

APR 04 2012

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

ARAGON CAPITAL ADVISORS, LLC, et al.,

Defendants and Relief Defendants.

07 Civ. 919 (FM)

ORIGINAL

**FINAL JUDGMENT AS TO ALL CLAIMS AGAINST
 DEFENDANTS ZVI ROSENTHAL,
 AMIR ROSENTHAL, AYAL ROSENTHAL AND OREN ROSENTHAL,
 AND RELIEF DEFENDANTS RIVKA ROSENTHAL,
 EFRAT ROSENTHAL AND NOGA DELSHAD ROSENTHAL**

The Securities and Exchange Commission having filed a Complaint, and Defendants Zvi Rosenthal, Amir Rosenthal, Ayal Rosenthal and Oren Rosenthal (collectively "Defendants"), and Relief Defendants Rivka Rosenthal, Efrat Rosenthal, and Noga Delshad Rosenthal (collectively "Relief Defendants"), having entered a general appearance; consented to the Court's jurisdiction over Defendants and Relief Defendants and the subject matter of this action; and consented to the entry of this Final Judgment; waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendants Zvi Rosenthal, Amir Rosenthal and Ayal Rosenthal and their respective agents, servants, 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 Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], 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;
- (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; or
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

II.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendants Zvi Rosenthal, Amir Rosenthal, and Ayal Rosenthal and each of their respective agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. § 77q(a)] in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements

made, in light of the circumstances under which they were made, not misleading;

or

- (c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

III.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], Defendant Zvi Rosenthal is prohibited from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

IV.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that:

- (a) Defendants and Relief Defendants are liable for disgorgement, prejudgment interest, and civil penalties as follows:
- (1) Defendants and Relief Defendants are liable, jointly and severally, for disgorgement and prejudgment interest of \$2,204,884.71, less \$1,523,495.99 already paid by Defendants and Relief Defendants, for an amount of \$681,388.72, representing profits gained and losses avoided as a result of the conduct alleged in the complaint;
 - (2) Defendant Zvi Rosenthal is liable for a civil penalty in the amount of \$232,873.28 pursuant to Section 21A of the Exchange Act [15 U.S.C. § 78u-1(a)(2)]; and
 - (3) Defendant Amir Rosenthal is liable for a civil penalty in the amount of \$157,738 pursuant to Section 21A of the Exchange Act [15 U.S.C. § 78u-1(a)(2)];
- (b) Defendants and Relief Defendants shall satisfy the foregoing obligations by ^{in full}

RAM

paying \$1,072,000.00 within 14 days after entry of this Final Judgment by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission. The payment shall be delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, 100 F Street, NE, Stop 6042, Washington DC 20549, and shall be accompanied by a letter identifying Zvi Rosenthal, Amir Rosenthal, Ayal Rosenthal and Oren Rosenthal as Defendants in this action and Rivka Rosenthal, Efrat Rosenthal and Noga Delshad Rosenthal as Relief Defendants in this action; setting forth the title and civil action number of this action and the name of this Court; and specifying that payment is made pursuant to this Final Judgment. Defendants and Relief Defendants shall pay post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961. The Commission shall remit the funds paid pursuant to this paragraph to the United States Treasury.

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants' and Relief Defendants' Consents are incorporated in this Final Judgment with the same force and effect as if fully set forth in this Final Judgment, and that the Defendants shall comply with all of the undertakings and agreements applicable to them, as set forth in their respective Consents.

.VI.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

Dated: April 4, 2012



UNITED STATES MAGISTRATE JUDGE

APR 04 2012

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
SECURITIES AND EXCHANGE COMMISSION,
:

Plaintiff,
:

-against-
:

07 Civ. 919 (FM)
:

ARAGON CAPITAL ADVISORS, LLC, et al.,
:

Defendants and Relief Defendants.
-----X

CONSENT OF DEFENDANTS ZVI ROSENTHAL,
AMIR ROSENTHAL, AYAL ROSENTHAL AND OREN ROSENTHAL,
AND RELIEF DEFENDANTS RIVKA ROSENTHAL,
EFRAT ROSENTHAL AND NOGA DELSHAD ROSENTHAL

1. Defendants Zvi Rosenthal, Amir Rosenthal, Ayal Rosenthal and Oren Rosenthal (collectively "Defendants") and Relief Defendants Rivka Rosenthal, Efrat Rosenthal and Noga Delshad Rosenthal (collectively "Relief Defendants") acknowledge having been served with the summons and complaint in this action, enter a general appearance, and consents to the Court's jurisdiction over Defendants and Relief Defendants and over the subject matter of this action.

