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James N. Hatten, Clerk
By: G. M. Cauce
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

**SECURITIES AND EXCHANGE COMMISSION,**

**Plaintiff,**

**v.**

**ROSS OWEN HAUGEN,**

**Defendant.**

**CIVIL ACTION FILE NO. 1:09-CV-0129-ODE**

**ORDER GRANTING SEC'S MOTION FOR SUMMARY JUDGMENT, ENTERING FINAL JUDGMENT AND IMPOSING DISGORGEMENT, PREJUDGMENT INTEREST AND CIVIL PENALTY AGAINST DEFENDANT HAUGEN**

Plaintiff Securities and Exchange Commission ("Commission") has filed its complaint herein. Defendant Haugen has previously entered his general appearance, and has admitted the in personam jurisdiction of this Court over him and the jurisdiction of this Court over the subject matter of the action.

By order of this Court entered February 5, 2009, Haugen was permanently enjoined from further violations of the antifraud provisions and unregistered broker dealer provisions of the federal securities laws. That order also directed that Haugen "shall pay disgorgement and pre-judgment

interest in an amount to be resolved upon motion of the Commission at a later date." In addition, the order also provided that Haugen "shall pay a civil penalty in an amount to be resolved upon motion of the Commission at a later date." The order further provided, that for purposes of the Commission's motion to set disgorgement, prejudgment interest and to impose civil penalties, the allegations of the Commission's complaint shall be deemed to be true, and that Haugen may not by way of defense contend that disgorgement, prejudgment interest and a civil penalty should not be imposed. Defendant Haugen stipulated to the terms of the February 5, 2009 order against him.

The Commission's motion for summary judgment and to set disgorgement, prejudgment interest and a civil penalty against Haugen is currently before this Court. All of the allegations of the Commission's complaint are deemed to be true for purposes of this motion for summary judgment. The Commission's motion is also based upon the Declaration of Pat Huddleston, II, who serves as the court appointed Receiver in the initial case filed by the Commission related to this matter. Huddleston's Declaration sets forth the amount by which Haugen profited and benefitted from his fraud. In the Receiver's declaration in support of this motion for summary judgment, he concludes that defendant Haugen benefitted from the

fraud in the amount of $1,242,742.79 (Huddleston Declaration, ¶ 6-10). The spreadsheet exhibit attached to the Receiver's Declaration sets forth the precise and numerous transactions personally and through two entities under Haugen's control, by which Haugen received the benefit of his fraud at the expense of the Coadum investors. The Court concludes that disgorgement is appropriate against defendant Haugen in the amount by which he benefitted from the fraud, or $1,242,742.79.

The Sullivan Declaration provides the SEC's prejudgment interest calculation for defendant Haugen, which totals $125,316.63. The Court concludes that the total disgorgement and interest that should be imposed against defendant Haugen equals $1,368,059.42. The amount of prejudgment interest sought is reasonable, in that it is based upon the same quarterly interest rates used by the Internal Revenue Service for unpaid taxes.

The Commission also seeks summary judgment on the issue of a civil penalty against defendant Haugen. Section 20(d) of the Securities Act of 1933 ("Securities Act") and Section 21(d)(3) of the Securities Exchange Act of 1934 ("Exchange Act") provide that the Commission may seek to have a court impose civil penalties for any violations of those acts. Civil monetary penalties pursuant to the Securities Act and the Exchange Act are required to

be adjusted for inflation. Haugen's conduct herein occurred in 2006, 2007 and 2008, a period after the time that the adjustment became effective in early 2001. 17 C.F.R. § 201.1001, Adjustment of Civil Monetary Penalties - 1996. LEXSEE 66 FR 8761 at 8762. The amounts of civil monetary penalties applicable herein are, therefore, the amounts for the relevant time of the violations.

First tier penalties for any violation (arising from conduct that as here, occurred after February 1, 2001) is appropriate in an amount not to exceed the greater of (a) $6,500 for any natural person and $60,000 for any other person, or (b) the gross amount of pecuniary gain for the defendant. Where fraud has occurred, the maximum penalty amounts rise to the greater of (a) $60,000 for any natural person and $300,000 for any other person, or (b) the gross amount of pecuniary gain for the defendant. When a defendant's violative conduct involved fraud and resulted in substantial losses to others, or significant risk of losses, a district court may impose a civil penalty in an amount not to exceed the greater of (a) $120,000 for a natural person and $600,000 for any other person, or (b) the gross amount of pecuniary gain for the defendant.[1]

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[1] Civil monetary penalties pursuant to the Securities Act and the Exchange Act are required to be adjusted for inflation. Haugen's conduct herein occurred in 2006, 2007 and 2008, after the time that the adjustment became effective in early 2001. 17 C.F.R.

