

or invitation for tenders, from engaging in any fraudulent, deceptive, or manipulative act or practice, by:

- (a) purchasing or selling or causing to be purchased or sold the securities sought or to be sought in such tender offer, securities convertible into or exchangeable for any such securities or any option or right to obtain or dispose of any of the foregoing securities while in possession of material information relating to such tender offer that Defendant knows or has reason to know is nonpublic and knows or has reason to know has been acquired directly or indirectly from the offering person; the issuer of the securities sought or to be sought by such tender offer; or any officer, director, partner, employee or other person acting on behalf of the offering person of such issuer, unless within a reasonable time prior to any such purchase or sale such information and its source are publicly disclosed by press release or otherwise; or
- (b) communicating material, nonpublic information relating to a tender offer, which Defendant knows or has reason to know is nonpublic and knows or has reason to know has been acquired directly or indirectly from the offering person; the issuer of the securities sought or to be sought by such tender offer; or any officer, director, partner, employee, advisor, or other person acting on behalf of the offering person of such issuer, to any person under circumstances in which it is reasonably foreseeable that such communication is likely to result in the purchase or sale of securities in the

manner described in subparagraph (a) above, except that this paragraph shall not apply to a communication made in good faith

- (i) to the officers, directors, partners or employees of the offering person, to its advisors or to other persons, involved in the planning, financing, preparation or execution of such tender offer;
- (ii) to the issuer whose securities are sought or to be sought by such tender offer, to its officers, directors, partners, employees or advisors or to other persons involved in the planning, financing, preparation or execution of the activities of the issuer with respect to such tender offer; or
- (iii) to any person pursuant to a requirement of any statute or rule or regulation promulgated thereunder.

II.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant Konyndyk is liable for disgorgement in the amount of \$9,725.00, representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$1,789.28, and a civil penalty in the amount of \$9,725.00 pursuant to Section 21A(a)(2) of the Exchange Act [15 U.S.C. § 78u-1(a)(2)], for a total of \$21,239.28. Defendant shall satisfy this obligation by paying \$21,239.28 pursuant to the terms of the payment schedule set forth below in paragraph III by certified check, bank cashier's check, or United States money postal order payable to the Securities and Exchange Commission. The 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 Konyndyk 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 being made pursuant to this Final Judgment. Konyndyk also shall simultaneously transmit photocopies of such payment and letter to Brian Privor, Staff Attorney, Division of Enforcement, Securities and Exchange Commission, 100 F Street, N.E., Mail Stop 5030-B, Washington, D.C. 20549-5030. 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.

By making this payment, Defendant relinquishes all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to Defendant.

III.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Konyndyk shall pay \$21,239.28 according to the following schedule: (1) \$5,000 within ten days of entry of this Final Judgment; (2) the remaining \$16,239.28 in four equal quarterly installments of \$4,059.82, plus post-judgment interest pursuant to 28 U.S.C. § 1961, thereafter due on the fifteenth day of each calendar quarter beginning on February 15, 2012.

If Konyndyk 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, minus any payments made, shall become due and payable immediately without further application to 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 Konyndyk 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 all purposes, including the implementation and enforcement of this Final Judgment.

Dated: Nov. 21, 2011


UNITED STATES DISTRICT JUDGE

Docket updated on Bloomberg Law on Nov. 22, 2011 04:34:20

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:11-cv-02055-GK**

SECURITIES & EXCHANGE COMMISSION v. KONYNDYK

Date Filed: Nov. 18, 2011
Status: Closed
Nature of suit: 850 Securities/Commodities
Assigned to: [Judge Gladys Kessler](#)
Cause: 15:78m(a) Securities Exchange Act
Date terminated: Nov. 21, 2011
Jurisdiction: U.S. Government Plaintiff
Jury demand: None

Parties and Attorneys

Plaintiff

SECURITIES & EXCHANGE COMMISSION

Attorneys and Firms

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ATTORNEY TO BE
NOTICED**

Defendant

MARK A. KONYNDYK

Docket Proceedings

Reverse
Proceedings

Req #	Filed	#	Docket Text
			MANUALLY-COLLECTED COMPLAINT
1	Nov. 18, 2011	1	COMPLAINT against MARK A. KONYNDYK filed by SECURITIES & EXCHANGE COMMISSION. (Attachments: # 1 Consent, # 2 Final Judgment, # 3 Civil Cover Sheet)(dr) (Entered: 11/21/2011)
2	Nov. 18, 2011		SUMMONS Not Issued as to MARK A. KONYNDYK (dr) (Entered: 11/21/2011)
3	Nov. 21, 2011	2	FINAL JUDGMENT in favor of plaintiff against defendant; defendant Mark Konyndyk shall pay \$21,239.28; See Final Judgment for additional details. Signed by Judge Gladys Kessler on 11/21/2011. (tth) (Entered: 11/21/2011)