

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION



ADMINISTRATIVE PROCEEDING
File No. 3-15211

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In the Matter of

GREGG C. LORENZO,
FRANCIS V. LORENZO, and
CHARLES VISTA, LLC,

Respondents.
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**FRANCIS V. LORENZO'S RESPONSE TO DIVISION OF ENFORCEMENT'S
CROSS PETITION FOR REVIEW OF INITIAL DECISION**

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February 13, 2014

Pursuant to Rule 410(b) of the Securities and Exchange Commission's Rules of Practice, Respondent Francis Lorenzo, by and through his counsel Hantman & Associates, respectfully submits his Response to the Division of Enforcement's ("Division") Cross Petition for Review of the Initial Decision

As previously stated in Respondent's Petition for Review, the contents of which are reiterated herein and incorporated by reference, the findings and sanctions applied in this case by Administrative Law Judge Foelak (hereinafter "Judge Foelak") were not supported by the facts, the law, or by a preponderance of evidence in the record taken as a whole, and were clearly disproportionate to the act allegedly committed by Frank Lorenzo. The Division's challenge of the penalty imposed is similarly outrageous, considering that they have acknowledged Frank Lorenzo only made \$150 from the transaction. It appears that the Division is on a witch hunt for Frank Lorenzo after settling their case against the actual fraud perpetrator, Gregg Lorenzo and his company, Charles Vista, LLC. The Division did not prove their fraud case against Frank Lorenzo by a preponderance of the evidence, and accordingly, Respondent respectfully requests the Commission deny their Cross Petition.

Argument

The Division attempts to paint a picture of Frank Lorenzo as the mastermind behind the fraudulent scheme conducted by Charles Vista and its principal Gregg Lorenzo. The fact of the matter is, Frank Lorenzo did not have knowledge of the fraud being perpetrated behind the scenes by Gregg Lorenzo and the W2E debentures. The Division has once again misconstrued and/or taken out of context Frank's testimony at the hearing in order to support their case against him.

Contrary to the conclusive findings of Judge Foelak in her Initial Decision, the record evidence taken as a whole, fails to show that Frank knew that the information in the emails was false or misleading at the time he sent the two emails at issue to the recipients. As stated in Respondent's Petition and reiterated herein, the Initial Decision erroneously concludes that Lorenzo willfully violated Exchange Act Section 10(b) and Rule 10b-5. That would have required a showing of scienter by a preponderance of the evidence. However, neither the record nor the Initial Decision provide factual or legal support in meeting the high burden of finding that Frank Lorenzo violated Section 10(b) and Rule 10b-5 with scienter, that is, an intent to defraud the two Charles Vista clients by his act of sending two emails.

Furthermore, Respondent is particularly disturbed by the sanctions imposed against him. To say the least, they were arbitrary, capricious, inconsistent with legal standards, and not supported by the record. Even more disconcerting, the sanctions applied were shockingly similar to a previous decision rendered by Judge Foelak, the facts of which were far more egregious than the act complained of herein.

First of all, there was no proof submitted by the Commission that Frank Lorenzo knew of or had any previous relationship with W2E, or that he personally benefited from the sale of the debentures. Prior to sending the two emails in questions, Frank did not know about the financial condition of W2E. Although he received the email regarding W2E's Form 10-Q and 8-K, he did not read the contents of the forms before forwarding it to his superiors. He was under the good faith belief that W2E had an obligation to voluntarily disclose any adverse material information or write-downs directly to Charles Vista. Since no one from W2E contacted him directly to disclose the write-downs, he was not aware

that the company had any material write-downs to disclose. As a result, at the time the emails were sent out on or about October 14, 2009, Frank Lorenzo was not aware of the write-downs and did not have any reason to doubt the information that was in the emails. Moreover, the Commission did not provide any proof by a preponderance of the evidence to support the finding that “he knew or should have known” about the misrepresentations made in the emails at the time he sent them.

Respondent’s testimony further reveals that sometime after the emails were sent out, Frank Lorenzo began to see the red flags. The record evidence and the testimony of Lorenzo supports the finding that upon discovering the truth regarding the firm and the W2E debentures, he did all that he could to cooperate with the Commission in aiding those who lost money investing in the debentures. Indeed, Frank Lorenzo also tried to help Charles Vista clients put together a class action lawsuit against the company. Frank Lorenzo has worked in the industry for decades, and this is the one and only time that he has ever been charged with violating the securities laws.

In regards to the civil money penalties imposed, Judge Foelak is supposed to consider the following factors in making her findings: 1) the “fraud” that occurred; 2) harm caused to others; 3) unjust enrichment; 4) previous violations; 5) deterrence; and such other matters as justice may require. Here, there was no unjust enrichment, as Lorenzo did not personally profit from these emails. Indeed, he only made \$150 from the one investor who invested \$15,000. The bar from the industry also doesn’t seem to align with the level of severity that Judge Foelak has pegged to Lorenzo’s actions when determining the monetary fine. There is clearly a disconnect between the record findings of Lorenzo’s conduct, the loss which occurred as a result of his conduct, and the “egregiousness” of his

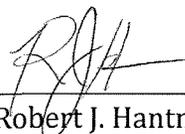
act which would warrant barring him from the industry. Judge Foelak's sole basis for barring Frank Lorenzo from working in the industry is because of "a lack of recognition of the wrongful nature of the violative conduct," and not the actual substantive facts of the case to warrant such a harsh penalty. Frank Lorenzo has already expressed his sincere apologies for being involved with Charles Vista and has already cooperated with the Division to aid those who invested in the debentures through Charles Vista.

Conclusion

It is submitted that Respondent's actions were aberrational, not consistent with his normal behavior, out of character, and an anomaly. Moreover, his voluntary testimony was forthright and he was genuinely apologetic for his actions. Based on the foregoing, the findings of Judge Foelak are considered an abuse of discretion and the degree of punishment was not warranted pursuant to the law, and completely out of proportion to the nature of Lorenzo's conduct. Accordingly, Respondent requests the Commission deny the Division's Cross Petition and further requests that the sanctions against him be overturned or modified to be proportionate to the act committed by Frank Lorenzo.

Dated: February 13, 2014

Respectfully Submitted,



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