This Court has concluded that it should impose a civil penalty against Haugen. He served as Coadum's vice president of sales, was the primary salesman of the securities offerings at issue in this matter and therefore operated as the central point of the scheme. While acting through the use of fraud and deceit, Haugen obtained investor funds from the offer and sale of securities by the use of misleading financial information, false representations based upon the *series* of fraudulent securities offerings in which Haugen engaged over a long period of time. Haugen disseminated false information to the Coadum investors including false representations regarding principal preservation and lack of risk; false representations regarding fictitious returns; false representations he made regarding non-payment of commissions when he knew he was in fact being paid sales commissions; and false representations that Haugen made to investors regarding Price Waterhouse serving as auditor to Coadum, when in reality no such relationship existed. Haugen clearly acted with scienter. Haugen's activities clearly involved fraud and deceit. Given the repeated incidents of fraudulent solicitations by Haugen, and given the fact that his activity

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201.1001, Adjustment of civil monetary penalties - 1996. LEXSEE 66 FR 8761 at 8762. The amounts of civil monetary penalties applicable herein are, therefore, the amounts for the relevant time of the violations.

resulted in substantial losses to investors, a substantial civil penalty is appropriate.

**Material Facts To Which No Genuine Issue Exists**

From all of the evidence before the Court, it appears that no genuine issue exists as to the following facts:

On February 3, 2009, defendant Haugen executed a stipulation and consented to the entry of an order of permanent injunction and other relief in this litigation, in the form ultimately entered by this Court against him on February 5, 2009. (Statement of Material Facts ("SMF") ¶1). The Order entered by the Court provided, with Haugen's stipulation thereto, that the defendant "shall pay" disgorgement, prejudgment interest and civil penalties in amounts to be resolved by motion of the Commission, and provided explicitly that for purposes of this motion, *"the allegations of the Commission's complaint shall be deemed to be true."* (SMF ¶2). The Order further provided that Haugen may not contend, by way of defense, that disgorgement, prejudgment interest and civil penalties should not be imposed. (Ex. 2 [Order, ¶ V-VI]. (SMF ¶2). Haugen served as vice president of sales and the primary salesman of securities sold in the offering fraud that is the subject matter of SEC v. Coadum Advisors, Inc., et al., Civil

Action File No. 1:08-CV-0011-ODE (N.D. Ga.), a civil action filed on an emergency basis early in 2008. (SMF ¶3).

From at least January 2006 through January 2008, Coadum Advisors, Inc. ("Coadum") and Mansell Capital Partners III, LLC ("Mansell") fraudulently raised approximately $30 million from approximately 150 investors who purchased interests in four entities, Coadum Capital Fund 1, LLC ("Coadum 1"), Coadum Capital Fund II, LP ("Coadum II"), Coadum Capital Fund III, LP ("Coadum III") and Mansell Acquisition Company LP ("MAC"). (SMF ¶4). Haugen served as Vice President of Sales and Marketing for Coadum from approximately early 2006 through September 2007. In that capacity, Haugen directly solicited and sold more than 50% of the Coadum securities in the offerings. (SMF ¶5).

The private placement memoranda for the four offerings ("PPMs"), all of which made similar representations, described an investment objective involving "risk-controlled" strategies consisting of purchasing AA or better rated securities at one price, and simultaneously selling the securities at a higher price, generating a profit on the price difference, which Coadum and Mansell referred to as "commercial trading programs." (SMF ¶6). At least some investors were assured of from 3% to 6% (or in one investment 2.5 percent to 8 percent) return per month on their initial investments. The funds

from the offerings were commingled in accounts controlled by Coadum or Mansell. (SMF ¶7).

Coadum and Mansell invested the majority of the funds through a Malta based "investment platform" which in turn invested the funds in related entities which never began operation or provided any returns. In the meantime, Coadum and Mansell falsely represented in monthly account statements to investors that the investors had been earning approximately four percent per month and that all or most of the investors' principal was in escrow. (SMF ¶8). Contrary to representations to investors, Coadum and Mansell "borrowed" approximately $3.4 million of, or against, the investors' funds and disbursed to apparently related parties approximately an additional $5 million. (SMF ¶9). Haugen told investors, falsely, that their investment principal was risk free, insured and never left the escrow account or was otherwise guaranteed against loss. In fact, Haugen knew that investors' funds were being invested in off-shore trading programs. (SMF ¶10).

