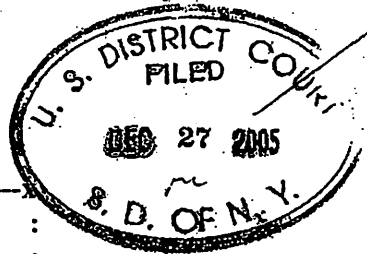


**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

#54 0



**SECURITIES AND EXCHANGE COMMISSION,**

**Plaintiff,**

**- against -**

**02 Civ. 8626 (JES)**

**eWEALTH SECURITIES, INC.,  
eWEALTH HOLDINGS, INC.,  
NEIL FORMISANO, DONALD  
CUNNINGHAM, JONATHAN  
ARONICA, and STEVEN  
MASTROSIMONE,**

**Defendants.**

#05, 2081

**AMENDED FINAL JUDGMENT  
OF PERMANENT INJUNCTION  
AND OTHER RELIEF AS TO  
DEFENDANT NEIL FORMISANO**

Plaintiff Securities and Exchange Commission ("Commission"), having filed a Complaint ("Complaint") on October 29, 2002, charging Defendant Neil Formisano ("Formisano") with violations of Sections 5(a), 5(c), and 17(a), of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77e(a), 15 U.S.C. § 77e(c), and 15 U.S.C. § 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] thereunder, and aiding and abetting violations of Sections 17(a) and 17(b) of the Exchange Act [15 U.S.C. § 78q(a), and 15 U.S.C. § 78q(b)] and Rule 17a-4(j) [17 C.F.R. § 240.17a-4(j)] thereunder; and the Court, having entered on December 9, 2002 a Preliminary Injunction and Order Freezing Assets and Granting Other Relief ("Preliminary Injunction Order") against Formisano; and the Commission, having submitted a motion to the Court requesting an order: (1) granting summary judgment with respect to the all the Commission's

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claims against Formisano; (2) requiring that Formisano disgorge \$9,798,950 in ill-gotten profits he received from his unlawful conduct, plus \$3,907,300.62 in prejudgment interest; (3) assessing third-tier civil penalties against the Defendants under Section 21(d)(3) of the Exchange Act; and (4) such other and further relief as the Court may deem just and proper, and the Court, having granted the Commission's Motion; and the Court, having entered on October 21, 2005 a Final Judgment of Permanent Injunction and Other Relief as to Defendant Neil Formisano that contained a clerical mistake; and the Court, pursuant to Federal Rule of Civil Procedure 60(a), having corrected the clerical mistake in this **Amended Final Judgment Of Permanent Injunction And Other Relief As To Defendant Neil Formisano ("Amended Final Judgment")**:

I.

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Formisano, Formisano's agents, servants, employees, attorneys, assigns, and all persons in active concert or participation with them who receive actual notice of this **Amended Final Judgment** by personal service or otherwise are permanently restrained and enjoined from violating Section 5 of the Securities Act [15 U.S.C. § 77e] by, directly or indirectly, in the absence of any applicable exemption:

- (a) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;

- (b) Unless a registration statement is in effect as to a security, carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale; or
- (c) Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed with the Commission as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding of examination under Section 8 of the Securities Act [15 U.S.C. § 77h].

**II.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Formisano, Formisano's agents, servants, employees, attorneys, assigns, and all persons in active concert or participation with them who receive actual notice of this **Amended Final 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.

### III.

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Formisano, Formisano's agents, servants, employees, attorneys, assigns, and all persons in active concert or participation with them who receive actual notice of this **Amended Final Judgment** by personal service or otherwise are permanently restrained and enjoined from violating Section 17(a) of 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.

**IV.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Formisano, Formisano's agents, servants, employees, and attorneys, assigns and all persons in active concert or participation with them who receive actual notice of this **Amended Final Judgment** by personal service or otherwise are permanently restrained and enjoined from aiding and abetting any violation of Section 17(a) of the Exchange Act [15 U.S.C. § 78q(a)] and Rule 17a-4(j) thereunder [17 C.F.R. § 240.17a-4(j)], by knowingly providing substantial assistance to another person who, in violation of Section 17(a) of the Exchange Act and Rule and 17a-4 thereunder, fails or omits, directly or indirectly, to make, keep, or furnish all records within the scope of Section 17(a) of the Exchange Act and Rule 17a-4(j) thereunder.

**V.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Formisano, Formisano's agents, servants, employees, and attorneys, assigns and all persons in active concert or participation with them who receive actual notice of this **Amended Final Judgment** by personal service or otherwise are permanently restrained and enjoined from aiding and abetting any violation of Section 17(b) of the Exchange Act [15 U.S.C. § 78q(b)], by knowingly providing substantial assistance to another person who, in violation of Section 17(b) of the Exchange Act, fails or omits, directly or indirectly, to make its records available for examination by representatives of the Commission.

