

Rakoff, S

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

-against- :

ROBERT FEINBLATT,
JEFFREY YOKUTY,
and
SUNIL BHALLA,

Defendants. :

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #
DATE FILED: 7/18/11

11 CV 0170 (JSR)

ECF CASE

FINAL JUDGMENT AS TO DEFENDANT ROBERT FEINBLATT

The Securities and Exchange Commission having filed an Amended Complaint ("Complaint") and Defendant Robert Feinblatt 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 Final Judgment; waived findings of fact and conclusions of law; and waived any right to appeal from this Final 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 Final 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 HEREBY FURTHER 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 Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. § 77q(a)] in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- (c) to engage in any transaction, practice, or course of business which operates or

would operate as a fraud or deceit upon the purchaser.

III.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for disgorgement of \$829,765, representing profits gained and losses avoided as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$186,023, and a civil penalty in the amount of \$1,659,530, under Section 21A of the Exchange Act [15 U.S.C. §§ 78u(d)(3), 78u-1]. Defendant shall make this payment pursuant to the terms of the payment schedule set forth in paragraph IV below by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission. All payments shall be delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, 100 F Street, NE, Stop 6042, Washington DC 20549, and shall be accompanied by a letter identifying Robert Feinblatt 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 Final Judgment. The Commission shall remit the funds paid pursuant to this paragraph to the United States Treasury.

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant shall pay \$2,675,318, in 12 installments according to the following schedule: (1) \$535,063 within fourteen (14) business days of the entry of this Final Judgment plus post-judgment interest thereon pursuant to 28 U.S.C. 1961; (2) \$194,568, within thirty (30) calendar days of the entry of this Final Judgment plus post-judgment interest thereon pursuant to 28 U.S.C. 1961; and (3) \$194,568, within sixty (60) calendar days of the entry of this Final Judgment plus post-judgment

interest thereon pursuant to 28 U.S.C. 1961; and (4) \$194,568, within ninety (90) calendar days of the entry of this Final Judgment plus post-judgment interest thereon pursuant to 28 U.S.C. 1961; and (5) \$194,568, within one hundred and twenty (120) calendar days of the entry of this Final Judgment plus post-judgment interest thereon pursuant to 28 U.S.C. 1961; and (6) \$194,568, within one hundred and fifty (150) calendar days of the entry of this Final Judgment plus post-judgment interest thereon pursuant to 28 U.S.C. 1961; and (7) \$194,568, within one hundred and eighty (180) calendar days of the entry of this Final Judgment plus post-judgment interest thereon pursuant to 28 U.S.C. 1961; and (8) \$194,568, within two hundred and ten (210) calendar days of the entry of this Final Judgment plus post-judgment interest thereon pursuant to 28 U.S.C. 1961; and (9) \$194,568, within two hundred and forty (240) calendar days of the entry of this Final Judgment plus post-judgment interest thereon pursuant to 28 U.S.C. 1961; and (10) \$194,568, within two hundred and seventy (270) calendar days of the entry of this Final Judgment plus post-judgment interest thereon pursuant to 28 U.S.C. 1961; and (11) \$194,568, within three hundred and ten (310) calendar days of the entry of this Final Judgment plus post-judgment interest thereon pursuant to 28 U.S.C. 1961; and (12) \$194,568, within three hundred and sixty five (365) calendar days of the entry of this Final Judgment plus post-judgment interest thereon pursuant to 28 U.S.C. 1961. In the event that a payment date falls on a Saturday, Sunday or Federal holiday, such payment shall be made no later than the next business day immediately thereafter.

If Defendant fails to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Final Judgment, including post-judgment interest, shall become due and payable immediately without further application to the Court.

V.

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.

VI.

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 Final Judgment.

VII.

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 Final Judgment forthwith and without further notice.

Dated: 7/15/11



UNITED STATES DISTRICT JUDGE
[Handwritten initials JRP below signature]

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

11 CV 0170 (JSR)

**ROBERT FEINBLATT,
JEFFREY YOKUTY,
and
SUNIL BHALLA,**

ECF CASE

Defendants.