Trading profits were purportedly earned in a "non-recourse" margin account. Although the PPMs represented that no commissions would be paid on the investments, and that the promoters would be compensated based on a percentage of earnings, Haugen received substantial commissions from investor funds prior to earnings on those funds (which never happened).

(SMF ¶11). Furthermore, Haugen also recruited other salesmen and received a portion of their commissions. (SMF ¶12). Haugen was also associated with a broker-dealer until September 2006, but did not sell the investments through that broker-dealer and was not registered as a broker-dealer at any time. (SMF ¶13). Defendant Haugen, by virtue of his conduct, directly or indirectly, has engaged and, unless enjoined, will engage in violations of Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)], and Sections 10(b) and 15(a) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5]. (SMF ¶14).

**The Securities Offerings**

Between January and May 2006, Coadum solicited residents of Canada and the United States to invest in Coadum 1. Sales representatives promised investors a "perfect blend" of a secure principal and earnings of 2.5-8% per month. (SMF ¶15). In May 2006, the Alberta Securities Commission brought an administrative proceeding against Coadum, Coadum 1, and various individuals, alleging fraud and other violations. Although Haugen sold some of the interests, he was not named in that action. (SMF ¶16). Shortly thereafter, Coadum ceased promoting Coadum 1, rolled the investors into Coadum II, and began, largely through the sales

efforts of Haugen, an offering in the United States and Canada of limited partnership interests in Coadum II. (SMF ¶17).

The Coadum II offering took place between July 2006 and July 2007. Haugen, as Vice President of Sales & Marketing, sold the interests himself and recruited other independent salespeople to sell the interests. He was personally responsible for the sales of approximately 70% of that offering. (SMF ¶18). In April 2007, Coadum began selling limited partnership interests in Coadum III, and Haugen was responsible for the sales of approximately 50% of that offering. On August 31, 2007, Mansell began selling interests in MAC, and Haugen was responsible for the sales of approximately 50% of that offering. (SMF ¶19). At least 150 investors (allegedly accredited), located throughout the United States and Canada, bought interests in Coadum 1, Coadum II, Coadum III and MAC. Coadum and Mansell have raised approximately $30 million from investors who purchased interests in the four offerings. (SMF ¶20).

The private placement memoranda ("PPMs") for the offerings described an investment objective involving the general partner or its team of investment managers pursuing a series of risk-controlled strategies. Those strategies allegedly involved purchasing AA or better rated securities at one price, and simultaneously selling the securities at a higher price, generating a

profit on the price difference, which the PPMs referred to as "commercial trading programs." (SMF ¶21). At least some investors were orally assured of at least 3% and at most 6% return per month on their initial investments (2.5 and 8 percent for Coadum I). (SMF ¶22). Investors were permitted to take accrued earnings in cash at the end of each quarter or roll them over into the limited partnership. The PPMs stated that the general partner was allocated, after the return to investors of three percent per quarter (referred to as the "hurdle" rate), a performance share equal to 85% of the appreciation credited to the capital account of each limited partner. The PPMs also provided that the partnerships would reimburse the respective general partner for certain reasonable formation and investment related expenses. (SMF ¶23).

In his sales efforts, Haugen used a powerpoint and other sales materials which varied substantially from the PPMs. Haugen represented to prospective investors, orally and through various sales materials, that investors' funds would be kept in escrow, insured, and never placed at risk. (SMF ¶24). In fact, Haugen was aware that Coadum caused to be wire transferred a substantial majority of $30 million invested to offshore accounts controlled by Exodus Equities, Inc. ("Exodus"), a Malta based entity. The funds were purportedly invested in the Exodus Platinum Fund,

and through Soleil Group Holdings Limited ("Soleil") at banks in Switzerland and Malta. (SMF ¶25).

Exodus Platinum Fund is a Bermuda exempted mutual fund company fund that never launched, never actively traded and never paid any earnings. Soleil, also controlled by Exodus, was purportedly in the "pre REIT process" of collecting funds to establish a REIT in the Netherlands. Coadum wire transferred at least $20 million to Soleil and $5.8 million to Exodus Platinum Fund. (SMF ¶26). The remainder of the investors' funds were transferred to Coadum or Mansell and appear to have been distributed to various entities affiliated with the promoters. Investors were not advised that their funds had been transferred overseas or transferred to entities affiliated with the promoters. (SMF ¶27).

