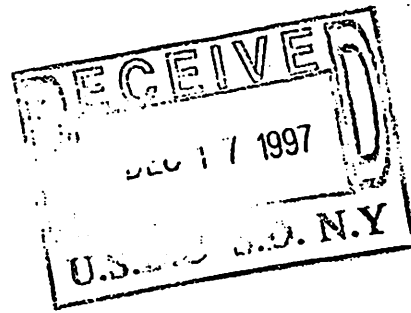


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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

CALMAN H. RIFKIN and
EVA-HEALTH, USA, INC.,

Defendants.

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COMPLAINT
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Plaintiff Securities and Exchange Commission ("Commission"), for its Complaint against defendants Calman H. Rifkin ("Rifkin") and Eva-Health, USA, Inc. ("Eva-Health") (collectively, the "Defendants"), alleges as follows:

1. From January 1992 through April 1994 (the "Relevant Period"), Defendants Rifkin and Eva-Health, obtained millions of dollars by fraudulently offering and selling warrants to purchase Eva-Health common stock ("Warrant") to seventy-eight people located throughout the United States. Among other things, Rifkin and Eva-Health misrepresented Rifkin's educational background and training and made false statements regarding Eva-Health's products.

2. Rifkin and Eva-Health, directly or indirectly, singly or in concert, have engaged, and unless enjoined, will again engage in transactions, acts, practices, and courses of business that constitute violations of Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. §§ 77e(a), 77e(c) and 77q(a), and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5, promulgated thereunder.

JURISDICTION AND VENUE

3. The Commission brings this action pursuant to the authority conferred upon it by Section 20(b) of the Securities Act, 15 U.S.C. § 77t(b), and Section 21(d)(1) of the Exchange Act, 15 U.S.C. § 78u(d)(1), to enjoin permanently defendants Rifkin and Eva-Health from future violations of the federal securities laws. The Commission seeks additional equitable relief in the form of an order requiring Defendants to disgorge their ill-gotten gains and to pay prejudgment interest thereon. The Commission also brings this action pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3), for civil penalties against Rifkin.

4. This Court has jurisdiction over this action, and venue is proper, pursuant to Section 22(a) of the Securities Act, 15 U.S.C. § 77v(a), and Sections 21(e) and 27 of the Exchange Act, 15 U.S.C. §§ 78u(e) and 78aa.

5. The Commission, pursuant to authority conferred upon it by Sections 10(b) and 23(a) of the Exchange Act, 15 U.S.C. §§ 78j(b) and 78w(a), has promulgated Rule 10b-5, 17 C.F.R. § 240.10b-5. Rule 10b-5 was in effect at the time of the transactions and events alleged in this Complaint and it remains in effect.

6. Defendants, directly or indirectly, singly or in concert, have made use of the means or instruments of transportation and communication in, and the means or instrumentalities of, interstate

commerce, or of the mails, in connection with the transactions, acts, practices, and courses of business alleged herein. Certain of the transactions, acts, practices, and courses of business alleged herein occurred in the Southern District of New York, including, but not limited to, use of the mails and of telephones to offer and sell Warrants.

DEFENDANTS

7. Rifkin, age 47, resides in Staten Island, New York. Rifkin founded Eva-Health and, during the Relevant Period, was Eva-Health's chairman and chief executive officer.

8. Eva-Health is a Delaware corporation which, during the Relevant Period, had its principal place of business in Woodbridge, New Jersey. The company was purportedly in business to research, develop, manufacture, and license biomedical devices. During the Relevant Period, the company's securities were not registered with the Commission.

FACTS

Background

9. During the Relevant Period, Defendants Rifkin and Eva-Health fraudulently obtained approximately \$5.5 million by selling Eva-Health Warrants to seventy-eight individuals from various states. The Warrants generally were sold for \$31,250 each and expired after seven years. Each Warrant granted the right to purchase a number of shares of common stock equal to 1.5625 percent of the equity capitalization of Eva-Health for \$.01 per share.

10. The Warrants were offered and sold through offering memoranda drafted by Rifkin and distributed to prospective investors (the "Offering Memoranda"). In addition, Rifkin and Eva-Health, directly and through intermediaries, orally solicited investors to purchase Warrants.

Material Misrepresentations and Omissions

11. In the Offering Memoranda and orally, Rifkin and Eva-Health represented to investors that:
- (a) Rifkin held MD and Ph.D. degrees from State University of New York at Stony Brook and that Rifkin had completed a medical residency in the field of obstetrics and gynecology;
 - (b) Rifkin had received a research grant from the National Institute of Health (“NIH”) to fund clinical trials of an Eva-Health product called acu-Baby;
 - (c) Eva-Health held patents for its entire product line, including the technology employed in the acu-Med, acu-Monitoring, acu-Baby and medi-Pro products;
 - (d) Eva-Health was negotiating, and would soon be entering into, licensing and distribution agreements with numerous well-known pharmaceutical companies including “Abbott Laboratories, Baxter International , Ciba-Geigy, Conair Corp., Healthdyne and Johnson & Johnson,” and that these licensing agreements would generate hundreds of millions of dollars in revenue for Eva-Health;
 - (e) Eva-Health’s medi-Pro device --which was designed to be used in the treatment of drug addiction -- was undergoing clinical evaluations conducted by a physician at the Albert Einstein Medical Center in New York City;
 - (f) medi-Pro was used by a doctor from Lincoln Hospital, Bronx, New York as a replacement for acupuncture therapy to treat drug addicts; and
 - (g) Dominick & Dominick, Inc. (“D&D”), an investment banking firm, had invested \$1 million in Eva-Health.

