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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
Southern Division**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

PATRICK S. CARTER, 808
RENEWABLE ENERGY
CORPORATION, 808
INVESTMENTS, LLC, MARTIN J.
KINCHLOE, PETER J.
KIRKBRIDÉ, WEST COAST
COMMODITIES, LLC, THOMAS
A. FLOWERS, and T.A. FLOWERS
LLC,

Defendants.

Case No. 8:16-cv-2070-JVS-DFM

**FINAL JUDGMENT AS TO
DEFENDANT 808 RENEWABLE
ENERGY CORPORATION [137]**

1 This matter came before the Court on the Securities and Exchange
2 Commission's ("SEC") Motion for Default Judgment against defendant 808
3 Renewable Energy Corporation ("Defendant"). The Court having considered the
4 SEC's Complaint, the Motion, the supporting Memorandum of Points and
5 Authorities, the supporting declaration and exhibits, and the other evidence and
6 argument presented to the Court, finds that the SEC's motion is GRANTED.

7 **I.**

8 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is
9 permanently restrained and enjoined from violating, directly or indirectly, Section
10 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. §
11 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using
12 any means or instrumentality of interstate commerce, or of the mails, or of any
13 facility of any national securities exchange, in connection with the purchase or sale of
14 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
17 material fact necessary in order to make the statements made, in the light
18 of the circumstances under which they were made, not misleading; or
19 (c) to engage in any act, practice, or course of business which operates or
20 would operate as a fraud or deceit upon any person.

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

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II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 (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.

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).

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating Section 5 of the Securities Act [15 U.S.C. § 77e] by, directly or indirectly, in the absence of any applicable exemption:

- (a) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;

- 1 (b) Unless a registration statement is in effect as to a security, carrying or
2 causing to be carried through the mails or in interstate commerce, by any
3 means or instruments of transportation, any such security for the purpose
4 of sale or for delivery after sale; or
- 5 (c) Making use of any means or instruments of transportation or
6 communication in interstate commerce or of the mails to offer to sell or
7 offer to buy through the use or medium of any prospectus or otherwise
8 any security, unless a registration statement has been filed with the SEC
9 as to such security, or while the registration statement is the subject of a
10 refusal order or stop order or (prior to the effective date of the
11 registration statement) any public proceeding or examination under
12 Section 8 of the Securities Act [15 U.S.C. § 77h].

13 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as
14 provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also
15 binds the following who receive actual notice of this Judgment by personal service or
16 otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and
17 (b) other persons in active concert or participation with Defendant or with anyone
18 described in (a).

19 **IV.**

20 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant
21 is permanently restrained and enjoined from soliciting, accepting, or depositing any
22 monies from actual or prospective investors in connection with any offering of
23 securities, provided, however, that such injunction shall not prevent Defendant from
24 purchasing or selling securities listed on a national securities exchange for
25 Defendant's own personal accounts.

26 **V.**

27 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
28 Defendant is permanently barred from participating in an offering of penny stock,

1 including engaging in activities with a broker, dealer, or issuer for purposes of
2 issuing, trading, or inducing or attempting to induce the purchase or sale of any penny
3 stock. A penny stock is any equity security that has a price of less than five dollars,
4 except as provided in Rule 3a51-1 under the Exchange Act [17 C.F.R. 240.3a51-1].

5 **VI.**

6 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant
7 is jointly and severally liable with defendant Patrick S. Carter for disgorgement of
8 \$14,628,767.87, representing profits gained as a result of the conduct alleged in the
9 Complaint, together with prejudgment interest thereon in the amount of
10 \$1,317,461.04, and a civil penalty in the amount of \$775,000 pursuant to Section
11 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange
12 Act [15 U.S.C. § 78u(d)(3)]. Defendant shall satisfy this obligation by paying
13 \$16,721,228.91, to the Securities and Exchange Commission within 14 days after the
14 entry of this Final Judgment.