CONSENT OF DEFENDANT ROBERT FEINBLATT

1. Defendant Robert Feinblatt ("Defendant") acknowledges having been served with the Amended Complaint ("Complaint") in this action, enters a general appearance, and admits the Court's jurisdiction over Defendant and over the subject matter of this action.
2. Defendant hereby consents to the entry of the Final Judgment in the form attached hereto (the "Final Judgment") and incorporated by reference herein, which, among other things:
 - (a) permanently restrains and enjoins Defendant from violations of Section 17(a) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. § 77q(a)], 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]; and
 - (b) orders Defendant to pay disgorgement in the amount of \$829,765, plus prejudgment interest thereon in the amount of \$186,023; and

(c) orders Defendant to pay a civil penalty in the amount of \$1,659,530, under 21A of the Exchange Act [15 U.S.C. §§ 78u(d)(3), 78u-1].

3. Defendant agrees that he shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made pursuant to any insurance policy, with regard to any civil penalty amounts that Defendant pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors. Defendant further agrees that he shall not claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state, or local tax for any penalty amounts that Defendant pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors.

4. Defendant waives the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure.

5. Defendant waives the right, if any, to a jury trial and to appeal from the entry of the Final Judgment.

6. Defendant enters into this Consent voluntarily and represents that no threats, offers, promises, or inducements of any kind have been made by the Commission or any member, officer, employee, agent, or representative of the Commission to induce Defendant to enter into this Consent.

7. Defendant agrees that this Consent shall be incorporated into the Final Judgment with the same force and effect as if fully set forth therein.

8. Defendant will not oppose the enforcement of the Final Judgment on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure, and hereby waives any objection based thereon.

9. Defendant waives service of the Final Judgment and agrees that entry of the Final Judgment by the Court and filing with the Clerk of the Court will constitute notice to Defendant of its terms and conditions. Defendant further agrees to provide counsel for the Commission, within thirty days after the Final Judgment is filed with the Clerk of the Court, with an affidavit or declaration stating that Defendant has received and read a copy of the Final Judgment.

10. Consistent with 17 C.F.R. 202.5(f), this Consent resolves only the claims asserted against Defendant in this civil proceeding. Defendant acknowledges that no promise or representation has been made by the Commission or any member, officer, employee, agent, or representative of the Commission with regard to any criminal liability that may have arisen or may arise from the facts underlying this action or immunity from any such criminal liability. Defendant waives any claim of Double Jeopardy based upon the settlement of this proceeding, including the imposition of any remedy or civil penalty herein. Defendant further acknowledges that the Court's entry of a permanent injunction may have collateral consequences under federal or state law and the rules and regulations of self-regulatory organizations, licensing boards, and other regulatory organizations. Such collateral consequences include, but are not limited to, a statutory disqualification with respect to membership or participation in, or association with a member of, a self-regulatory organization. This statutory disqualification has consequences that are separate from any sanction imposed in an administrative proceeding. In addition, in any disciplinary proceeding before the Commission based on the entry of the injunction in this

action, Defendant understands that he shall not be permitted to contest the factual allegations of the complaint in this action.

11. Defendant understands and agrees to comply with the Commission's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings." 17 C.F.R. § 202.5. In compliance with this policy, Defendant agrees: (i) not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any allegation in the complaint or creating the impression that the complaint is without factual basis; and (ii) that upon the filing of this Consent, Defendant hereby withdraws any papers filed in this action to the extent that they deny any allegation in the complaint. If Defendant breaches this agreement, the Commission may petition the Court to vacate the Final Judgment and restore this action to its active docket. Nothing in this paragraph affects Defendant's: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which the Commission is not a party.

12. Defendant hereby waives any rights under the Equal Access to Justice Act, the Small Business Regulatory Enforcement Fairness Act of 1996, or any other provision of law to seek from the United States, or any agency, or any official of the United States acting in his or her official capacity, directly or indirectly, reimbursement of attorney's fees or other fees, expenses, or costs expended by Defendant to defend against this action. For these purposes, Defendant agrees that Defendant is not the prevailing party in this action since the parties have reached a good faith settlement.

13. Defendant agrees that the Commission may present the Final Judgment to the Court for signature and entry without further notice.

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14. Defendant agrees that this Court shall retain jurisdiction over this matter for the purpose of enforcing the terms of the Final Judgment.

Dated: July 9, 2011

Robert Feinblatt

On July 9th, 2011, Robert Feinblatt, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent.

Rose Caccavale

Notary Public
Commission expires:

ROSE CACCVALE

Notary Public - State of New York
No. 01CA6198818
Qualified in Suffolk County
My Commission Expires December 29, 2012

Approved as to form:

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