

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Rel. No. 34-67930 / September 26, 2012

Admin. Proc. File No. 3-14945

In the Matter of
MITCHELL SEGAL, ESQ.

ORDER DENYING MOTION
TO LIFT TEMPORARY SUSPENSION
AND DIRECTING HEARING

On July 11, 2012, we issued an order instituting proceedings ("OIP") against Mitchell Segal, Esq., an attorney licensed to practice in New York, pursuant to Commission Rule of Practice 102(e)(3)(i).¹ The OIP temporarily suspended Segal from appearing or practicing before the Commission.² Segal has filed a petition, pursuant to Rule 102(e)(3)(ii),³ requesting that his temporary suspension be lifted.

Segal has been the president and chief executive officer of Alternative Green Technologies, Inc. ("AGTI"), a company whose stock traded on the Pink Sheets. On December 12, 2011, the Commission filed a civil action against Segal, AGTI, and others in the U.S. District Court for the Southern District of New York alleging, among other things, that from September 2008 through September 2009, Segal violated Section 5 of the Securities Act of 1933⁴ by "offering and selling securities [of AGTI] when no registration statement had been filed or was in effect as to such securities and when no exemption from registration was available." The

¹ 17 C.F.R. § 201.102(e)(3)(i). This Rule states that:

(i) The Commission, with due regard to the public interest and without preliminary hearing, may, by order, temporarily suspend from appearing or practicing before it any attorney, accountant, engineer, or other professional or expert who has been by name:

(A) Permanently enjoined by any court of competent jurisdiction, by reason of his or her misconduct in an action brought by the Commission, from violating or aiding and abetting the violation of any provision of the Federal securities laws or of the rules and regulations thereunder; or

(B) Found by any court of competent jurisdiction in an action brought by the Commission to which he or she is a party or found by the Commission in any administrative proceeding to which he or she is a party to have violated (unless the violation was found not to have been willful) or aided and abetted the violation of any provision of the Federal securities laws or of the rules and regulations thereunder.

² *Mitchell Segal, Esq.*, Securities Exchange Act Rel. No. 67393 (July 11, 2012), 2012 WL 2789437.

³ 17 C.F.R. § 201.102(e)(3)(ii).

⁴ 15 U.S.C. § 77e.

complaint further alleged that Segal violated, and aided and abetted in the violation of, Section 10(b) of the Securities Exchange Act of 1934⁵ and Exchange Act Rule 10b-5⁶ by "obtaining and furnishing false documents . . . to support a legal opinion letter that was provided to Alternative Green Technologies, Inc.'s transfer agent so that the transfer agent would issue millions of shares of purportedly unrestricted AGTI stock in an unregistered offering."

On April 11, 2012, the district court entered a final judgment by consent against Segal, permanently enjoining him from future violations of Securities Act Section 5, Exchange Act Section 10(b), and Exchange Act Rule 10b-5.⁷ The final judgment also prohibited Segal from acting as an officer or director of a public company; barred Segal from participating in penny stock offerings; and required Segal to pay disgorgement, plus prejudgment interest, and a civil penalty.⁸

In issuing the OIP, we found it "appropriate and in the public interest" that Segal be temporarily suspended from appearing or practicing before the Commission based on the district court's final judgment. We stated that the temporary suspension would become permanent unless Segal filed a petition seeking to lift it within thirty days after service of the OIP pursuant to Rule 102(e)(3)(ii). We further advised that, pursuant to Rule 102(e)(3)(iii), upon receipt of such petition, we would "either lift the temporary suspension, or set the matter down for hearing . . . , or both."⁹

In his petition, Segal states that the temporary suspension is unwarranted and should be lifted. He notes that he "has been an attorney in good standing for over 27 years," "has never been convicted of a crime," and, "other than this case, has never been charged with a regulatory violation." Segal also states that if the Commission determines a suspension to be warranted, the length of the suspension should be no more than three years. In his view, a suspension of more than three years would "create substantial and unwarranted disparities" between his case and the cases of five other attorneys that the Commission has suspended within the past two years. Segal further requests that he be given leave to apply for reinstatement to practice after any period of suspension ordered by the Commission is completed. The Office of the General Counsel opposes Segal's petition.

Rule 102(e)(3)(i) permits the Commission to temporarily suspend from appearing or practicing before it an attorney who has been permanently enjoined from violating or aiding and abetting the violation of the federal securities laws or found to have violated or aided and abetted the violation of the federal securities laws. The district court's findings, which Segal is precluded from contesting in this proceeding, and the permanent injunction issued against him justify the continuation of his suspension until it can be determined what, if any, action may be appropriate to protect the Commission's processes.¹⁰

Under the circumstances, we find it appropriate that the suspension remain in effect

⁵ 15 U.S.C. § 78j(b).

⁶ 17 C.F.R. § 240.10b-5.

⁷ *SEC v. Alternative Green Technologies, Inc., et al.*, Civil Action No. 11-9056 (S.D.N.Y. Apr. 11, 2012).

⁸ *Id.*

⁹ 17 C.F.R. § 201.102(e)(3)(iii).

¹⁰ See 17 C.F.R. § 201.102(e)(3)(iv) (stating that, in any hearing held on a petition filed in accordance with Rule 102(e)(3)(ii), the petitioner may not contest any findings made against him in the underlying proceeding).

pending the holding of a public hearing and decision by an administrative law judge. As provided in Rule 102(e)(3)(iii), we will set the matter down for public hearing. We express no opinion as to the merits of Segal's claims.

Accordingly, IT IS ORDERED that this proceeding be set down for public hearing before an administrative law judge in accordance with Rule of Practice 110. As specified in Rule of Practice 102(e)(3)(iii), the hearing in this matter shall be expedited in accordance with Rule of Practice 500; 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; and it is further

ORDERED that the temporary suspension of Mitchell Segal, entered on July 11, 2012, remain in effect pending a hearing and decision in this matter.

By the Commission.

Elizabeth M. Murphy
Secretary