2. Defendants Zvi Rosenthal, Amir Rosenthal and Ayal Rosenthal have each pleaded guilty to criminal conduct relating to certain conduct alleged in the First Amended Complaint in this action. Specifically, in United States v. Zvi Rosenthal, et al., No. 07 Cr. 069 (JG) (E.D.N.Y.), Zvi Rosenthal and Amir Rosenthal each pleaded guilty to one count of conspiracy to commit securities fraud in violation of 18 U.S.C. § 371. In United States v. Ayal Rosenthal, No. 07 Cr. 098 (JG) (E.D.N.Y.), Defendant Ayal Rosenthal pleaded guilty to one count of conspiracy to commit securities fraud in violation of 18 U.S.C. § 371. In connection with those pleas, Defendants Zvi Rosenthal, Amir Rosenthal and Ayal Rosenthal admitted the

facts set out in the transcripts of each of their plea allocutions that are attached as Exhibit A to this Consent. This Consent shall remain in full force and effect regardless of the existence or outcome of any further proceedings in either United States v. Zvi Rosenthal, et al. and United States v. Ayal Rosenthal.

3. On the basis of the guilty pleas entered by Defendants Zvi Rosenthal, Amir Rosenthal and Ayal Rosenthal recited above, on January 29, 2010, the Court entered a Judgment on the Commission's motion for Partial Summary Judgment against Defendants Zvi Rosenthal, Amir Rosenthal, Oren Rosenthal and Ayal Rosenthal, and Relief Defendants Rivka Rosenthal and Efrat Rosenthal, resolving certain allegations in the First Amended Complaint as specified in the Court's Memorandum Decision and Order of November 24, 2009, SEC v. Aragon Capital Mgmt. LLC, 672 F. Supp. 2d 421 (S.D.N.Y. 2009), aff'd in part, 426 F. App'x 1 (2d Cir. 2011) and rev'd in part, 650 F.3d 156 (2d Cir. 2011) (the "Partial Summary Judgment Decision"), permanently enjoining Defendants Zvi Rosenthal and Amir Rosenthal from further violations of the anti-fraud provisions of the Securities Exchange Act of 1934 and the Securities Act of 1933, permanently enjoining Defendant Zvi Rosenthal from acting as an officer or director of any public company, and awarding the Commission certain monetary relief in disgorgement, prejudgment interest and penalties.

4. Without admitting or denying the allegations of the Second Amended Complaint (except as to personal and subject matter jurisdiction, which Defendants and Relief Defendants admit), which alleges conduct not resolved in the Partial Summary Judgment Decision, Defendants and Relief Defendants hereby consent to the entry of the final Judgment in the form attached hereto (the "Final Judgment") and incorporated by reference herein, which, among other things:

- (a) permanently restrains and enjoins Defendants Zvi Rosenthal, Amir Rosenthal and Ayal Rosenthal from violation of Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5]; and Section 17(a) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. § 77q(a)];
- (b) pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], prohibits Defendant Zvi Rosenthal from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78I] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)];
- (c) orders Defendants and Relief Defendants to pay disgorgement and prejudgment interest thereon in the amount of \$2,204,884.71, less \$1,523,495.99 already paid by Defendants and Relief Defendants, for an amount of \$681,388.72;
- (d) orders Defendant Zvi Rosenthal to pay a civil penalty in the amount of \$232,873.28 pursuant to Section 21A of the Exchange Act [15 U.S.C. § 78u-1(a)(2)]; and
- (e) orders Defendant Amir Rosenthal to pay a civil penalty in the amount of \$157,738 pursuant to Section 21A of the Exchange Act [15 U.S.C. § 78u-1(a)(2)].

5. Defendants Zvi Rosenthal and Amir Rosenthal each agrees that he shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including

but not limited to payment made pursuant to any insurance policy, with regard to any civil penalty amounts that Defendants Zvi Rosenthal and Amir Rosenthal pay pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors. Defendants Zvi Rosenthal and Amir Rosenthal each further agrees that he shall not claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state, or local tax for any penalty amounts that Defendant Zvi Rosenthal or Amir Rosenthal pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors.

6. Defendants and Relief Defendants waive the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure.

7. Defendants and Relief Defendants waive the right, if any, to a jury trial and to appeal from the entry of the Final Judgment.

8. Defendants and Relief Defendants enter into this Consent voluntarily and each of them represents that no threats, offers, promises, or inducements of any kind have been made by the Commission or any member, officer, employee, agent, or representative of the Commission to induce any Defendant or Relief Defendant to enter into this Consent.

9. Defendants and Relief Defendants agree that this Consent shall be incorporated into the Final Judgment with the same force and effect as if fully set forth therein.

10. Defendants and Relief Defendants will not oppose the enforcement of the Final Judgment on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure, and each of them hereby waives any objection based thereon.

11. Defendants and Relief Defendants waive service of the Final Judgment and each of them agrees that entry of the Final Judgment by the Court and filing with the Clerk of the Court will constitute notice to Defendants and Relief Defendants of its terms and conditions. Defendants and Relief Defendants further agree to provide counsel for the Commission, within thirty days after the Final Judgment is filed with the Clerk of the Court, with an affidavit or declaration stating that each of them has received and read a copy of the Final Judgment.