**VI.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Formisano is permanently barred from participating in an offering of penny stock, including engaging in activities with a broker, dealer, or issuer for purposes of issuing, trading, or inducing or attempting to induce the purchase or sale of any penny stock. A penny stock is any equity security that has a price of less than five dollars, except as provided in Rule 3a51-1 under the Exchange Act [17 C.F.R. 240.3a51-1].

**VII.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Formisano shall disgorge his ill-gotten gains from the conduct alleged in the Complaint in the amount of \$9,798,950, plus prejudgment interest thereon in the amount of \$3,907,300.62, for a total of \$13,706,250.62. Any amounts paid by Formisano pursuant to the criminal restitution order against him in U.S. v. Formisano, 03 cr. 362, (DC)(SDNY) shall be credited against the disgorgement amount. Such payment shall be made to the Clerk of this Court, together with a cover letter identifying Formisano as a defendant 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 **Amended Final Judgment**. A copy of the cover letter and payment shall be simultaneously transmitted to Mark K. Schonfeld, Esq., Regional Director, U.S. Securities and Exchange Commission, Northeast Regional Office, 3 World Financial Center, Room 4300, New York, New York 10281, Attn: Elisabeth L. Goot, Esq.

The Clerk shall deposit the payment into an interest bearing account with the Court Registry Investment System ("CRIS"). The payment, together with any interest and income earned thereon, shall be held by the CRIS until further order of the Court. In accordance with 28 U.S.C. § 1914 and the guidelines set by the Director of the Administrative Office of the United States Courts, the Clerk is directed, without further order of this Court, to deduct from the income earned on the money in the Fund a fee equal to ten percent of the income earned on the Fund. Such fee shall not exceed that authorized by the Judicial Conference of the United States.

#### VIII.

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Formisano shall pay a third-tier civil penalty in the amount of \$550,000 pursuant to Section 20(d)(2)(C) of the Securities Act [15 U.S.C. §§ 77t(d)(2)(C)] and Section 21 (d)(3)(B)(iii) of the Exchange Act [15 U.S.C. § 78u(d)(3)(B)(iii)], and Rule 17 CFR 201.1002 thereunder. Such payment shall be made to the United States Treasury ("Treasury") within thirty (30) business days from the date of entry of this **Amended Final Judgment** by cashier's check, certified check, U.S. postal money order, or bank money order payable to the order of the "United States Securities and Exchange Commission." The payment shall be transmitted to the Comptroller, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, under cover of letter identifying the name and civil action number of this litigation and the name of Defendant and identifying the payment as disgorgement. A copy of the cover letter and payment shall be simultaneously transmitted to Mark K. Schonfeld, Esq., Regional Director, U.S. Securities and Exchange Commission, Northeast Regional Office, 3 World Financial Center, Room 4300, New York, New York 10281, Attn: Elisabeth L. Goot, Esq.

**IX.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that all assets attributable to Formisano that are frozen pursuant to the Preliminary Injunction Order shall be liquidated and disbursed to the United States District Court Cashier for the Southern District of New York for distribution pursuant to the criminal restitution order against Formisano. Such disbursement shall be accompanied by cover letter specifying that the disbursement is for distribution pursuant to the restitution order in the case U.S. v. Formisano, 03 cr. 362, (DC)(SDNY). Any such assets disbursed to the United States District Court Cashier for the Southern District of New York and distributed pursuant to the criminal restitution order against Formisano shall be credited against the disgorgement amount in Paragraph VII. above.

**X.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that, pursuant to Federal Rule of Civil Procedure 65(d), this **Amended Final Judgment** shall be binding on Formisano, his officers, agents, servants, employees, attorneys, and upon those persons in active concert or participation with her who receive actual notice of this **Amended Final Judgment** by personal service or otherwise.

**XI.**

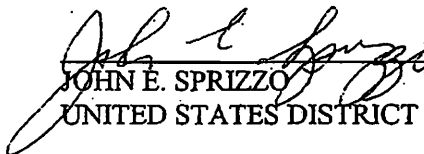
**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that this Court shall retain jurisdiction of this matter for all purposes, including, but not limited to, implementing and enforcing the terms and conditions of this **Amended Final Judgment**.



XII.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that there is no just reason for delay, and the Clerk of the Court is hereby directed to enter this **Amended Final Judgment** pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

SO ORDERED:

  
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JOHN E. SPRIZZO  
UNITED STATES DISTRICT COURT JUDGE

Date:

12-23-05

THIS DOCUMENT WAS ENTERED  
ON THE EDCRST ON 12/27/05