

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 04-60804-CIV-JORDAN

SECURITIES AND EXCHANGE COMMISSION,)
)
Plaintiff,)
)
v.)
)
HELVETIA PHARMACEUTICALS, INC.,)
RICHARD A. ANDERS,)
NICHOLAS BACHYNSKY,)
ARTHUR SCHEINERT and)
LAURENCE DEAN,)
)
Defendants.)
)

**JUDGMENT OF PERMANENT INJUNCTION AND
OTHER RELIEF AS TO DEFENDANT ARTHUR SCHEINERT**

The SEC's motion to approve comment judgment [D.E. 68] is granted.
Plaintiff Securities and Exchange Commission ("Commission") commenced this action

by filing its Complaint against, among others, Defendant Arthur Scheinert. In its Complaint, the Commission sought, among other relief, a permanent injunction to prohibit violations by Scheinert of Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. § 77q(a); Sections 15(a)(1) and 10(b), and Rule 10b-5 of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. §§ 78o(a)(1) and 78j(b), and 17 C.F.R. § 240.10b-5; a permanent injunction barring Scheinert from participating in an offering of penny stock; an order providing for disgorgement and prejudgment interest; and imposition of a civil money penalty against Scheinert pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d) and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3).

Scheinert, by the attached Consent, without admitting or denying the allegations of 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 Judgment of Permanent Injunction and Other Relief As to Arthur Scheinert ("Judgment"). Scheinert has furthermore waived findings of fact and conclusions of law and has waived any right to appeal from this Judgment. This Court having accepted Scheinert's Consent, having jurisdiction over Scheinert and the subject matter of this action, and being fully advised in the premises, orders as follows:

I.

JUDGMENT OF PERMANENT INJUNCTION AS TO ARTHUR SCHEINERT

IT IS ORDERED AND ADJUDGED that Scheinert, his directors, officers, agents, servants, employees, attorneys, and those persons in active concert or participation with him, and each of them, are restrained and enjoined from:

Section 5 of the Securities Act of 1933

A. Directly or indirectly, in the absence of any applicable exemption:

(1) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;

(2) Unless a registration statement is in effect as to a security, carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale; or

(3) Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed with the Commission as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or examination under Section 8 of the Securities Act, 15 U.S.C. § 77h;

in violation of Section 5 of the Securities Act, 15 U.S.C. § 77e.

Section 17(a)(1) of the Securities Act

B. Directly or indirectly, by use of any means or instruments of transportation or communication in interstate commerce, or by the use of the mails, in the offer or sale of securities, knowingly or recklessly employing devices, schemes or artifices to defraud, in violation of Section 17(a)(1) of the of the Securities Act, 15 U.S.C. 77q(a)(1).

Section 17(a)(2) & (3) of the Securities Act

C. Directly or indirectly, by use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, in the offer or sale of securities, (i) obtaining money or property by means of untrue statements of material facts or omissions to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading; or (ii) engaging in acts, practices and courses of business which have operated and will operate as a fraud or deceit upon purchasers and prospective purchasers of such securities, in violation of Sections 17(a)(2) & (3) of the Securities Act, 15 U.S.C. §§ 77(q)(a)(2) & (3).

Section 10(b) of the Exchange Act and Rule 10b-5

D. Directly or indirectly, by use of 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 securities, knowingly or recklessly: (i) employing devices, schemes or artifices to defraud; (ii) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or (iii) engaging in acts, practices and courses of business which have operated, are now operating or will operate as a fraud upon the purchasers of such securities in violation of Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5.

Section 15(a)(1) of the Exchange Act

E. Making use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security, or commercial paper, bankers' acceptances, or commercial bills) unless he is registered in accordance with Section 15(b) of the Exchange Act, 15 U.S.C. §78o(b).

Penny Stock Bar

F. Participating in an offering of penny stock, including engaging in activities with a broker, dealer, or issuer for purposes of issuing, trading, or inducing or attempting to induce the purchase or sale of any penny stock. A penny stock is any equity security that has a price of less than five dollars, except as provided in Rule 3a51-1 under the Exchange Act, 17 C.F.R. 240.3a51-1.

II.

DISGORGEMENT AND CIVIL PENALTY

IT IS FURTHER ORDERED AND ADJUDGED that upon motion of the Commission, the Court shall determine whether it is appropriate to order disgorgement of ill-gotten gains and/or a civil penalty pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3), and, if so, the amount(s) of the disgorgement and/or civil penalty. If disgorgement is ordered, Scheinert shall pay prejudgment interest thereon, calculated from June 21, 2004, based on the rate of interest used by the Internal Revenue Service for the underpayment of federal income tax as set forth in 26 U.S.C. § 6621(a)(2). In connection with the Commission's motion for disgorgement and/or civil penalties, and at any hearing held on such a motion: (a) Scheinert will be precluded from arguing that he did not violate the federal securities laws as alleged in the Complaint; (b) Scheinert may not challenge the validity of the Consent or this Judgment; (c) solely for the purposes of such motion, the allegations of the Complaint shall be accepted as and deemed true by the Court; and (d) the Court may determine the issues raised in the motion on the basis of 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 the Commission's motion for disgorgement and/or civil penalties, the parties may take discovery, including discovery from appropriate non-parties.

III.

INCORPORATION OF CONSENT

IT IS FURTHER ORDERED AND ADJUDGED that Scheinert shall comply with the provisions of the Consent attached hereto, and that such Consent is incorporated herein by reference as if fully set forth herein.

IV.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED AND ADJUDGED that this Court will retain jurisdiction over this matter and Scheinert in order to implement and carry out the terms of all Orders and Decrees that may be entered and/or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court, and will order other relief that this Court deems appropriate under the circumstances.

V.

RULE 54(b) CERTIFICATION

IT IS FURTHER ORDERED AND ADJUDGED that 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.

The SEC's claims against other defendants remain.
DONE AND ORDERED, in Chambers, at Miami, Florida, this ^{of} 3rd day of

May, 2010.


ADALBERTO JORDAN
UNITED STATES DISTRICT JUDGE

Copies to all counsel and parties of record