12. Consistent with 17 C.F.R. § 202.5(f), this Consent resolves only the claims asserted against Defendants and Relief Defendants in this civil proceeding. Defendants and Relief Defendants acknowledge that no promise or representation has been made by the Commission or any member, officer, employee, agent, or representative of the Commission with regard to any criminal liability that may have arisen or may arise from the facts underlying this action or immunity from any such criminal liability. Defendants and Relief Defendants waive any claim of Double Jeopardy based upon the settlement of this proceeding, including the imposition of any remedy or civil penalty herein. Defendants and Relief Defendants further acknowledge that the Court's entry of a permanent injunction may have collateral consequences under federal or state law and the rules and regulations of self-regulatory organizations, licensing boards, and other regulatory organizations. Such collateral consequences include, but are not limited to, a statutory disqualification with respect to membership or participation in, or association with a member of, a self-regulatory organization. This statutory disqualification has consequences that are separate from any sanction imposed in an administrative proceeding. In addition, in any disciplinary proceeding before the Commission based on the entry of the injunction in this action, Defendants Zvi Rosenthal, Amir Rosenthal and Ayal Rosenthal each

understands that he shall not be permitted to contest the factual allegations of the complaint in this action.

13. Defendants and Relief Defendants understand and agree to comply with the Commission's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings." 17 C.F.R. § 202.5. In compliance with this policy, Defendants Zvi Rosenthal, Amir Rosenthal and Ayal Rosenthal acknowledge their respective guilty pleas for related criminal conduct described in paragraph 2 above and Defendants and Relief Defendants agree: (i) not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any allegation in the complaint or creating the impression that the complaint is without factual basis; and (ii) that upon the filing of this Consent, Defendants and Relief Defendants hereby withdraw any papers filed in this action to the extent that they deny any allegation in the Second Amended Complaint. If Defendants or Relief Defendants breach this agreement, the Commission may petition the Court to vacate the Final Judgment and restore this action to its active docket. Nothing in this paragraph affects Defendants' and Relief Defendants': (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which the Commission is not a party.

14. Defendants and Relief Defendants hereby waive any rights under the Equal Access to Justice Act, the Small Business Regulatory Enforcement Fairness Act of 1996, or any other provision of law to seek from the United States, or any agency, or any official of the United States acting in his or her official capacity, directly or indirectly, reimbursement of attorney's fees or other fees, expenses, or costs expended by Defendants and Relief Defendants to defend against this action. For these purposes, Defendants and Relief Defendants each agrees that none

of them is the prevailing party in this action since the parties have reached a good faith settlement.

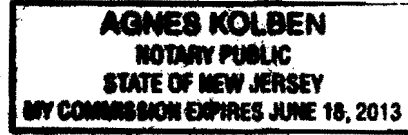
15. Defendants and Relief Defendants agree that the Commission may present the Final Judgment to the Court for signature and entry without further notice.

16. Defendants and Relief Defendants agree that this Court shall retain jurisdiction over this matter for the purpose of enforcing the terms of the Final Judgment.

Dated: 3/20/2012 Zvi Rosenthal
Zvi Rosenthal

On the 20th Day of March, 2012, Zvi Rosenthal, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent.

Agnes Kolben
Notary Public
Commission expires:



Dated: _____
Amir Rosenthal

On _____, 2012, _____, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent.

Notary Public
Commission expires:

of them is the prevailing party in this action since the parties have reached a good faith settlement.

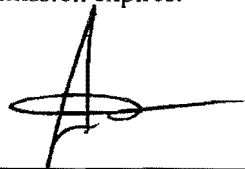
15. Defendants and Relief Defendants agree that the Commission may present the Final Judgment to the Court for signature and entry without further notice.

16. Defendants and Relief Defendants agree that this Court shall retain jurisdiction over this matter for the purpose of enforcing the terms of the Final Judgment.

Dated: _____
Zvi Rosenthal

On _____, 2012, _____, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent.

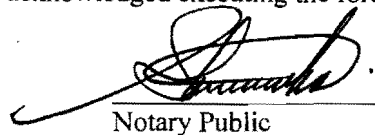
Notary Public
Commission expires:



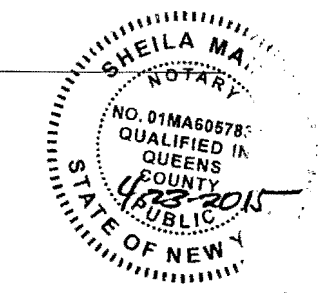
Dated: 3/21/12

Amir Rosenthal

On 2/15/12, 2012, Amir Rosenthal, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent.



