

THE UNITED STATES ATTORNEY'S OFFICE
SOUTHERN DISTRICT *of* NEW YORK

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Department of Justice

U.S. Attorney's Office

Southern District of New York

FOR IMMEDIATE RELEASE

Thursday, July 8, 2021

Disbarred Attorney Pleads Guilty To Securities Fraud In Connection With Fraudulent Opinion Letter Scheme

Audrey Strauss, the United States Attorney for the Southern District of New York, announced today that RICHARD RUBIN, a disbarred attorney, pled guilty in Manhattan federal court to securities fraud. RUBIN's guilty plea results from his involvement in a fraudulent scheme in which he falsely represented that he was a licensed attorney in signing certain attorney opinion letters, which enabled the relevant securities to be sold to the investing public. In addition, RUBIN engaged in the fraudulent scheme with Thomas Craft, a licensed attorney, who falsely represented that he had undertaken certain legal work in connection with other attorney opinion letters, when in truth and in fact, RUBIN, despite his disbarment, had undertaken all of the legal work attested to in the letters.

RUBIN was arrested on December 2, 2020, and pled guilty today before U.S. District Judge Paul A. Engelmayer.

Manhattan U.S. Attorney Audrey Strauss said: "As he admitted today, Richard Rubin falsely represented in attorney opinion letters that he was a licensed attorney, giving false comfort to the investing public that an attorney, acting as a gatekeeper, had performed certain work in connection with securities. Now he stands guilty of securities fraud and awaits sentencing for his crime."

As alleged in the Indictment filed against RUBIN, as well as his co-conspirator Craft,[1] and other statements made in open court:

Securities Registration Requirements and SEC Rule 144

Under the Securities Act of 1933 (the "Securities Act"), anyone seeking to sell a security must first register that security unless an exemption applies. See 15 U.S.C. § 77e. This registration requirement protects investors by promoting disclosure of information pertinent to informed investment decisions.

A company registering new securities must complete a registration statement known as U.S. Securities and Exchange Commission ("SEC") Form S-1 before the securities can be listed on a national exchange and publicly traded. SEC Form S-1 contains information pertinent to informed investment decisions, including, among other things, information on the company's business operations, the company's financial condition, and a description of the company's management. In connection with SEC Form S-1, the company is required to file an opinion letter (the "Form S-1 Opinion Letter") from a licensed attorney attesting that the

statements in the SEC Form S-1 are true and correct. A company's SEC Form S-1 and the Form S-1 Opinion Letter are available to the public on the SEC's Electronic Data Gathering, Analysis, and Retrieval System ("EDGAR").

"Restricted securities" refers to securities acquired in unregistered, private sales from the issuing company or from an affiliate of the issuer, with "affiliate" meaning a person who directly or indirectly controls, or is controlled by, or is under common control with, an issuer. Affiliates can also include an executive officer or a director or large shareholder who is in a relationship of control with respect to the issuing company. Restricted securities bear a legend indicating that the securities may not be resold in the marketplace unless they are registered with the SEC or are exempt from such registration requirements.

Securities Act Rule 144 ("Rule 144"), codified at 17 C.F.R. § 230.144, provides a registration exemption for restricted securities. Specifically, it permits the public resale of restricted securities if a number of conditions are met, including conditions relating to how long the securities are held, the way in which they are sold, the public information available to investors about the securities, and the amount that can be sold at any one time. Pursuant to Rule 144, however, even if these conditions are met, the sale of restricted securities to the public is still not permitted until a transfer agent removes the "restricted" legend from the security.

The term "transfer agent" refers to a company that keeps track of individuals and entities that own the stocks and bonds of a given company that has publicly traded securities. Among other things, transfer agents issue and cancel certificates to reflect changes in ownership, serve as the company's intermediary for payouts, exchanges, or mailings, and handle lost, destroyed, or stolen certificates. Transfer agents also, when appropriate, remove the "restricted" legend from securities.

A Rule 144 Seller's Representation Letter, or "Seller's Representation Letter," is a letter from an affiliate seller (that is, a seller in a relationship of control with the issuer, such as an executive officer, a director, or a large shareholder) of restricted securities to a transfer agent to establish certain facts underlying a legal opinion that the securities at issue can be sold publicly pursuant to Rule 144. The issuer's consent to the removal of a legend typically comes in the form of an opinion letter from the issuing company's attorney, the Seller's Representation Letter, indicating that the securities at issue satisfy the conditions of Rule 144. Seller's Representation Letters contain multiple attestations that are required by law prior to the restricted legend being removed. The transfer agent relies on the Seller's Representation Letter in determining whether to remove the restricted legend from a security.

Over-the-Counter Securities and OTC Markets Group

Over-the-counter ("OTC") securities are securities that are traded between two counterparties outside of a formal securities exchange. OTC Markets Group ("OTC Markets") is a securities market headquartered in New York, New York, that provides price and liquidity information for OTC securities.

OTC Markets requires issuers seeking to be listed on OTC Markets to hire a licensed attorney to review company records and submit a letter to OTC Markets (an "OTC Markets Attorney Letter") regarding whether information publicly disclosed by the issuer is in compliance with the condition in SEC Rule 144 governing the public information available to investors about the issuer. OTC Markets relies on the OTC Markets Attorney Letter to determine whether an issuer's security may be listed on OTC Markets. OTC Markets Attorney Letters are available to the public on the OTC Markets website.

The Scheme to Defraud

From at least in or about 2011 through at least in or about September 2018, RUBIN and Craft participated in a fraudulent scheme in which Craft falsely represented that he had undertaken certain legal work in connection with Seller's Representation Letters, OTC Markets Attorney Letters, and S-1 Opinion Letters, all of which enabled the relevant securities to be sold to the investing public. In addition, in connection with the

securities of certain issuers, Rubin, the defendant, falsely represented that he was an attorney in Seller's Representation Letters and OTC Markets Attorney Letters, all of which enabled the relevant securities to be sold to the investing public. The false representations were in letters pertaining to over a dozen companies.

RUBIN, 79, of Brooklyn, New York, pled guilty to one count of securities fraud in violation of 15 U.S.C. §§ 78j(b) and 78ff, 17 C.F.R. § 240.10b-5, and 18 U.S.C. § 2, which carries a maximum sentence of 20 years in prison. The maximum potential sentence in this case is prescribed by Congress and is provided here for informational purposes only, as any sentencing of the defendant will be determined by the judge.

RUBIN will be sentenced on November 2, 2021.

* * *

Ms. Strauss praised the investigative work of the Office of Inspector General of the SEC and also thanked the SEC Division of Enforcement for its assistance.

This case is being handled by the Office's Securities and Commodities Fraud Task Force. Assistant U.S. Attorney Jordan Estes is in charge of the prosecution.

The charges against Craft are pending, and he is presumed innocent unless and until proven guilty.

[1] As the introductory phrase signifies, the entirety of the text of the Indictment, and the description of the Indictment set forth herein, constitute only allegations, and every fact described should be treated as an allegation.

Attachment(s):

[Download richard_rubin_plea_agreement - executed.pdf](#)

Component(s):

[USAO - New York, Southern](#)

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