court scheduled a hearing on an assessment of damages for April 3, 2009, Manterfield filed a motion to set aside the default. The motion was denied on March 13, 2009. On March 16, 2009, Manterfield filed a motion seeking an extension of time to respond to June 1, 2009. Manterfield's request was based on his "expectation" of receiving during the interval a favorable ruling from the House of Lords in a related matter. The court denied Manterfield's motion to enlarge. On

¹Manterfield resides in the United Kingdom.

March 19, 2009, an Order of Default entered against Manterfield. On March 27, 2009, Manterfield filed a “final” motion to set aside the judgment under Fed. R. Civ. P. 60(b), and on April 1, 2009, Manterfield filed a motion to dismiss the SEC’s claim for damages. The latter motion essentially was a response to the papers submitted by the SEC in anticipation of the April 3, 2009 assessment hearing.

On April 3, 2009, the SEC appeared before the court and offered testimony and voluminous documents detailing Manterfield’s misrepresentations to investors in the Lydia Capital Alternative Investment Fund LP (Fund). These misrepresentations appeared in public filings, public placement memoranda, and newsletters. Manterfield did not appear at the hearing. The court, after considering the SEC’s evidence and Manterfield’s written response, determined that the SEC was entitled to: (1) an Injunction permanently barring Manterfield from committing securities laws violations; and (2) an Order directing Manterfield to pay disgorgement and pre-judgment interest in the amount of \$2,775,998. In addition, the SEC requested that the court order Manterfield to pay a civil penalty.

The court has discretion to impose a 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). Both statutes provide three tiers of penalties, the amount increasing with the severity of the violation. The first and second tiers apply to persons who violate the securities laws in general (first tier), and to persons who violate the securities laws through the use of fraud or deceit (second tier). See, e.g., 15 U.S.C. § 78u(d)(3)(B)(I). The SEC recommends a penalty under the third tier because Manterfield’s conduct “involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement” *and*

“directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons.” 15 U.S.C. § 77t(d)(2)(c); 15 U.S.C. § 78u(d)(3)(B)(iii). The third tier penalty is not to exceed the greater of \$130,000 per violation, or the gross pecuniary gain to the defendant as a result of the violation. 15 U.S.C. § 77t(d)(2)(c); 15 U.S.C. § 78u(d)(3)(B)(iii); 17 C.F.R. § 201.1002 (inflationary adjustment increasing penalty to \$130,000).

ORDER

In light of Manterfield’s repeated misrepresentations to Fund investors and the resulting (best case) loss to those investors in excess of \$15 million, a third tier penalty is appropriate. A civil penalty in the amount of \$130,000 will be reflected in the Final Judgment.

SO ORDERED.

/s/ Richard G. Stearns

UNITED STATES DISTRICT JUDGE