Notary Public
Commission expires:



3/21/2012

State of Israel
Municipality of Tel Aviv-Yafo
Embassy of the
United States of America

Dated: 3/29/2012

Ayal Rosenthal
Ayal Rosenthal

On March 26th, 2012, Ayal Rosenthal, a person ^{produced US passport as} known to me, ^{identification} personally appeared before me and acknowledged executing the foregoing Consent.

Embassy of the United States of America
Consular Section - ACS/PPT
71 Hayarkon Street
Tel Aviv, Israel 63903

Julia Forrest **Julia Forrest**
Notary Public
Consular Associate
Commission expires: **INDEFINITE**

Dated: _____

Oren Rosenthal

On _____, 2012, _____, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent.

Notary Public
Commission expires:

Approved as to form:

Robert N. Knuts
Park & Jensen LLP
630 Third Avenue
New York, NY 10017
Attorney for Defendant Oren Rosenthal


Dated: _____

Ayal Rosenthal

On _____, 2012, _____, a person known to me,
personally appeared before me and acknowledged executing the foregoing Consent.

Notary Public
Commission expires:

Dated: 3/20/12




Oren Rosenthal

On March 20, 2012, _____, a person known to me,
personally appeared before me and acknowledged executing the foregoing Consent.

*See attached certificate of
acknowledgment*

Notary Public
Commission expires:

Approved as to form:



Robert N. Knuts
Park & Jensen LLP
630 Third Avenue
New York, NY 10017
Attorney for Defendant Oren Rosenthal

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Los Angeles

On March 20, 2012 before me, Leslie C. Toledo
(here insert name and title of the officer)

personally appeared Oren Rosenthal

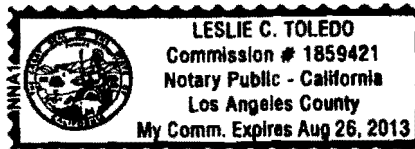
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (s) are subscribed to the within instrument and acknowledged to me that (he) she/they executed the same in (his) her/their authorized capacity (ies), and that by (his) her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Leslie C. Toledo

Signature of Notary Public



(Seal)

ADDITIONAL OPTIONAL INFORMATION

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~ - is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

DESCRIPTION OF THE ATTACHED DOCUMENT

Consent of Defendants, etc.

(Title or description of attached document)

Securities and Exchange Commission v. Axaam Capital Advisors, LLC, et al (07 Civ. 919 (AM))

(Title or description of attached document continued)

Number of Pages 10 Document Date 3/20/12

Notarization done on page #8 of this document

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- Individual (s)
- Corporate Officer

(Title)

- Partner(s)
- Attorney-in-Fact
- Trustee(s)
- Other _____

Dated: 3/20/12

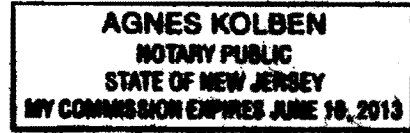
R. Rosenthal
Rivka Rosenthal

On the 20th Day of March, 2012, Rivka Rosenthal, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent.

Agnes Kolben
Notary Public
Commission expires:

Approved as to form:

Robert N. Knuts
Robert N. Knuts
Park & Jensen LLP
630 Third Avenue
New York, NY 10017
Attorney for Relief Defendant Rivka Rosenthal



Dated: _____

Efrat Rosenthal

On _____, 2012, _____, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent.

Notary Public
Commission expires:

Approved as to form:

Robert N. Knuts
Park & Jensen LLP
630 Third Avenue
New York, NY 10017
Attorney for Relief Defendant Efrat Rosenthal

Dated: _____

Rivka Rosenthal

On _____, 2012, _____, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent.

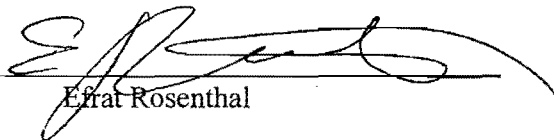
Notary Public

Commission expires:

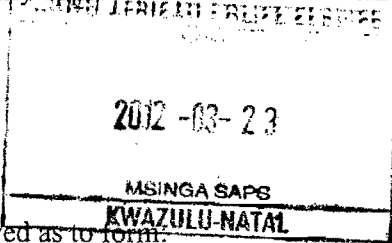
Approved as to form:

Robert N. Knuts
Park & Jensen LLP
630 Third Avenue
New York, NY 10017
Attorney for Relief Defendant Rivka Rosenthal


Dated: 23.03.2012

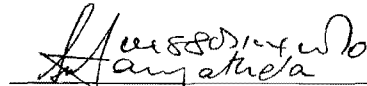

Efrat Rosenthal

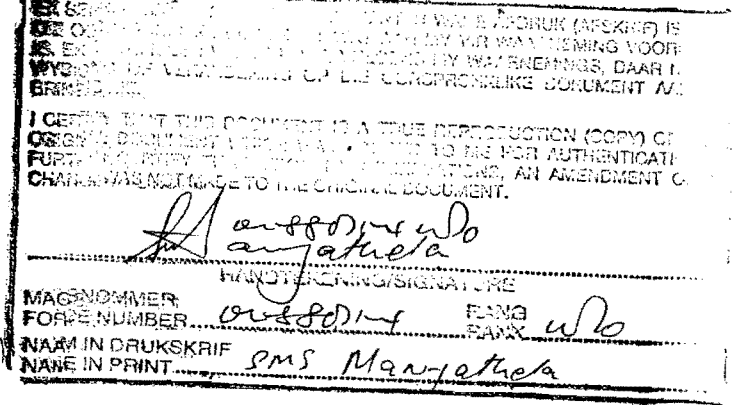
On March 23, 2012, Efrat Rosenthal, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent.



