

Thomas M. Melton (TM 8823)
meltont@sec.gov
Jennifer Moore (3054301)
moorej@sec.gov
Attorneys for Plaintiff
Securities & Exchange Commission
15 West South Temple, Suite 1800
Salt Lake City, Utah 84101
Tel. 801-524-5796

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S.D. OF N.Y. W.P.

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

10 CIV 04452
JUDGE KARAS

SECURITIES AND EXCHANGE COMMISSION,

COMPLAINT

PLAINTIFF,

v.

BRUCE S. FRANK,

DEFENDANT.

Plaintiff, Securities and Exchange Commission (the "Commission"), for its
Complaint against Defendants alleges as follows:

INTRODUCTION

1. This matter involves the fraudulent offer and sale of securities by Bruce S. Frank ("Frank"), a New York attorney, that raised at least \$2.1 million from approximately twelve investors.
2. Frank promised investors that their funds would be held in a secure Swiss bank account, to which only Frank would have access. He also told investors

that the funds would be placed in a “non-depletion account” and that the funds would be leveraged to produce guaranteed returns of between 10-15 percent.

3. Frank did not invest the funds as promised. Instead, he used the funds to pay earlier investors and personal expenses or transferred funds to a bank account in Hong Kong.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction by authority Sections 21 and Section 27 of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. §§ 78u, 78aa].
5. Frank, directly and indirectly, singly and in concert, has made use of the means and instrumentalities of interstate commerce and the mails in connection with the transactions, acts and courses of business alleged herein, certain of which have occurred within the Southern District of New York.
6. Venue for this action is proper in the Southern District of New York under Section 27 of the Exchange Act [15 U.S.C. § 78aa] because certain of the transactions, acts, practices, and courses of business alleged in this Complaint took place in this district.
7. Defendant, unless restrained and enjoined by this Court, will continue to engage in the transactions, acts, practices, and course of business alleged herein and in transactions, acts, practices, and courses of business of similar purport and object.
8. Frank’s conduct took place in connection with the offer, purchase and/or sale of securities in the form of investment contracts.

DEFENDANT

9. Bruce S. Frank, age 54, is a resident of Blooming Grove, New York. Frank was the attorney for Novus Technologies, LLC and its principals, Ralph W. Thompson, Jr. and Duane C. Johnson. He is a member of the New York Bar

and was admitted *pro hac vice* in SEC v. Novus Technologies, LLC, et al., (2:07CV0235) (D. Utah 2007) (“Novus case”) until he was disqualified from representing any party.

RELATED PARTIES

10. **Novus Technologies, LLC** (“Novus”) is a Utah limited liability company. Novus claims to be a business consultant, specializing in helping clients generate cash flow. Novus has its principal place of business at 1568 South 500 West, Suite 102, Woods Cross, Utah.
11. **Ralph W. Thompson, Jr.**, was the managing member of Novus and its registered agent. Thompson is a defendant in the Novus case.
12. **Duane C. Johnson** was a member of Novus and is a defendant in the Novus case.

STATEMENT OF FACTS

13. On April 11, 2007, the Commission filed a case against Novus and other defendants alleging that the defendants fraudulently sold unregistered securities to over 50 investors, raising at least \$4.8 million. Novus marketed itself as a business consulting company specializing in helping clients generate cash flow.
14. On the same day, the court in the Novus case entered an ex parte order freezing the assets of Novus, Thompson and Johnson. The Court also appointed a receiver over Novus’ assets.
15. Frank entered an appearance on behalf of Novus, Thompson and Johnson and was admitted *pro hac vice* to the District of Utah in the Novus case.
16. Frank was counsel for Novus, Thompson and Johnson in the Novus case.
17. A short time after the entry of the asset freeze, Frank offered Johnson an opportunity to invest in an investment program.

