

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

CASE NO. 13-23477-CIV-ALTONAGA/O'Sullivan

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

BRIAN K. VELTEN,

Defendant.

**JUDGMENT OF PERMANENT INJUNCTION AND OTHER RELIEF
AS TO DEFENDANT BRIAN K. VELTEN**

The Securities and Exchange Commission having filed a Complaint, and Defendant Brian K. Velten having entered a general appearance; consented to the Court's jurisdiction over him and the subject matter of this action; consented to entry of this Judgment of Permanent Injunction and Other Relief as to Defendant Brian K. Velten ("Judgment") without admitting or denying the allegations of the Complaint (except as to personal and subject matter jurisdiction, which Velten admits); waived findings of fact and conclusions of law; and waived any right to appeal from this Judgment:

I.

SECTION 17(a) OF THE SECURITIES ACT OF 1933

IT IS ORDERED AND ADJUDGED that Velten and his agents, servants, employees, attorneys, representatives 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 the light of the circumstances under which they are 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 by, directly or indirectly, (i) creating a false appearance or otherwise deceiving any person, or (ii) disseminating false or misleading documents, materials, or information or making, either orally or in writing, any false or misleading statement in any communication with any investor or prospective investor, about:

(A) any investment strategy or investment in securities,

(B) the prospects for success of any product or company,

(C) the use of investor funds,

(D) compensation to any person,

(E) Defendant’s qualifications to advise investors; or

(F) the misappropriation of investor funds or investment proceeds.

II.

**SECTION 10(b) OF THE SECURITIES EXCHANGE ACT OF 1934
AND EXCHANGE ACT RULE 10b-5**

IT IS FURTHER ORDERED AND ADJUDGED that Velten and his agents, servants, employees, attorneys, representatives 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 (“Exchange Act”), 15 U.S.C. § 78j(b), and Exchange Act Rule 10b-5 [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 by, directly or indirectly, (i) creating a false appearance or otherwise deceiving any person, or (ii) disseminating false or misleading documents, materials, or information or making, either orally or in writing, any false or misleading statement in any communication with any investor or prospective investor, about:
 - (A) any investment strategy or investment in securities,
 - (B) the prospects for success of any product or company,
 - (C) the use of investor funds,
 - (D) compensation to any person,

- (E) Defendant's qualifications to advise investors; or
- (F) the misappropriation of investor funds or investment proceeds.

III.

SECTIONS 206(1) AND 206(2) OF THE INVESTMENT ADVISERS ACT OF 1940

IT IS FURTHER ORDERED AND ADJUDGED that Velten and his agents, servants, employees, attorneys, representatives 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, while acting as an investment adviser, Sections 206(1) and (2) of the Investment Advisers Act of 1940 (the "Investment Advisers Act") [15 U.S.C. § 80b-6(1) and (2)] by using the mails or any means or instrumentality of interstate commerce, directly or indirectly:

(a) to employ any device, scheme, or artifice to defraud any client or prospective client;

(b) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client by, directly or indirectly, (i) creating a false appearance or otherwise deceiving any client or prospective client, or (ii) disseminating false or misleading documents, materials, or information or making, either orally or in writing, any false or misleading statement in any communication with any client or prospective client, about:

- (A) any investment strategy or investment in securities,
- (B) the prospects for success of any product or company,
- (C) the use of client funds,
- (D) compensation to any person,
- (E) Defendant's qualifications to advise clients; or

(F) the misappropriation of investor funds or investment proceeds.

IV.

DISGORGEMENT AND CIVIL PENALTY

IT IS FURTHER ORDERED AND ADJUDGED that Velten shall pay disgorgement of ill-gotten gains, prejudgment interest, and a civil penalty 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 217 of the Investment Advisers Act, 15 U.S.C. § 80b-17. The Court shall determine the amounts of the disgorgement and civil penalty upon motion of the Commission. Prejudgment interest shall be calculated from April 19, 2012, 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. section 6621(a)(2). In connection with the Commission's motion for disgorgement and/or civil penalty, and at any hearing held on such a motion: (a) Velten will be precluded from arguing he did not violate the federal securities laws as alleged in the Complaint; (b) Velten 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. In connection with the Commission's motion for disgorgement and/or civil penalty, the parties may take discovery, including discovery from appropriate non-parties.

V.

INCORPORATION OF CONSENT

IT IS FURTHER ORDERED AND ADJUDGED that the Consent filed herewith is incorporated with the same force and effect as if fully set forth herein, and that Velten shall comply with all of the undertakings and agreements set forth therein.

VI.

RETENTION OF JURISDICTION


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

VII.

RULE 54(b) CERTIFICATION

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.

DONE AND ORDERED in Chambers at Miami, Florida, this 9th day of June, 2014.



CECILIA M. ALTONAGA
UNITED STATES DISTRICT JUDGE

cc: counsel of record