

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 12-CV-21962-UNGARO

SECURITIES AND EXCHANGE COMMISSION,)
)
Plaintiff,)
)
v.)
)
JORGE GOMEZ)
and)
ROBERTO ALEPH ESPINOSA,)
)
Defendants.)

**FINAL JUDGMENT OF PERMANENT
INJUNCTION AND OTHER RELIEF AS
TO DEFENDANT ROBERTO ALEPH ESPINOSA**

The Securities and Exchange Commission commenced this action by filing its Complaint against, among others, Defendant Roberto Aleph Espinosa. In its Complaint, the Commission sought, among other relief against Espinosa:

- A permanent injunction to prohibit violations of Section 15(a) of the Securities Exchange Act of 1934 (“Exchange Act”), [15 U.S.C. § 78o(a)]; and Sections 206(1), 206(2), and 206(4) of the Advisers Act of 1940 (“Advisers Act”) [15 U.S.C. §§ 80b-6(1), 80b-6(2), and 80b-6(4)], and Advisers Act Rule 206(4)-8(a) [17 C.F.R. § 275.206(4)-8(a)]; and aiding and abetting any violations of Advisers Act Sections 206(1), 206(2), and 206(4), and Rule 206(4)-8(a);
- An order providing for disgorgement plus prejudgment interest; and
- An order providing for a civil money penalty.

Espinosa, by the attached Consent, without admitting or denying the allegations in the Complaint, except that he acknowledges service of the Complaint on him and admits the jurisdiction of this Court over him and over the subject matter of this action, has agreed to the entry of this Final Judgment of Permanent Injunction and Other Relief as to Defendant Roberto Aleph Espinosa ("Final Judgment"). Espinosa also has waived findings of fact and conclusions of law and has waived any right to appeal from this Final Judgment. This Court, having accepted Espinosa's Consent and having jurisdiction over him and the subject matter of this action, and having considered the record in this case, orders as follows:

I.

SECTION 15(a) OF THE EXCHANGE ACT

IT IS ORDERED AND ADJUDGED that Espinosa and his agents, servants, employees, attorneys, and all person 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 15(a) of the Exchange Act [15 U.S.C. §78o(a)] directly or indirectly, by making use of any means or instrumentality of interstate commerce or of the mails and engaging in the business of effecting transactions in securities for the accounts of others, or inducing or effecting the purchase and sale of securities, while not registered with the Commission in accordance with the provisions of Section 15(b) of the Exchange Act [15 U.S.C. § 78o(b)] or while not associated with a broker-dealer that was so registered.

II.

SECTIONS 206(1) AND 206(2) OF THE ADVISERS ACT

IT IS FURTHER ORDERED AND ADJUDGED that Espinosa and his 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, Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §§ 80b-6(1) and (2)], 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 clients or prospective clients;
- (b) to engage in transactions, practices and courses of business that operates as a fraud or deceit upon clients or prospective clients; or
- (c) to engage in acts, practices, and courses of business which are fraudulent, deceptive, or manipulative.

III.

ADVISERS ACT SECTION 206(4) AND RULE 206(4)-8(a)

IT IS FURTHER ORDERED AND ADJUDGED that Espinosa, his 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 206(4) of the Advisers Act and Rule 206(4)-8(a) [15 U.S.C. § 80b-6(4) and 17 C.F.R. § 275.206(4)-8(a)], by using the mails or any means or instrumentality of interstate commerce:

- (a) to make any untrue statement of a material fact or to omit to state a material fact necessary to make the statements made, in the light of the circumstances under which they were made, not misleading, to any investor or prospective investor in a pooled investment vehicle; or

- (b) to engage in any act, practice, or course of business which is fraudulent, deceptive or manipulative, with respect to any investor or prospective investor in a pooled investment vehicle.

IV.

**AIDING AND ABETTING VIOLATIONS OF
ADVISERS ACT SECTIONS 206(1) and 206(2)**

IT IS FURTHER ORDERED AND ADJUDGED that Espinosa, his officers, 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 aiding and abetting any violations of Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §§ 80b-6(1) and (2)], by knowingly providing substantial assistance to an investment adviser that uses any means or instrumentality of interstate commerce, or of the mails:

- (a) to employ any device, scheme, or artifice to defraud clients or prospective clients;
- (b) to engage in transactions, practices and courses of business that operates as a fraud or deceit upon clients or prospective clients; or
- (c) to engage in acts, practices, and courses of business which are fraudulent, deceptive, or manipulative.

V.

**AIDING AND ABETTING VIOLATIONS OF
ADVISERS ACT SECTION 206(4) AND RULE 206(4)-8(a)**

IT IS FURTHER ORDERED AND ADJUDGED that Espinosa, his officers, 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 aiding and abetting any violation of Advisers Act Section 206(4) and Rule 206(4)-8(a) [15 U.S.C. § 80b-6(4) and 17 C.F.R. § 275.206(4)-8(a)], by knowingly providing substantial assistance to an investment adviser that uses any means or instrumentality of interstate commerce, or of the mails:

- (a) to make any untrue statement of a material fact or to omit to state a material fact necessary to make the statements made, in the light of the circumstances under which they were made, not misleading, to any investor or prospective investor in a pooled investment vehicle; or
- (b) to engage in any act, practice, or course of business which is fraudulent, deceptive or manipulative, with respect to any investor or prospective investor in a pooled investment vehicle.

VI.

DISGORGEMENT AND CIVIL PENALTY

IT IS FURTHER ORDERED AND ADJUDGED, AND DECREED that Espinosa is liable for disgorgement of \$855,000, representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$34,822.15. Espinosa is further liable for a civil penalty in the amount of \$130,000 pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u-1(a)] and Section 208(e) of the Advisers Act [15 U.S.C. § 80b-9(e)]. Defendant shall satisfy this obligation by paying \$1,019,822.15 to the Securities and Exchange Commission within 14 days after entry of this Final Judgment.

Espinosa may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account or by credit or debit card via Pay.gov through the SEC website at

<http://www.sec.gov/about/offices/ofm.htm>. Espinosa may also pay by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to

Enterprise Services Center
Accounts Receivable Branch
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

and shall be accompanied by a letter identifying the case title, civil action number, and name of this Court; Roberto Aleph Espinosa as a defendant in this action; and specifying that payment is made pursuant to this Final Judgment.

Espinosa shall simultaneously transmit photocopies of evidence of payment and case identifying information to Adam Schwartz, Securities and Exchange Commission, 801 Brickell Avenue, Suite 1800, Miami, FL 33131. By making this payment, Espinosa relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to Espinosa. The Commission shall send the funds paid pursuant to this Final Judgment to the United States Treasury.

The Commission may enforce the Court's judgment for disgorgement and prejudgment interest by moving for civil contempt (and/or through other collection procedures authorized by law) at any time after 14 days following entry of this Final Judgment. Defendant shall pay post judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

Espinosa 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 Espinosa 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. Espinosa further 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 Espinosa 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.

VII.

INCORPORATION OF CONSENT


IT IS FURTHER ORDERED AND ADJUDGED that the Consent of Roberto Aleph Espinosa to Final judgment and Other Relief is incorporated herein with the same force and effect as if fully set forth herein, and that Espinosa shall comply with all of the undertakings and agreements set forth therein.

VIII.

RETENTION OF JURISDICTION

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

DONE AND ORDERED in Chambers in Miami, Florida, this 6 day of June, 2012.



URSULA UNGARO
UNITED STATES DISTRICT JUDGE

Copy to:

All counsel of Record