

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

<p>SECURITIES AND EXCHANGE COMMISSION,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>JOHN D. FIERRO, <i>et al.</i>,</p> <p style="text-align: center;">Defendants.</p>	<p style="text-align: center;">Civil Action No. 20-02104 (GC) (JBD)</p> <p style="text-align: center;"><u>FINAL JUDGMENT</u></p>
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CASTNER, District Judge

THIS MATTER comes before the Court upon Plaintiff Securities and Exchange Commission's (the SEC) motion for final judgments and to impose remedies against Defendants John D. Fierro and JDF Capital, Inc. (ECF No. 55.) Following briefing by the parties, the Court carefully considered the submissions and decided the motion without oral argument pursuant to Federal Rule of Civil Procedure 78(b) and Local Civil Rule 78.1(b). For the reasons set forth in the Court's accompanying Opinion, and other good cause shown,

IT IS on this 21st day of May, 2024, **ORDERED, ADJUDGED, and DECREED** as follows:

1. Plaintiff's Motion (ECF No. 55) is **GRANTED** in part and **DENIED** in part.
2. Defendants are **PERMANENTLY RESTRAINED** and **ENJOINED** from violating Section 15(a)(1) of the Securities Exchange Act of 1934, 15 U.S.C. § 78o(a)(1), as a dealer (15 U.S.C. § 78c(a)(5)), by making use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security pursuant to 17 C.F.R. §

240.15a-2 or commercial paper, bankers' acceptances, or commercial bills) unless Defendants are registered with the Commission as a dealer in accordance with Section 15(b) of the Exchange Act.

3. 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 JDF Capital, Inc.'s members, managing members, officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).
4. Defendants are jointly and severally liable for disgorgement of **\$4,053,148.00**, representing net profits gained as a result of the conduct alleged in the Complaint, plus **\$1,326,440.00** in prejudgment interest, for a total of **\$5,379,588.00**. Every \$1 paid by either Defendant toward this payment obligation shall reduce the joint and several liability of the other Defendant toward this joint and several obligation.
5. Defendants are jointly and severally liable for a tier-one civil penalty of **\$500,000.00** pursuant to Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3).
6. Defendants shall satisfy these obligations by jointly and severally paying **\$5,879,588.00**, within thirty (30) days after entry of this Final Judgment. Defendants may transmit payment electronically to the Commission, which must provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account via Pay.gov on the SEC website at <http://www.sec.gov/about/offices/ofm.htm>. Defendants 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
Accounts Receivable Branch
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; identifying each Defendant in this action; and specifying that payment is made pursuant to this Final Judgment. Defendants shall simultaneously transmit photocopies of evidence of payment and case identifying information to the Commission's counsel in this action by email to Senior Trial Counsel Joshua E. Braunstein, Braunsteinj@sec.gov. By paying these amounts, Defendants relinquish all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to Defendants.

7. 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 thirty (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.
8. 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.

9. Regardless of whether any such Fair Fund distribution is made, amounts ordered to be paid as civil penalties pursuant to this Judgment shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Defendants shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on Defendants' payment of disgorgement in this action, argue that either is entitled to, nor shall either Defendant further benefit by, offset or reduction of such compensatory damages award by the amount of any part of either 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, Defendants shall, within thirty (30) days after entry of a final order granting the 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 and 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.
10. Within ten (10) days of entry of this Final Judgment, Defendants must surrender for cancellation their remaining shares of stock of the issuers listed in Exhibit 1 (ECF No. 54-2) of the SEC's motion for judgment and remedies in this case and surrender their remaining conversion rights under the convertible securities issued by them (the "Issuers"); and send copies of correspondence evidencing the surrender for cancellation of Defendants'

remaining shares of the Issuers and his remaining conversion rights under the convertible securities issued by the Issuers to the Securities and Exchange Commission addressed to Joshua E. Braunstein, Senior Trial Counsel, Securities and Exchange Commission, 100 F Street NE, Washington, D.C., 20549.

11. The remainder of Plaintiff's Motion (ECF No. 55) is **DENIED**.
12. The Clerk's Office is directed to **TERMINATE** the Motion pending at ECF No. 55 and **CLOSE** this case.



GEORGETTE CASTNER
UNITED STATES DISTRICT JUDGE