During the fraud, Coadum provided investors with monthly statements reflecting returns of four percent per month. Based on those statements, most investors rolled over their "profits." A small percentage of investors withdrew their money. Approximately $1.7 million in returned principal and "profits" was paid out. (SMF ¶28). The PPMs stated that no commissions would be paid in connection with the offerings and that the investors' entire principal would be used to generate returns. The general partner was to be compensated through a performance share, based on

earnings of the partnership. (SMF ¶29). In fact, Coadum never had any earnings. Coadum "borrowed" $1 million from Coadum 1, $1 million from Coadum II and $1.4 million from investor funds held in escrow. Coadum principals used the loans, which were based on purported anticipated future earnings, which they called "advanced earnings," to pay Haugen approximately $1.5 million in commissions. Haugen also received override commissions from the same "advanced earnings" paid to other salesmen in Minnesota who loosely reported to Haugen. (SMF ¶30).

**Material Misrepresentations and Omissions**

Haugen made various oral misrepresentations and in particular used a powerpoint demonstration to sell the investments that falsely described the investment. Haugen's misrepresentations and omissions included the following. (SMF ¶31).

**1. Principal Preservation, Lack of Risk**

First, although the PPMs made various risk disclosures and did not claim that investors' funds would never leave the escrow account, Haugen made various representations to the effect that investors' principal would never be at risk. (SMF ¶32). Haugen told investors that the principal remained in an escrow account in the investor's name at all times. At least some investors did not receive the PPM until after they made their

investment. (SMF ¶33). A later version of the powerpoint amended the claim to state that the investors' funds would remain in a third party escrow. Haugen further represented that the investment worked by operating a "non-recourse margin account" which allowed the partnership to trade on margin without risking the underlying assets. (SMF ¶34). Haugen's powerpoint also claimed that Coadum profited by using "riskless transactions" which involved purchasing AA or higher securities at one price and simultaneously selling them at a higher price. (SMF ¶35). Haugen emphasized, falsely, that the investor's principal would be FDIC protected up to $100,000. He also represented, falsely, that Coadum had purchased insurance to protect investors' principal above the FDIC limit up to an additional $250,000. (SMF ¶36). A Coadum sales brochure and other written materials made similar statements. One document offered "Principal Preservation," which was purportedly achieved by leaving client funds on deposit at an escrow company and pledging those funds to an asset manager which purportedly provided a U.S. Treasury security equal to the principal amount. (SMF ¶37). The asset manager also purportedly established a line of credit against the principal which was used for trading purposes. The providers of the line of credit purportedly had no recourse against the Treasury security. (SMF ¶38).

According to the representations, this procedure guaranteed that the funds were never at risk. (SMF ¶39). All of the above representations were false. Contrary to his statements, Haugen was fully informed by June 2006 that Coadum investors' funds were routinely being shipped offshore to various earnings "platforms." (SMF ¶40).

**2. Fictitious Returns**

Further, with regards to Haugen's oral misrepresentations, the Court should consider the following. Account statements received by investors were entitled, "PRINCIPAL PRESERVED ALTERNATIVE INVESTMENTS FOR GROWTH-ORIENTED CLIENTS" and reported the client's total amount of investment funds as "Ending Principal Balance In Escrow Account." (SMF ¶41). The statements also included a "Capital Enhancement Program" earnings activity report that reflected the earnings rolled over (assuming the purported earnings have been rolled over). (SMF ¶42). Accordingly, "the ending principal balance in the escrow account" amounted to the investment funds and purported cumulative earnings. (SMF ¶43). Coadum and Mansell falsely represented in those monthly account statements that all or most of the investors' principal was in escrow and they had been earning approximately four percent per month. (SMF ¶44). Based apparently on those representations, the investors generally rolled over their

"profits" or invested additional funds. (SMF ¶45). As noted above, there were no earnings on the funds invested through Exodus. Any funds paid out to investors had only one source – the allegedly escrowed funds that were transferred offshore, and returned to Coadum principals in the form of "advanced earnings," or loans. (SMF ¶46). Haugen used sample versions of the fraudulent statements to solicit new investors. (SMF ¶47).

**3. No Commissions**

Haugen further lied to investors, when he told them he was not paid a sales commission. The PPMs used to solicit the investments, and Haugen's powerpoint, represented that no commissions would be paid in connection with the investments. The PPMs also represented that Coadum would be compensated by receiving a portion of the profits earned by the partnerships. (SMF ¶48). In fact, Haugen received "commissions," totaling approximately $1.5 million from the "advanced earnings" that were returned to Coadum as loans. The payment of commissions, calculated on the amount invested before any actual earnings occurred was in substance no different from a direct sales commission. (SMF ¶49). Haugen was aware that he was being paid commissions from Coadum's "advanced earnings." (SMF ¶50).