Approved as to form:


Robert N. Knuts
Park & Jensen LLP
630 Third Avenue
New York, NY 10017
Attorney for Relief Defendant Efrat Rosenthal


S. Manjetha
Notary Public
Commission expires:



Dated: 3/22/12

Noga Rosenthal
Noga Delshad Rosenthal

On March 22nd, 2012, Noga N Rosenthal, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent.

Jane Jin
Notary Public
Commission expires: 01-16-2015

Approved as to form:

Robert N. Knuts

Robert N. Knuts
Park & Jensen LLP
630 Third Avenue
New York, NY 10017
Attorney for Relief Defendant Noga Delshad Rosenthal

JANE JIN
Notary Public, State of New York
Qualified in Queens County
Reg. No. 01J18158612
My Commission Expires 01-16-2015

EXHIBIT A

Plea Allocution Excerpts

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 07 CR 069

:
-against- :
United States Courthouse
Brooklyn, New York

ZVI ROSENTHAL, et al., :
February 8, 2007
Defendants. : 11:00 o'clock a.m.

----- X

TRANSCRIPT OF PLEADING
BEFORE THE HONORABLE JOHN GLEESON
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government: ROSLYNN R. MAUSKOPF
United States Attorney
BY: PAUL WEINSTEIN
SEAN CASEY
Assistant United States Attorneys
One Pierrepont Plaza
Brooklyn, New York

For the Defendants: PETER J. DRISCOLL, ESQ.
Attorney for Zvi Rosenthal

PAUL SCHECHTMAN, ESQ.
GLEN KOPP, ESQ.
Attorneys for Amir Rosenthal

GR OCR CM CRR CSR

Plea Allocution Excerpts

2

1 GERALD LEFCOURT, ESQ.
2 RENATO STABILE, ESQ.
Attorneys for David Heyman

3 NINA M. BEATTIE, ESQ.
4 RACHEL DOFT, ESQ.
Attorneys for Ayal Rosenthal

5
6 Court Reporter: Gene Rudolph
225 Cadman Plaza East
7 Brooklyn, New York
(718) 613-2538

8
9 Proceedings recorded by mechanical stenography, transcript
10 produced by computer-aided transcription.

11

12

13 THE CLERK: United States versus Rosenthal, et al.
14 Counsel, please state your appearances.

15 MR. CASEY: Sean Casey and Paul Weinstein for the
16 United States.

17 Good morning, Your Honor.

18 MR. DRISCOLL: Peter Driscoll for Zvi Rosenthal.

19 Good morning.

20 THE COURT: Good morning.

21 MR. SCHECHTMAN: Paul Schechtman. With me is Glen
22 Kopp, for Amir Rosenthal.

23 THE COURT: Nice to see you.

24 MR. LEFCOURT: Gerald Lefcourt. With me is Renato
25 Stabile for David Heyman.

GR OCR CM CRR CSR

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Plea Allocation Excerpts

1 THE COURT: Nice to see you.
2 MS. BEATTIE: Nina Beattie. With me is Rachel Doft.
3 THE COURT: Good morning to both of you.
4 Your name is Nina Beattie?
5 MS. BEATTIE: Yes.
6 THE COURT: Is that the correct pronunciation?
7 MS. BEATTIE: Or Beattie.
8 THE COURT: Beattie. Okay.
9 I have changed my mind. Let's do one at a time. It
10 seems very crowded.
11 MR. SCHECHTMAN: If we do, I think it might be
12 easiest if we go first.
13 THE COURT: Fine with me.
14 MR. CASEY: Fine with the government.
15 THE COURT: Let's have -- you've Amir, correct?
16 MR. SCHECHTMAN: Correct, Your Honor.
17 THE COURT: Let's have Amir Rosenthal and his
18 counsel here with the prosecutors. If everyone else could
19 just take a seat at the table. That's a sensible way to
20 proceed.
21 I read what you sent to me. I can't recall whether
22 it is one or more of the defendants had his case assigned to
23 me not at random but related, is that correct?
24 MR. WEINSTEIN: Yes.
25 The first case was 069, with the three defendants.

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Plea Allocution Excerpts
Amir Rosenthal pleading

5

1 want that as well.

