

Sullivan, J

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

ARTHUR J. CUTILLO,
JASON C. GOLDFARB,
ZVI GOFFER,
CRAIG C. DRIMAL,
SCHOTTENFELD GROUP, LLC,
GAUTHAM SHANKAR,
DAVID PLATE,
EMANUEL GOFFER,
and
MICHAEL KIMELMAN,

Defendants.

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DOC #:
DATE FILED: 6-8-11

09 Civ. 9208 (RJS)

ECF CASE

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JUDGMENT AS TO DEFENDANT GAUTHAM SHANKAR

The Securities and Exchange Commission having filed a Complaint and Defendant Gautham Shankar ("Defendant") having entered a general appearance; consented to the Court's jurisdiction over Defendant and the subject matter of this action; consented to entry of this Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction); waived findings of fact and conclusions of law; and waived any right to appeal from this Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Judgment by personal service or

otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

II.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for disgorgement of \$111,521, representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$13,292. In the event that an order of criminal forfeiture exceeding \$280,343.61 is entered against Defendant in the criminal case before the United States District Court for the Southern District of New York titled, United States v. Gautham Shankar, 09-CR-996, then Defendant's disgorgement obligations, including all outstanding pre and post judgment interest, will be deemed credited dollar for dollar by the amount of the criminal forfeiture order exceeding \$280,343.61. The disgorgement obligations ordered by this Judgment, including all pre and post judgment interest, shall become due thirty (30) days after entry of the Judgment of Conviction in the criminal case, or two (2) years from the date of the entry of this Judgment, whichever comes first. Payment(s)

shall be made by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission. The payment shall be delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312, and shall be accompanied by a letter identifying Gautham Shankar as a defendant in this action; setting forth the title and civil action number of this action and the name of this Court; and specifying that payment is made pursuant to this Judgment. A copy of the letter shall be sent to Brian D. Vann, U.S. Securities and Exchange Commission, Division of Enforcement, 100 F Street, N.E., Washington, DC 20549-5010. Defendant shall pay post-judgment interest on any delinquent amounts pursuant to 28 USC § 1961. The Commission shall remit the funds paid pursuant to this paragraph to the United States Treasury. Defendant shall provide counsel of record for the Commission with a copy of the Judgment of Conviction in the criminal action within five (5) days of its entry.

III.

Upon motion of the Securities and Exchange Commission, the Court shall determine whether it is appropriate to order a civil penalty pursuant to Section 21A of the Exchange Act [15 U.S.C. § 78u-1] and, if so, the amount of the penalty. In connection with such a determination: (a) Defendant will be precluded from arguing that he did not violate the federal securities laws as alleged in the Complaint; (b) Defendant may not challenge the validity of the Consent or this Judgment; (c) solely for the purposes of such a determination, the allegations of the Complaint shall be accepted as and deemed true by the Court; and (d) the Court may determine the issues on the basis of the complaint, affidavits, declarations, excerpts of sworn deposition or investigative testimony, and documentary evidence, without regard to the standards

for summary judgment contained in Rule 56(c) of the Federal Rules of Civil Procedure. In connection with such a determination, the parties may take discovery, including discovery from appropriate non-parties, but only if and as expressly approved by the Court.

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent is incorporated herein with the same force and effect as if fully set forth herein, and that Defendant shall comply with all of the undertakings and agreements set forth therein.

V.

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

VI.

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

Dated:

June 7, 2011


UNITED STATES DISTRICT JUDGE

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