**4. Price Waterhouse**

As a final misrepresentation, Haugen's powerpoint represented that the accounting firm Price Waterhouse [sic] was the auditor for Coadum. (SMF ¶51). Price Waterhouse had no relationship with Coadum, and Haugen knew or should have known that no such relationship existed. (SMF ¶52).

## I.

## DISGORGEMENT AND PREJUDGMENT INTEREST AGAINST DEFENDANT HAUGEN

**IT IS HEREBY ORDERED** that Defendant Haugen shall pay disgorgement in the amount of $1,242,742.79, representing the investor funds by which he personally benefitted at the expense of the Coadum investors as a result of his illegal and fraudulent sales of Coadum securities outlined in the Commission's complaint. Pre-judgment interest owed by Haugen from January 3, 2008 through January 27, 2010, totals $125,316.63. Defendant Haugen shall satisfy this obligation by paying $1,368,059.42 within 30 days from the date of the entry of this Final Judgment by cashier's check, certified check, or postal money order made payable to the court appointed Receiver, Pat Huddleston, II; hand-delivered or delivered by overnight delivery service to the Receiver at The Huddleston Law Firm, 1300 Ridenour Boulevard, Suite 200, Kennesaw, Georgia 30152; and submitted under a cover letter which identifies Ross Owen Haugen as a

defendant in these proceedings, a copy of which cover letter and money order or check shall be sent to Edward G. Sullivan, Senior Trial Counsel, Securities and Exchange Commission, 3475 Lenox Road, N.E., Suite 1000, Atlanta, Georgia 30326-1232, within 35 days from the entry of this Final Judgment. By making his payment, Defendant Haugen relinquishes all legal and equitable right, title and interest in such funds, and no part of the funds shall be returned to defendant Haugen. The Receiver shall deposit the funds into an interest bearing account. These funds, together with any interest and income earned thereon (collectively, the "Fund"), shall be held by the Receiver until further order of the Court.

## II.

## CIVIL PENALTY AGAINST DEFENDANT HAUGEN

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that defendant Haugen pay a civil penalty pursuant to Section 20(d) of the Securities Act and Section 21(d)(3) of the Exchange Act. Haugen is ordered to pay the civil penalty in the amount of $________ to the Receiver, Pat Huddleston, II within thirty (30) days from the date of the entry of this Final Judgment by cashier's check, certified check, or postal money order made payable to the Receiver, Pat Huddleston, II; hand-delivered or delivered by overnight delivery service to The Huddleston Law Firm, 1300 Ridenour

Boulevard, Suite 200, Kennesaw, Georgia 30152; and submitted under a cover letter which identifies Ross Owen Haugen as a defendant in these proceedings, a copy of which cover letter and money order or check shall be sent to Edward G. Sullivan, Senior Trial Counsel, Securities and Exchange Commission, 3475 Lenox Road, N.E., Suite 1000, Atlanta, Georgia 30326-1232, within 35 days from the entry of this Final Judgment. The Receiver shall deposit the funds into an interest bearing account. The civil penalty funds paid by Defendant Haugen ("the Penalty Fund"), together with any interest and income earned thereon, shall be held by the Receiver in a separate account designated as such, until further order of the Court. The Court anticipates that it may, post final judgment, oversee and direct a distribution of the civil penalties collected in this matter to investor victims of Coadum's fraud in accordance with the Fair Funds for Investors provision of the Sarbanes-Oxley Act of 2002, 15 U.S.C. § 7246(a)

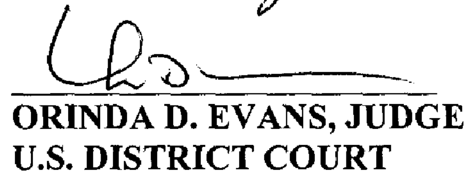
**III.**

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that this Court shall retain jurisdiction over this matter for all purposes, including implementing and enforcing the terms of this Final Judgment, and may order other and further relief that this Court deems appropriate under the circumstances.

IV.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that there is no just reason for delay, and the Clerk is directed to enter a Final Judgment against defendant Haugen pursuant to the terms of this Order, and pursuant to the terms of the Order of Permanent Injunction previously entered in this Court against defendant Haugen on February 5, 2009.

**SO ORDERED**, this 17 day of February, 2010.



**ORINDA D. EVANS, JUDGE**
**U.S. DISTRICT COURT**