2 THE COURT: Hang on to that for one second, please,
3 Mr. Schechtman.

4 Okay. Would you place Mr. Amir Rosenthal under
5 oath, please, Ilene?

6 THE CLERK: Yes, Your Honor.

7 Please raise your right hand.

8 (The defendant duly sworn/affirmed by clerk.)

9 THE CLERK: Please state your name and spell it for
10 the record.

11 THE DEFENDANT: Amir Rosenthal, A M I R,
12 R O S E N T H A L.

13 THE COURT: How old are you?

14 THE DEFENDANT: I just turned twenty-nine.

15 THE COURT: How far have you gone in school?

16 THE DEFENDANT: Graduated school.

17 THE COURT: With what degree?

18 THE DEFENDANT: JD.

19 THE COURT: Have you been able to communicate
20 effectively with your attorney?

21 THE DEFENDANT: Yes, Your Honor.

Amir Rosenthal pleading

21

1 THE COURT: Has anybody promised you what your
2 sentence will be?

3 THE DEFENDANT: No, sir.

4 THE COURT: Tell me, briefly, why you are guilty.

5 MR. SCHECHTMAN: Judge, if it is acceptable to the
6 Court, we have written out a statement that I believe does it

Plea Allocution Excerpts

7 clearly.

8 THE COURT: Sure.

9 THE DEFENDANT: Judge Gleeson, the short of it is
10 that I traded in Taro securities on material, non-public
11 information that I received from my father, who was an
12 employee at Taro. I know my father was breaching his
13 fiduciary duty to Taro in giving me the information; that he
14 intended for me to profit on the information; and that I was
15 acting in violation of the securities law when I executed
16 options trades and profited on that information. Thus, for
17 example, in May 2001, I traded on inside information about the
18 FDA approval of Taro's CB Cream application. The approval was
19 not yet publicly announced when my father told me about it and
20 I traded. And in July 2004, I traded on inside information
21 about Taro's sales shortfall in the second quarter. The
22 shortfall was not yet publicly announced when my father told
23 me about it, and I traded. I also tipped others, including
24 David Heyman, about what I improperly knew, and he, in turn,
25 provided me with non-public information that he had learned

GR OCR CM CRR CSR

Amir Rosenthal pleading

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1 from his job at Ernst and Young.

2 I know what I did was wrong and deeply regret my
3 actions.

4 THE COURT: All right. Anything further?

5 MR. CASEY: Nothing further.

6 THE COURT: What is the identity of this large
7 New York law firm in the paragraph four?

Plea Allocution Excerpts

8 THE DEFENDANT: Thacher Proffit and wood.

9 THE COURT: Okay. I find that Mr. Amir Rosenthal is
10 acting knowingly and voluntarily, he understands the rights he
11 is waiving by pleading guilty, the consequences he faces if he
12 pleads guilty. I find there is a factual basis for his plea
13 so I accept the plea.

14 what's our date for sentence?

15 THE CLERK: May 18th, at 2:00 pm.

16 THE COURT: Okay. Is that date and time sufficient
17 for each side? For both sides?

18 MR. CASEY: Yes, Your Honor.

19 MR. SCHECHTMAN: Yes, Your Honor.

20 Judge, can we return briefly to bail?

21 THE COURT: It looks from what is before me that

Zvi Rosenthal pleading

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1 THE COURT: All right. Come on up, sir.

2 Okay. Good morning again, Mr. Driscoll.

3 MR. DRISCOLL: Good morning, Your Honor.

4 THE COURT: Is there a signed plea agreement?

5 MR. WEINSTEIN: Yes, there is.

6 THE COURT: Mark that as number two, please.

7 THE CLERK: Yes, Your Honor.

8 THE COURT: Please swear the defendant.

9 THE CLERK: Please raise your right hand.

10 (The defendant duly sworn/affirmed by clerk.)

11 THE CLERK: Please state and spell your full name.

12 THE DEFENDANT: Zvi Rosenthal, Z V I,

13 R O S E N T H A L.

14 THE COURT: How old are you, sir?

15 THE DEFENDANT: Sixty-two.

Plea Allocution Excerpts

16 THE COURT: How far did you go in school?
17 THE DEFENDANT: An MBA.
18 THE COURT: Have you been able to communicate
19 effectively with Mr. Driscoll?
20 THE DEFENDANT: Yes.
21 THE COURT: Are you satisfied so far with the
22 representations he's given to you?
23 THE DEFENDANT: Yes, sir.

