

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 69623 / May 23, 2013

ADMINISTRATIVE PROCEEDING
File No. 3-15332

In the Matter of

JOSHUA CONSTANTIN and
BRIAN SOLOMON,

Respondents.

ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 15(b) OF THE
SECURITIES EXCHANGE ACT OF 1934
AND NOTICE OF HEARING

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”) against Joshua Constantin (“Constantin”) and Brian Solomon (“Solomon”) (together, “Respondents”).

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENTS

1. From at least July 2005 to April 2009, Constantin was chief executive officer (“CEO”), managing member, and a registered representative of Windham Securities, Inc. (“Windham”), a registered broker-dealer. Constantin was previously a registered representative, from approximately March 1999 to October 2003, associated with several other broker-dealers registered with the Commission. Constantin, 35 years old, is a resident of Huntington, New York.

2. From approximately January 2007 through December 2008, Solomon was a registered representative at Windham. At various times from approximately July 2000 through July 2011, Solomon was a registered representative associated with several other broker-dealers registered with the Commission. Solomon, 39 years old, is a resident of Santa Monica, California.

B. RESPONDENTS' FRAUD INJUNCTIONS

3. On July 6, 2011, the Commission filed a complaint against Respondents and Windham (along with two relief defendants) in the United States District Court for the Southern District of New York (the "District Court"), in a civil action entitled Securities and Exchange Commission v. Joshua Constantin, et al., Civil Action Number 11-cv-4642. The complaint alleged that Respondents engaged in a fraudulent investment scheme and misappropriated approximately \$1.2 million from seven investors.

4. On July 3, 2012, the Commission moved for summary judgment against each of the Respondents on all claims. The Commission sought permanent injunctions against future violations of Section 17(a) of the Securities Act of 1933 ("Securities Act"), Section 10(b) of the Exchange Act, and Rule 10b-5 thereunder, in addition to other relief.

5. On April 2, 2013, the District Court issued a Memorandum & Order granting the Commission's motion for summary judgment in its entirety. In its opinion, the District Court concluded that the following facts, among others, were undisputed and served as the basis for summary judgment against Respondents:

- a. Constantin served as Windham's CEO, managing director, and registered representative from 2005 through 2009. Solomon joined Windham in November 2006 and was a registered representative from July 2007 through January 2009. "Between July 2007 and approximately January 2009, Windham's staff was essentially comprised of Constantin and Solomon, plus an outside compliance officer."
- b. "The image of Windham that Constantin and Solomon promoted to their clients was very different from the true nature of the company. In practice, Constantin worked out of a small office in Long Island, New York, while Solomon worked primarily out of his home in Santa Monica, California.... However, Windham promoted itself as a large, international company...[with] offices on Park Avenue in Manhattan, Santa Monica Boulevard in Los Angeles, and the Champs-Élysées in Paris."
- c. "Solomon also told clients that Windham had 'a floor of traders in New York'... when, in fact, at the time the company did not."

- d. “On numerous occasions, Solomon lied to clients about his involvement in foreign markets, [falsely] indicating, for example, . . .that he ‘often worked the European open.’”
- e. “Solomon frequently misrepresented Windham’s investment experience and prior performance to potential investors. For example, he advised one client that he had previously worked with small companies and had ‘brought them to market.’ . . . Solomon then proceeded in the same email to list six company stocks in a chart comparing the companies’ stock prices at the time of public offering and as of the date of Solomon’s email. In fact, no one at Wyndham [sic] had participated in any of those syndicates or, for that matter, had ever successfully taken a private company public.”
- f. “Constantin and Solomon promised, and otherwise encouraged clients to believe, that they could expect unreasonably large and rapid returns on their investments through Windham, [up to 500%].”
- g. Based on Constantin and Solomon’s “litany of misrepresentations,” seven customers invested approximately \$1.2 million through Windham. “After several clients had invested funds with Windham for purposes of purchasing stock in [a company called] Leeward, Constantin diverted those funds to his own purpose,” including \$643,000 that he transferred to an entity he controlled and that “he used to pay personal and business expenses.”
- h. “In addition, Solomon and Constantin provided clients with misleading documents to cover up the fraudulent nature of their investment scheme. In the case of [one investor], Solomon and Constantin prepared monthly account statements that misleadingly represented Leeward holdings that [the investor] did not actually have. . . . Similarly, in the case of [another investor], Constantin produced a fake promissory note in an effort to convince [the investor] that his investment in Leeward was secure when, in fact, it was not.”

6. On May 7, 2013, the District Court entered a final judgment against Respondents and Windham, permanently enjoining each of them from future violations of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act, and Rule 10b-5 thereunder.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative proceedings be instituted to determine:

- A. Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford Respondents an opportunity establish any defenses to such allegations;
- B. What, if any, remedial action is appropriate in the public interest against Respondents pursuant to Section 15(b) of the Exchange Act.

IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

IT IS FURTHER ORDERED that Respondents shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

If Respondents fail to file the directed answer, or fail to appear at a hearing after being duly notified, the Respondents may be deemed in default and the proceedings may be determined against them upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f), and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310.

This Order shall be served forthwith upon Respondents personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 210 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not “rule making” within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

For the Commission, by its Secretary, pursuant to delegated authority.

Elizabeth M. Murphy
Secretary