

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

ADMINISTRATIVE PROCEEDINGS RULINGS

Release No. 683/October 7, 2011

ADMINISTRATIVE PROCEEDING

File No. 3-14394

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| In the Matter of   | : |                         |
|                    | : |                         |
| TOM HIRSCH,        | : | ORDER DENYING MOTION TO |
| BERTA WALDER,      | : | CORRECT MANIFEST ERRORS |
| HOWARD WALDER, and | : | OF FACT                 |
| HARISH P. SHAH     | : |                         |

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I issued an Initial Decision in this proceeding on September 15, 2011. Respondents filed a Motion to Correct Manifest Errors of Fact (Motion) on September 26, 2011, pursuant to Rule 111(h) of the Securities and Exchange Commission’s Rules of Practice. See 17 C.F.R. § 201.111(h). The Division of Enforcement (Division) submitted its Opposition to the Motion on October 5, 2011.

The Motion alleges that the findings in the Initial Decision that Respondents’ conduct was “egregious, continuous and involved a high degree of scienter” and that Respondents violated the anti-fraud provisions by making “numerous material misrepresentations and omissions to investors” are findings that are not in the district court’s decision. Motion at 1-2. Specifically, the Motion contends that “[t]he first sentence of the third full paragraph on page 3, the third sentence of the fourth full paragraph on page 3 and the first sentence of paragraph one on page 4 of the Initial Decision should be stricken.” Id. at 2. In fact, the contested statements in the Initial Decision are taken from the district court’s findings of fact in the Order granting summary judgment against Respondents in SEC v. Radical Bunny, LLC, No. 2:09-CV-01560-SRB (D. Ariz. Apr. 28, 2011). Division’s Motion for Summary Disposition Exhibit 2 at 8, 10, 14.

A motion to correct a manifest error is properly filed only if the basis for the motion is a patent misstatement of fact in the Initial Decision. See 17 C.F.R. § 201.111(h). A patent misstatement is something that is “readily visible or intelligible: obvious.” Merriam-Webster’s Collegiate Dictionary 849 (10th ed. 2001).

I DENY Respondents’ Motion because it does not refer to any patent misstatement of fact.

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Brenda P. Murray  
Chief Administrative Law Judge