12. Each of the representations identified in paragraph 11 above was false in that:

- (a) Rifkin was neither an MD nor a Ph.D., nor had he ever completed any medical residency program;
- (b) Rifkin never received an NIH research grant to fund clinical trials of acu-Baby or any other Eva-Health product;
- (c) during the Relevant Period, neither Eva-Health nor Rifkin held patents for any of the products listed above, or for any other Eva-Health product;
- (d) although Rifkin did have preliminary discussions with some of the pharmaceutical companies listed above, no further discussions were held because Rifkin did not have the patented technology necessary to license the products;
- (e) no physician from the Albert Einstein Medical Center ever conducted clinical trials or evaluations of medi-Pro;
- (f) no doctor from Lincoln Hospital had used medi-Pro to treat drug addicts; and
- (g) D&D never invested money in Eva-Health.

13. Each of the misrepresentations, described in paragraph 11 above, was material.

14. The Defendants knew, or were reckless in not knowing, that the misrepresentations described in paragraph 11 were false.

FIRST CLAIM FOR RELIEF

VIOLATIONS OF SECTION 17(a) OF THE SECURITIES ACT, AND SECTION 10(b) OF THE EXCHANGE ACT AND RULE 10b-5

15. The Commission realleges and incorporates by reference the allegations in Paragraphs 1 through 14 above.

16. The Warrants are securities as defined in Section 2(1) of the Securities Act, 15 U.S.C. §77b(1), and Section 3(a)(10) of the Exchange Act, 15 U.S.C. § 78c(a)(10).

17. Defendants, directly and indirectly, singly or in concert, knowingly or recklessly, by use of the means or instruments of transportation or communication in, or the means or instrumentalities of, interstate commerce, or of the mails, in the offer and sale and in connection with the purchase or sale of securities: (a) employed devices, schemes or artifices to defraud; (b) obtained money or property by means of, or otherwise made, untrue statements of material fact, or omissions to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading; or (c) engaged in transactions, acts, practices and courses of business which operated as a fraud or deceit upon the purchasers of Eva-Health Warrants and other persons.

18. As part of and in furtherance of this violative conduct, Rifkin and Eva-Health offered and sold Eva-Health Warrants by making misrepresentations about Rifkin and Eva-Health, as more fully described in Paragraphs 1 through 14, above.

19. Rifkin, and through him Eva-Health, made the misrepresentations, described in Paragraph 11 above, knowingly or with reckless disregard of the truth. Those representations and omissions were material.

20. By reason of the foregoing, Defendants have violated and, unless permanently enjoined, will continue to violate Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a)(1), and Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated thereunder, 17 C.F.R. § 240.10b-5.

SECOND CLAIM FOR RELIEF

VIOLATIONS OF SECTIONS 5(a) AND 5(c) OF THE SECURITIES ACT

21. The Commission realleges and incorporates by reference the allegations in Paragraphs 1 through 10, and 16 above.

22. When no registration statement was filed with the Commission or in effect with respect to the securities of Eva-Health, Defendants Rifkin and Eva-Health, directly or indirectly, singly or in concert: (1) made use of means or instruments of transportation or communication in interstate commerce or of the mails to sell Eva-Health Warrants through the use or medium of a prospectus or otherwise; or (2) carried or caused to be carried through the mails or in interstate commerce, by means and instruments of transportation, Eva-Health Warrants for the purpose of sale or for delivery after sale; and (3) made use of means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell Eva-Health Warrants through the use or medium of prospectus or otherwise.

23. As part of and in furtherance of this violative conduct, Defendants offered and sold Eva-Health Warrants when no registration statement had been filed with the Commission with respect to such securities and when no registration statement was in effect with respect to them.

24. By reason of the foregoing, Rifkin and Eva-Health have violated and, unless permanently enjoined, will continue to violate Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a), (c).

RELIEF SOUGHT

WHEREFORE, Plaintiff respectfully requests that this Court grant:

I

A Final Judgment permanently enjoining the Defendants, their agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of the

injunction by personal service or otherwise, and each of them, from future violations of Sections 5(a), 5(c) and 17(a) of the Securities Act, 15 U.S.C. §§ 77e(a), 77e(c), and 77q(a), and Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

II


A Final Judgment requiring the Defendants to disgorge their ill-gotten gains, plus prejudgment interest on that amount.

III

A Final Judgment assessing penalties against Rifkin pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3), for the violations alleged herein.

Dated: December 16, 1997
New York, New York

Respectfully submitted,

By: 
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