

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 14-80823-CIV-COHN

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

WESTON CAPITAL ASSET
MANAGEMENT LLC, ALBERT
HALLAC, and KEITH WELLNER,

Defendants,

JEFFREY HALLAC,

Relief Defendant.

**JUDGMENT OF PERMANENT INJUNCTION AS TO DEFENDANTS
WESTON CAPITAL ASSET MANAGEMENT LLC AND ALBERT HALLAC**

THIS CAUSE is before the Court upon Plaintiff's Notice of Filing Consent of Defendants Weston Capital Asset Management LLC and Albert Hallac to Judgment of Permanent Injunction and Request for Entry of the Judgment [DE 4]. The Court has carefully reviewed this filing and is otherwise fully advised in the premises. Accordingly, as set forth below, Judgment is hereby **ENTERED** in favor of Plaintiff Securities and Exchange Commission and against Defendants Weston Capital Asset Management LLC and Albert Hallac.

The Securities and Exchange Commission having filed a Complaint; Defendants Weston Capital Asset Management LLC ("Weston") and Albert Hallac having entered a general appearance, consented to the Court's jurisdiction over Weston and Hallac¹ and

¹ As used in this Judgment, "Hallac" refers to Defendant Albert Hallac, not Relief Defendant Jeffrey Hallac.

the subject matter of this action, consented to entry of this Judgment without admitting or denying the allegations of the Complaint (except as to subject matter and personal jurisdiction), waived findings of fact and conclusions of law, and waived any right to appeal from this Judgment; and the Court having accepted such Consent and having jurisdiction over Weston and Hallac and the subject matter of this action, it is hereby

ORDERED, ADJUDGED, AND DECREED as follows:

I. Permanent Injunction

A. Section 10(b) and Rules 10b-5(a) and (c) of the Exchange Act

Weston and Hallac and their agents, servants, representatives, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rules 10b-5(a) and (c) promulgated thereunder [17 C.F.R. § 240.10b-5(a) and (c)], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud; or
- (b) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person

by, directly or indirectly, (i) creating a false appearance or otherwise deceiving any person, or (ii) disseminating false or misleading documents, materials, or information or making, either orally or in writing, any false or misleading statement in any communication with any investor or prospective investor, about: (A) any investment

strategy or investment in securities, (B) the prospects for success of any product or company, (C) the use of investor funds, (D) compensation to any person, or (E) the misappropriation of investor funds or investment proceeds.

B. Sections 206(1) and 206(2) of the Advisers Act

Weston and Hallac and their agents, servants, representatives, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Judgment by personal service or otherwise are permanently restrained and enjoined from aiding and abetting any violation of Sections 206(1) and (2) of the Investment Advisers Act of 1940 (the "Advisers Act") [15 U.S.C. § 80b-6(1) and (2)] by using the mails or any means or instrumentality of interstate commerce, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud any client or prospective client; or
- (b) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client

by, directly or indirectly, (i) creating a false appearance or otherwise deceiving any client or prospective client, or (ii) disseminating false or misleading documents, materials, or information or making, either orally or in writing, any false or misleading statement in any communication with any client or prospective client, about: (A) any investment strategy or investment in securities, (B) the prospects for success of any product or company, (C) the use of client funds, (D) compensation to any person, or (E) the misappropriation of client funds or investment proceeds.

C. Section 206(4) of the Advisers Act and Rule 206(4)-8

Weston and Hallac and their agents, servants, representatives, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Judgment by personal service or otherwise are permanently restrained and enjoined from aiding and abetting any violation of Section 206(4) of the Advisers Act [15 U.S.C. § 80b-6(4)] and Rule 206(4)-8 thereunder [17 C.F.R. § 275.206(4)-8], by using the mails or any means or instrumentality of interstate commerce, directly or indirectly:

- (a) to engage in any act, practice, or course of business that is fraudulent, deceptive, or manipulative; or
- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, to any investor or prospective investor in a pooled investment vehicle

by, directly or indirectly, (i) creating a false appearance or otherwise deceiving any client or prospective client, or (ii) disseminating false or misleading documents, materials, or information or making, either orally or in writing, any false or misleading statement in any communication with any client or prospective client, about: (A) any investment strategy or investment in securities, (B) the prospects for success of any product or company, (C) the use of client funds, (D) compensation to any person, or (E) the misappropriation of client funds or investment proceeds.

II. Disgorgement and Civil Penalties

Weston and Hallac shall pay disgorgement of ill-gotten gains, prejudgment interest thereon, and a civil penalty pursuant to Section 21(d)(3) of the Exchange Act,

15 U.S.C. § 78u(d)(3), and Section 209(e) of the Advisers Act, 15 U.S.C. § 80b-9. The Court shall determine the amounts of the disgorgement and civil penalty upon motion of the Securities and Exchange Commission (“Commission”). Prejudgment interest shall be calculated from August 24, 2011, based on the rate of interest used by the Internal Revenue Service for the underpayment of federal income tax as set forth in 26 U.S.C. § 6621(a)(2). In connection with the Commission’s motion for disgorgement and/or civil penalties, and at any hearing held on such a motion: (a) Weston and Hallac will be precluded from arguing that they did not violate the federal securities laws as alleged in the Complaint; (b) Weston and Hallac may not challenge the validity of the Consent or this Judgment; (c) solely for the purposes of such motion, the allegations of the Complaint shall be accepted as and deemed true by the Court; and (d) the Court may determine the issues raised in the motion on the basis of affidavits, declarations, excerpts of sworn deposition or investigative testimony, and documentary evidence, without regard to the standards for summary judgment contained in Rule 56(c) of the Federal Rules of Civil Procedure. In connection with the Commission’s motion for disgorgement and/or civil penalties, the parties may take discovery, including discovery from appropriate non-parties.

III. Incorporation of Consent

The Consent is incorporated herein with the same force and effect as if fully set forth herein, and Weston and Hallac shall comply with all of the undertakings and agreements set forth in the Consent.

IV. Retention of Jurisdiction

This Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Judgment.

V. Bankruptcy Nondischargeability

Solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the allegations in the Complaint are deemed true and admitted by Hallac, and further, any debt for disgorgement, prejudgment interest, civil penalty, or other amounts due by Hallac under this Judgment or any other judgment, order, consent order, decree, or settlement agreement entered in connection with this proceeding, is a debt for the violation by Hallac of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

VI. Rule 54(b) Certification

There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Judgment forthwith and without further notice.

DONE AND ORDERED in Chambers in Fort Lauderdale, Broward County, Florida, this 3rd day of July, 2014.


JAMES I. COHN
United States District Judge

Copies provided to:

Counsel of record via CM/ECF