

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 9788 / May 20, 2015

SECURITIES EXCHANGE ACT OF 1934
Release No. 75010 / May 20, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16549

In the Matter of

RANDY E. OLSHEN

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO SECTION 8A OF THE
SECURITIES ACT OF 1933, SECTIONS 15(b)
AND 21C OF THE SECURITIES EXCHANGE
ACT OF 1934, MAKING FINDINGS, AND
IMPOSING REMEDIAL SANCTIONS AND A
CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) and Sections 15(b), and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against Randy E. Olshen (“Respondent” or “Olshen”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, Respondent admits the Commission’s jurisdiction over him and the subject matter of these proceedings, and consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Section 8A of the Securities Act of 1933 and Sections 15(b) and 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that:

Summary

These proceedings arise out of Olshen's fraudulent conduct in the unregistered offer or sale of securities and in connection with the unregistered purchase or sale of securities of Innovative Health Solutions, LLC ("IHS"), a manufacturer and seller of sports hydration drinks. Olshen devised a scheme to defraud investors and potential investors through the use of material misrepresentations and omissions of fact related to actual and forecasted sales and receivables. To further his scheme, Olshen fabricated company accounting and sales records. Olshen failed to disclose material facts, including that IHS was behind in payments to creditors, that Olshen used investment proceeds for his own personal benefit and to pay undisclosed commissions to others for obtaining investments for IHS, and that he had declared personal Chapter 7 Bankruptcy. IHS raised over \$7 million from approximately 50 investors through Olshen's fraudulent scheme.

Respondent

1. Olshen, age 52, is a resident of Newport Beach, California. Olshen was a founder and the President of IHS. From 2009 to February 2013, Olshen offered and sold securities in Innovative Health Solutions, LLC.

Other Relevant Entity

2. IHS is a Delaware entity, formed in July 2008. IHS was headquartered in Utah and had an office in California. IHS specialized in manufacturing and selling sports hydration drinks designed to boost energy and stamina. One of the products marketed by IHS was "H2O Overdrive." IHS's Delaware business registration has been in "Cease Good Standing" status since June 1, 2013, for failure to pay franchise taxes.

Background

3. To advance the growth of IHS, Olshen sought investors and made representations and promises to encourage investments.

4. Beginning in and around 2009, and continuing until on or about February 2013, in the offer or sale of and in connection with the purchase or sale of securities, Olshen devised a scheme and artifice to defraud and to obtain money and property from IHS investors and potential investors by the means of making untrue statements of materials facts and omissions.

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

5. The IHS securities that Olshen offered and sold were not registered for offer or sale with the Commission. Olshen used the mails and means of interstate commerce to sell and deliver securities in IHS.

6. Olshen offered and sold IHS securities through the use of private placement memoranda, which purported to rely upon the exemption from registration “under Rule 505 Promulgated by the Securities and Exchange Commission and in Sections 3(b) and 4(2) of the Securities Act of 1933 and Regulation D of the General Rules and Regulations thereunder.”

7. Olshen solicited and received \$7,799,266.05 from 50 or more victims as part of his scheme.

8. Olshen is not and has never been registered with the Commission as a broker or dealer or in any other capacity.

9. Olshen controlled IHS’s bank account and funds and was the sole signatory on IHS’s bank account.

10. Olshen solicited investors to purchase IHS securities, negotiated the terms of sales to investors, completed paperwork related to sales, and received and handled investor funds. Olshen had sole control of IHS’s bank account and misappropriated investor funds for his personal expenses.

11. Olshen utilized finders to whom he paid transaction-based compensation in the form of commissions for the sale of IHS securities.

12. As part of his scheme and artifice to defraud, Olshen knowingly made, orally and/or in writing, the following false and fraudulent representations to IHS investors:

- a. That IHS had approximately \$1.1 million in sales in 2009, when in fact, IHS had approximately \$98,275 in sales in 2009;
- b. That IHS had approximately \$4.3 million in sales in 2010, when in fact, IHS had approximately \$129,253 in sales in 2010;
- c. That IHS had approximately \$9.9 million in sales in 2011, when in fact, IHS had approximately \$228,802 in sales in 2011;
- d. That IHS had projected over \$28 million in sales in 2012, when in fact, IHS had approximately \$579,239 in sales in 2012; and
- e. That IHS had large receivable accounts with various national chains such as Costco, CVS, Rite Aid, and Food Lion, when in fact, no such large receivable accounts were owed to IHS.

13. As part of his scheme and artifice to defraud, Olshen concealed and omitted the following material facts:

- a. Olshen created two sets of IHS accounting records, one that accurately represented company finances and one that was provided to investors and potential investors;
- b. Olshen fabricated paperwork, such as sales records, to support his misrepresentations regarding the exponential growth of IHS;
- c. IHS failed to make numerous payments to its creditors;
- d. Olshen paid a portion of investor funds to others as commissions for obtaining investments for IHS;
- e. Olshen personally declared Chapter 7 Bankruptcy on or about October 11, 2011; and
- f. Olshen diverted portions of the invested funds for purposes not disclosed or authorized by the investors in a manner wholly inconsistent with his promises and representations.

14. The material misrepresentations and omissions of fact outlined above were important to IHS investors' investment decisions. Investors expressed that they would not have invested monies in IHS if not for Olshen's material misrepresentations and omissions.

15. As a result of the conduct described above, Olshen willfully violated Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in the offer or sale of securities and in connection with the purchase or sale of securities.

16. As a result of the conduct described above, Olshen willfully violated Section 15(a) of the Exchange Act, which prohibits a person from inducing or attempting to induce the purchase or sale of securities unless registered with the Commission as a broker or dealer.

Disgorgement and Civil Penalties

17. In light of Respondent's agreement to plead guilty and pay restitution in the amount of \$7,799,266.05 to victims in the criminal matter styled *United States v. Randy Elliot Olshen*, Crim. No. 2:14-cr-00476, in the United States District Court for the District of Utah, the Commission is not seeking disgorgement and prejudgment interest or the imposition of civil monetary penalties.

IV.

In view of the foregoing, the Commission deems it appropriate, in the public interest to impose the sanctions agreed to in Respondent Olshen's Offer.

Accordingly, pursuant to Section 8A of the Securities Act and Sections 15(b) and 21C of the Exchange Act, it is hereby ORDERED that:

A. Respondent Olshen cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Securities Act and Sections 10(b) and 15(a) of the Exchange Act and Rule 10b-5 thereunder.

B. Respondent Olshen be, and hereby is:

barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization;

barred from 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]; and

C. Any reapplication for association by the Respondent will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

By the Commission.

Brent J. Fields
Secretary