Zvi Rosenthal pleading

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1 THE COURT: Is this package deal in which other
2 people's ability to plead guilty may in their view be
3 conditioned on your entering a plea of guilty as well, any of
4 your codefendants pressuring you to plead guilty?
5 THE DEFENDANT: No, sir.
6 THE COURT: Any promises made to you other than
7 those in the written plea agreement to get you to plead
8 guilty?
9 THE DEFENDANT: No, sir.
10 THE COURT: Tell me, briefly, why you are guilty.
11 Do you need a break?
12 MR. DRISCOLL: Are you okay?
13 He'll be all right.
14 THE DEFENDANT: Can I read it?
15 MR. DRISCOLL: Yes.
16 THE COURT: Yes.
17 THE DEFENDANT: Your Honor, I was vice president
18 of --
19 THE COURT: Excuse me.
20 Do you have a copy of that?
21 MR. DRISCOLL: Yes.
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Plea Allocution Excerpts

22 I am going to surrender the one copy to Mr. Rudolph
23 when we are done. I apologize.

24 THE COURT: Go ahead. Read slowly. Everybody reads
25 fast once they start reading. Read slowly.

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Zvi Rosenthal pleading

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1 THE DEFENDANT: I was Vice President of Materials
2 Management and Logistics for Taro Pharmaceuticals. Between
3 2001 and 2005, I disclosed material, non-public information
4 concerning Taro to Amir Rosenthal, my son, knowing that with
5 this information he may trade in Taro securities.

6 THE COURT: Okay. Is there anything further?

7 MR. DRISCOLL: Your Honor, we also acknowledge Overt
8 Act A. I believe Mr. Weinstein is correct, that we should do
9 that in terms of the conspiracy. We confirm that particular
10 act.

11 THE DEFENDANT: Yes, that's 2004.

12 THE COURT: Okay. You provided your son Amir with
13 material, non-public information about the sales results of
14 Taro in the second quarter of 2004, is that correct?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Okay.

17 MR. DRISCOLL: Thank you.

18 THE COURT: Anything further?

19 MR. DRISCOLL: No.

20 MR. WEINSTEIN: No, Your Honor.

21 THE COURT: I find that Mr. Rosenthal is acting
22 knowingly and voluntarily. He understands his rights and he
Page 8

Plea Allocution Excerpts

23 understands the consequences that could flow from pleading
24 guilty. I find there is a factual basis for his plea of
25 guilty. So I accept the plea.

GR OCR CM CRR CSR

Ayal Rosenthal pleading

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1 THE COURT: Okay. welcome back.
2 Ms. Beattie, I understand your client wants to waive
3 indictment and plead guilty? Correct?
4 MS. BEATTIE: That is correct, Your Honor.
5 THE COURT: All right. Ilene, would you please
6 swear the defendant?
7 THE CLERK: Yes, Your Honor.
8 Please raise your right hand.
9 (The defendant duly sworn/affirmed by clerk.)
10 THE CLERK: Please state and spell your full name.
11 THE DEFENDANT: Ayal Ross, A Y A L,
12 R O S E N T H A L.
13 THE COURT: How old are you?
14 THE DEFENDANT: Twenty-six.
15 THE COURT: How far did you go in school?
16 THE DEFENDANT: I just finished my MBA.
17 THE COURT: Have you been able to communicate
18 effectively with your lawyers?
19 THE DEFENDANT: Yes.
20 THE COURT: Are you satisfied so far with the
21 representation they have provided to you?
22 THE DEFENDANT: Yes.
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Plea Allocution Excerpts

Ayal Rosenthal pleading

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1 THE COURT: How do you plead to this charge, sir,
2 guilty or not guilty?

3 THE DEFENDANT: Guilty.

4 THE COURT: Is anybody pressuring you to get you to
5 plead guilty?

6 THE DEFENDANT: No, Your Honor.

7 THE COURT: Are you making this plea voluntarily and
8 of your own free will after consulting with your lawyer about
9 your options.

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Apart from the promises made to you in
12 writing in this agreement, and these other understandings that
13 have been expressed here today, are there any promises or
14 representations that I don't know about that have been made to
15 you to get you to plead guilty?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: Has anybody promised you what your
18 sentence will be?

19 THE DEFENDANT: No, Your Honor.

20 THE COURT: Tell me briefly why you are guilty.

21 THE DEFENDANT: Your Honor, do you mind if I read?

22 THE COURT: I don't.

23 THE DEFENDANT: Your Honor --

24 THE COURT: Just read slowly.

25 THE DEFENDANT: Your Honor, in or about May 2005, in

GR OCR CM CRR CSR

Plea Allocation Excerpts

Ayal Rosenthal pleading

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1 a discussion about my work, I agreed to tell my brother Amir
2 Rosenthal the names of two companies that were involved in a
3 confidential acquisition that I was working on. I knew that
4 my brother Amir was an active trader of securities. I
5 consciously turned a blind eye to what would have otherwise
6 been obvious to me; that my brother was going to trade, in
7 violation of United States securities laws on information that
8 I provided to him.

