

HELLERSTEIN

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
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DOC #:
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SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

GRANT IVAN GRIEVE; FINVEST
ASSET MANAGEMENT, LLC;
FINVEST FUND MANAGEMENT, LLC,

Defendants.

ECF
No. 09 Civ 1198 (AKH)

RECEIVED
JAN 26 2010
ALVIN K. HELLERSTEIN
U.S.D.J.

JUDGMENT AS TO DEFENDANT GRANT IVAN GRIEVE

This action was commenced by Plaintiff United States Securities and Exchange Commission ("Commission") on February 10, 2009. On November 4, 2009, pursuant to alternative service methods authorized in an Order dated October 22, 2009 [Docket No. 18], the Commission duly served Defendant Grant Ivan Grieve ("Defendant") with the complaint and summons. The Commission filed proof of such service on November 13, 2009 [Docket No. 23]. Notwithstanding this notice and proper service, and all other attempts the Commission has made to notify and serve Defendant, he has defaulted. Defendant has not answered the complaint or filed any responsive pleading, and the time for him to answer has expired. Accordingly, as set forth in the documents supporting the Commission's application for default judgment, and for good cause shown:

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 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 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 HEREBY FURTHER ORDERED, AD JUDGED, 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 Section 206(4) of the Investment Advisers Act of 1940 [15 U.S.C. § 80b-6(4)] (the "Advisers Act"), by, through use of the mails or any means or instrumentality of interstate commerce, as an investment adviser, directly or indirectly engaging in any act, practice, or course of business which is fraudulent, deceptive, or manipulative; or, from violating Rule 206(4)-8, thereunder [17 C.F.R. §275.206(4)-8], by, as an investment adviser to a pooled investment vehicle: (1) making any untrue statement of a material fact or omitting 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 investors or prospective investor in the pooled investment vehicle; or (2) otherwise engaging in any act, practice or course of business that is fraudulent, deceptive, or manipulative with respect to any investor or prospective investor in the pooled investment vehicle.

IV.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant shall pay disgorgement of ill-gotten gains, prejudgment interest thereon, and civil money penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)], and Section 209(e) of the Advisers Act, 15 U.S.C. § 80b-9(e). The Court shall determine the amounts of the disgorgement and civil penalties upon motion of the Commission. Prejudgment interest shall be calculated from September 1, 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) 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 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. The Commission is entitled to take discovery in support of its motion for disgorgement and/or civil penalties, including discovery from appropriate non-parties.

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 and appropriate monetary relief.

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:

Jan 26, 2010

[Signature]
UNITED STATES DISTRICT JUDGE

[Signature]

THIS DOCUMENT WAS ENTERED
ON THE DOCKET ON _____