

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

MERENDON MINING (NEVADA) INC.,
et al.,

Defendants.

CASE NO. C10-955RAJ

ORDER

This matter comes before the court on three motions for permanent injunctions and other relief. Dkt. ## 85-87. The court DENIES the motions and orders the SEC to submit a statement in compliance with this order no later than March 28, 2012.

None of the twelve Defendants the SEC has sued in this enforcement proceeding appear to be seriously defending themselves. Ordinarily, court would expect a case like this to proceed expeditiously to a resolution. This case has frustrated that expectation.

Trial in this matter is set for June 4, 2012. Of the twelve original defendants, the court has entered judgment against only three. Four corporate Defendants remain, about whom the SEC has said nothing since informing the court in December 2010 that it would update the court following proceedings in bankruptcy court set to occur in February 2011. At this point, the court has no idea what the SEC plans to do to bring its

1 claims against the corporate Defendants to judgment. As to two of the remaining five
2 individual Defendants, the SEC has been similarly silent. Defendant Bradley Regier is
3 subject to a permanent injunction, but the SEC has taken no steps to bring claims against
4 him to judgment. The same is true of the SEC's claims against nominal Defendant Linda
5 Sorenson.

6 The three Defendants the court has yet to mention are Ward Capstick, Larry Adair,
7 and Martin Werner. They are the subject of the motions now before the court. Each of
8 them has consented to the entry of a permanent injunction and a judgment against them.
9 It is apparent, however, that what the SEC seeks are not judgments at all. Instead, the
10 SEC proposes that the court will later decide on disgorgement remedies and civil
11 penalties against each of these Defendants. A "judgment" which does not resolve the
12 monetary relief that the SEC seeks against any defendant is scarcely a judgment.
13 Moreover, the SEC does not reveal how or when it plans to request a decision on
14 disgorgement or civil penalties.

15 The court could enter the permanent injunctions to which Defendants have
16 consented. The court will not do so, however, because the SEC has submitted the
17 injunctions as "judgments," and incorporated language throughout them that is
18 inappropriate in a purely injunctive order. If the SEC wishes to resubmit the documents
19 as permanent injunctions, the court will consider issuing them. The court notes that
20 Defendants Werner, Adair, and Capstick remain bound by the preliminary injunctions the
21 court has already entered.

22 The court is concerned that the SEC appears to plan to litigate this case piecemeal
23 and without revealing its plan to the court. The court accordingly orders that, no later
24 than March 28, 2012, the SEC shall submit a statement to the court that describes, in
25 detail, how it intends to obtain final judgments against the nine Defendants remaining in
26 this case. The court emphasizes that when it uses the term "final judgments," it means a

1 judgment that disposes of all claims against a party and resolves every request for relief
2 from the SEC, with the exception of attorney fees and costs.

3 DATED this 5th day of March, 2012.

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5  A handwritten signature in black ink that reads "Richard A. Jones". The signature is written in a cursive style and is positioned above a horizontal line.

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7 The Honorable Richard A. Jones
8 United States District Court Judge
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