9 I accept responsibility for my actions and am very
10 sorry for what I did.

11 THE COURT: Okay. Is that sufficient in the
12 government's view?

13 MR. WEINSTEIN: Yes, Your Honor.

14 THE COURT: Can you join a conspiracy, can you
15 consciously avoid --

16 MS. BEATTIE: You can, Your Honor. There is a
17 Second Circuit case on point. If you --

18 THE COURT: Sboboda?

19 MS. BEATTIE: Yes, Your Honor.

20 THE COURT: This is a great book.

21 MS. BEATTIE: That was quick. I am impressed.

United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213

Date:

In Re:

-v-

Case #: ()

Dear Litigant,

Enclosed is a copy of the judgment entered in your case.

Your attention is directed to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, which requires that if you wish to appeal the judgment in your case, you must file a notice of appeal within 30 days of the date of entry of the judgment (60 days if the United States or an officer or agency of the United States is a party).

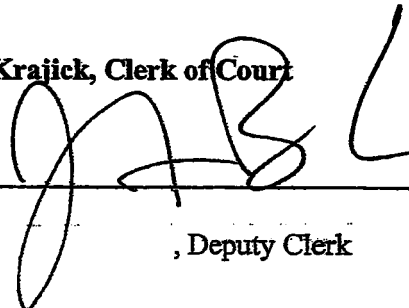
If you wish to appeal the judgment but for any reason you are unable to file your notice of appeal within the required time, you may make a motion for an extension of time in accordance with the provision of Fed. R. App. P. 4(a)(5). That rule requires you to show "excusable neglect" or "good cause" for your failure to file your notice of appeal within the time allowed. Any such motion must first be served upon the other parties and then filed with the Pro Se Office no later than 60 days from the date of entry of the judgment (90 days if the United States or an officer or agency of the United States is a party).

The enclosed Forms 1, 2 and 3 cover some common situations, and you may choose to use one of them if appropriate to your circumstances.

The Filing fee for a notice of appeal is \$5.00 and the appellate docketing fee is \$450.00 payable to the "Clerk of the Court, USDC, SDNY" by certified check, money order or cash. No personal checks are accepted.

Ruby J. Krajick, Clerk of Court

by: _____



, Deputy Clerk

APPEAL FORMS

United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213

-----X
|
-V-
|
-----X

NOTICE OF APPEAL

civ. ()

Notice is hereby given that _____
(party)
hereby appeals to the United States Court of Appeals for the Second Circuit from the Judgment [describe it]

entered in this action on the _____ day of _____, _____
(day) (month) (year)

(Signature)

(Address)

(City, State and Zip Code)

Date: _____

() _____
(Telephone Number)

Note: You may use this form to take an appeal provided that it is received by the office of the Clerk of the District Court within 30 days of the date on which the judgment was entered (60 days if the United States or an officer or agency of the United States is a party).

FORM 1

United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213

MOTION FOR EXTENSION OF TIME
TO FILE A NOTICE OF APPEAL

-V-

civ. ()

Pursuant to Fed. R. App. P. 4(a)(5), _____ respectfully
requests leave to file the within notice of appeal out of time.

_____ (party)
desires to appeal the judgment in this action entered on _____ (party)
_____ (day) but failed to file a
notice of appeal within the required number of days because:

[Explain here the "excusable neglect" or "good cause" which led to your failure to file a notice of appeal within the required number of days.]

(Signature)

(Address)

(City, State and Zip Code)

Date: _____ () _____
(Telephone Number)

Note: You may use this form, together with a copy of Form 1, if you are seeking to appeal a judgment and did not file a copy of Form 1 within the required time. If you follow this procedure, these forms must be received in the office of the Clerk of the District Court no later than 60 days of the date which the judgment was entered (90 days if the United States or an officer or agency of the United States is a party).

District Court will receive it within the 30 days of the date on which the judgment was entered (60 days if the United States or an officer or agency of the United States is a party).

FORM 3

United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213

-----X
-V-
-----X

AFFIRMATION OF SERVICE

civ. ()

I, _____, declare under penalty of perjury that I have served a copy of the attached _____

upon _____

whose address is: _____

Date: _____
New York, New York

(Signature)

(Address)

(City, State and Zip Code)

FORM 4

APPEAL FORMS

FORM 2

**United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213**

-V-

**NOTICE OF APPEAL
AND
MOTION FOR EXTENSION OF TIME**

civ. ()

1. Notice is hereby given that _____ hereby appeals to
(party)
the United States Court of Appeals for the Second Circuit from the judgment entered on _____.
[Give a description of the judgment]

2. In the event that this form was not received in the Clerk's office within the required time
_____ respectfully requests the court to grant an extension of time in
(party)
accordance with Fed. R. App. P. 4(a)(5).

a. In support of this request, _____ states that
(party)
this Court's judgment was received on _____ and that this form was mailed to the
(date)
court on _____
(date)

(Signature)

(Address)

(City, State and Zip Code)

Date: _____ () _____
(Telephone Number)

Note: You may use this form if you are mailing your notice of appeal and are not sure the Clerk of the

APPEAL FORMS