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Judge Enters Reduced Penalty for NCLA Clients Exonerated from Excessive SEC Charges

U.S. Securities and Exchange Commission v. Spartan Securities Group, LTD., et al.

Washington, DC (August 10, 2022) – Today, Judge Virginia Hernandez Covington of the U.S. District Court for the Middle District of Florida, issued a [remedies order](#) in *U.S. Securities and Exchange Commission v. Spartan Securities Group, LTD., et al.* The penalty phase has now been completed, with Judge Covington entering a much less severe penalty than the Securities and Exchange Commission (SEC) sought. Defendants Spartan Securities Group, Ltd., Island Capital Management, Carl Dilley, and Micah Eldred still plan to contest one count on appeal.

After a 12-day jury trial in July 2021, verdicts were returned [in favor](#) of the Defendants on thirteen of fourteen counts pled by SEC, a fact the Court recognized in its Order. Despite getting trounced by the jury, SEC sought a series of aggressive penalties that, under the facts and circumstances of this case, were outsized, not legally available, or else violated traditional equitable considerations. NCLA successfully reduced the civil penalties by more than half for all Defendants and successfully defended against the SEC’s request for tier three penalties. NCLA also successfully argued for a reduced disgorgement calculation. And NCLA prevented entry of permanent injunctions and permanent penny stock bars for the individual defendants.

Importantly, the Court recognized at oral argument that the injunctive relief SEC requested was too wide-ranging. Despite SEC’s belated attempt to narrow the injunctions against Defendants Dilley and Eldred, the Court found that some of the language remained “too broad or vague.” The Court cabined those injunctions to only the conduct that was “sufficiently specific and tied to the misconduct at issue.” The Court also recognized that SEC’s continued reticence to deduct business expenses from its disgorgement calculation was both “unfair and inconsistent with *Liu* [v. *SEC*].”

NCLA released the following statements:

“SEC should never have brought this case. Legally and factually, its theory of liability was, at best, strained. That view was substantiated by the jury’s repudiation of 13 of 14 counts last summer—including the complete exoneration of one defendant—and the Court’s substantially reduced remedies order today. Too often in the SEC context, accused defendants are unable or unwilling to defend themselves. NCLA’s clients have shown that it is possible to take on the SEC and hold them to their proofs. We look forward to the appeal.”

— **Kara Rollins, Litigation Counsel, NCLA**

“SEC’s intransigence has not served it well. Its policy of insisting on permanent bars and injunctions, on outsized damages and penalties, and an agency attorney’s arrogant statement to one of our clients that ‘we don’t make charging mistakes,’ has been completely exploded by this action. Failing on 13 of 14 counts, and having your remaining monetary requests reduced by half, falls below the Mendoza Line even for the Administrative State’s lax grading curve. This case provides a road map for those unjustly pursued by the SEC. Even the scraps left to the agency by this Order are seriously threatened on appeal by its tenuous basis in law.”

— **John J. Vecchione, Senior Litigation Counsel, NCLA**

For more information visit the case page [here](#).

ABOUT NCLA

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA's public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans' fundamental rights.

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