18. Frank advised Johnson that he could invest funds controlled by Johnson, but which putatively did not come from the investment program operated by Novus.
19. Frank told Johnson that these funds would be placed in a secure account overseas with no risk to the principal and Johnson would receive a guaranteed return.
20. Relying on Frank's representations, Johnson transferred \$695,000 to Frank's attorney client trust account.
21. Frank did not notify the Court, the Commission or the Receiver about the transfer of funds.
22. Frank solicited over \$1.5 million from another twelve investors who transferred their investments to Frank's client trust account as J.P. Morgan Chase Bank or to Frank's individual account at HSBC Bank.
23. These 12 investors included Novus investors, Johnson's family members or persons otherwise associated with Thompson, Johnson or Novus.
24. Frank provided each investor with a document titled "Escrow Counsel Retainer Agreement" ("Agreements"). The Agreements provided that each investor would loan funds to an unnamed borrower by transferring the funds to Frank who would hold the funds in a "strictly non-depletion account" and that the accounts balance would "at all times be maintained at an equal or greater value to the cash value of the [investor's] Principal Sum".
25. The Agreements are investment contracts. Investor funds were to be pooled in a single account and the promised returns were to come from the efforts of third parties.
26. Frank told investors that the funds would be held in an account in Switzerland to which only Frank had access.

27. Frank represented that the account was a “non-depletion account,” and that the funds would be leveraged by unknown “traders” and produce guaranteed monthly returns of 10 to 15 percent.
28. The funds were not held in a non-depletion account as Frank represented or placed in a trading program.
29. Instead of transferring the funds to Switzerland, however, Frank transferred the funds to Hong Kong, or used investor funds to pay investor returns and Frank’s personal expenses.
30. Frank acted with scienter. He controlled investor funds and authorized the wire transfers that sent investor funds to Hong Kong. Frank also withdrew funds or wrote check on his account for payments of personal expenses with investor funds.
31. Frank knew, or was reckless in not knowing, that the funds were not maintained in attorney trust account.
32. Frank knew that he should not promise investors that his law license could be used as a security of the investments he solicited.
33. Frank knew that investor funds were not placed in a “non-depletion” account since Frank was the signatory on the account.
34. Frank used the means or instrumentalities of interstate commerce. He communicated with investors using email and transferred funds by wire transfer.

CAUSE OF ACTION

**FRAUD IN CONNECTION WITH THE PURCHASE AND
SALE OF SECURITIES**

**Violations of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5
thereunder [17 C.F.R. § 240.10b-5]**

35. The Commission realleges and incorporates by reference the allegations contained in Paragraphs 1 through 34, above.
36. Frank, by engaging in the conduct described in Paragraphs 1 through 34, above, directly or indirectly, by the use of means or instrumentalities of interstate commerce or use of the mails, in connection with the purchase or sale of securities, with scienter, (1) employed devices, schemes, or artifices to defraud; (2) made untrue statements of material fact or omitted to state a material fact necessary in order to make statements made, in light of the circumstances under which they were made not misleading; or (3) engaged in acts, practices, or courses of business that operated or would operate as a fraud and deceit upon other persons.
37. By reason of the foregoing, Frank violated, and unless restrained and enjoined will continue to violate Section 10(b) of the Exchange Act [15 U.S.C. §78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that this Court:

I.

Issue findings of fact and conclusions of law that the Frank committed the violations charged herein.

II.

Issue in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure orders that temporarily restrain, and preliminarily and permanently enjoin, Frank, and his officers, agents, servants, employees, attorneys, and accountants, and those persons in

active concert or participation with any of them, who receive actual notice of the order by personal service or otherwise, and each of them, from engaging in transactions, acts, practices, and courses of business described herein, and from engaging in conduct of similar purport and object in violation of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

III.

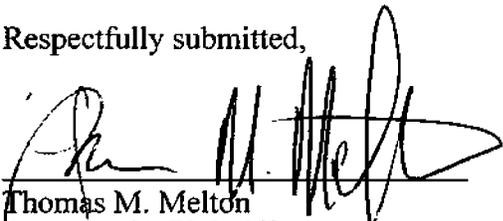
Grant such further equitable relief as this Court deems just, appropriate, and necessary.

IV.

Retain jurisdiction of this action in accordance with the principles of equity and the Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders and decrees that may be entered, or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

Dated this 4th day of June 2010.

Respectfully submitted,


Thomas M. Melton
Attorney for Plaintiff
Securities and Exchange Commission


Jennifer Moore
Attorney for Plaintiff
Securities and Exchange Commission *by TMM*