15 Defendant may transmit payment electronically to the Commission, which
16 will provide detailed ACH transfer/Fedwire instructions upon request. Payment
17 may also be made directly from a bank account via Pay.gov through the SEC
18 website at <http://www.sec.gov/about/offices/ofm.htm>. Defendant may also pay by
19 certified check, bank cashier's check, or United States postal money order payable
20 to the Securities and Exchange Commission, which shall be delivered or mailed to

21 Enterprise Services Center
22 Accounts Receivable
23 Branch 6500 South
MacArthur Boulevard
Oklahoma City, OK 73169

24 and shall be accompanied by a letter identifying the case title, civil action number,
25 and name of this Court; 808 Renewable Energy Corporation as a defendant in this
26 action; and specifying that payment is made pursuant to this Final Judgment.

27 Defendant shall simultaneously transmit photocopies of evidence of payment
28 and case identifying information to the Commission's counsel in this action. By

1 making this payment, Defendant relinquishes all legal and equitable right, title, and
2 interest in such funds and no part of the funds shall be returned to Defendant.

3 The Commission may enforce the Court’s judgment for disgorgement and
4 prejudgment interest by using all collection procedures authorized by law, including,
5 but not limited to, moving for civil contempt at any time after 30 days following entry
6 of this Final Judgment.

7 The Commission may enforce the Court’s judgment for penalties by the use of
8 all collection procedures authorized by law, including the Federal Debt Collection
9 Procedures Act, 28 U.S.C. § 3001 et seq., and moving for civil contempt for the
10 violation of any Court orders issued in this action. Defendant shall pay post
11 judgment interest on any amounts due after 30 days of the entry of this Final
12 Judgment pursuant to 28 U.S.C. § 1961. The Commission shall hold the funds,
13 together with any interest and income earned thereon (collectively, the “Fund”),
14 pending further order of the Court.

15 The Commission may propose a plan to distribute the Fund subject to the
16 Court’s approval. Such a plan may provide that the Fund shall be distributed
17 pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of
18 2002. The Court shall retain jurisdiction over the administration of any distribution
19 of the Fund and the Fund may only be disbursed pursuant to an Order of the Court.

20 Regardless of whether any such Fair Fund distribution is made, amounts
21 ordered to be paid as civil penalties pursuant to this Judgment shall be treated as
22 penalties paid to the government for all purposes, including all tax purposes. To
23 preserve the deterrent effect of the civil penalty, Defendant shall not, after offset or
24 reduction of any award of compensatory damages in any Related Investor Action
25 based on Defendant’s payment of disgorgement in this action, argue that it is entitled
26 to, nor shall it further benefit by, offset or reduction of such compensatory damages
27 award by the amount of any part of Defendant’s payment of a civil penalty in this
28 action (“Penalty Offset”). If the court in any Related Investor Action grants such a

1 Penalty Offset, Defendant shall, within 30 days after entry of a final order granting
2 the Penalty Offset, notify the Commission’s counsel in this action and pay the amount
3 of the Penalty Offset to the United States Treasury or to a Fair Fund, as the
4 Commission directs. Such a payment shall not be deemed an additional civil penalty
5 and shall not be deemed to change the amount of the civil penalty imposed in this
6 Judgment. For purposes of this paragraph, a “Related Investor Action” means a
7 private damages action brought against Defendant by or on behalf of one or more
8 investors based on substantially the same facts as alleged in the Complaint in this
9 action.

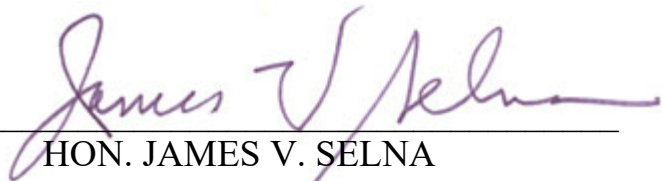
10 **VII.**

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

14 **VIII.**

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

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20 Dated: July 25, 2023



HON. JAMES V. SELNA
UNITED STATES DISTRICT JUDGE