

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff

v.

**JOSEPH S. FORTE and
JOSEPH FORTE, L.P.,**

Defendants.

**Civil Action No.
09-CV-00063-PD**

PARTIAL FINAL JUDGMENT AS TO ALL DEFENDANTS

The Securities and Exchange Commission (“the Commission”) having filed a Complaint (“the Complaint”) and Defendants Joseph S. Forte and Joseph Forte, L.P. having entered a general appearance; consented to the Court’s jurisdiction over Defendant and the subject matter of this action; consented to entry of this Partial Final Judgment; waived findings of fact and conclusions of law; and waived any right to appeal from this Partial Final Judgment;

And Defendants Joseph S. Forte (“Forte”) and Joseph Forte, L.P. (the “Partnership”) having admitted the jurisdiction of this Court and the following facts:

1. From 1995 through December 2008, Forte conducted a fraudulent scheme in which he used the money of investors in Forte, L.P. (the “Partnership”) for purposes other than those that he and the Partnership represented to those investors, and in which he continuously misrepresented to investors, among other things, the value of their accounts and of the Partnership;
2. Forte formed the Partnership in 1995. Beginning in 1995 and continuing through 2008, Forte controlled the Partnership;

3. The purpose of the Partnership, as described in the Limited Partnership Agreement, was to invest in “securities futures,” and funds invested in the partnership were to be used for this purpose;
4. Forte and the Partnership, directly or through their agents and others acting on their behalf, raised money from investors through the sale of limited partnership interests in the Partnership. Limited partners of the Partnership were not permitted to have any role in the management or operation of the Partnership, except that the Amended Partnership Agreement allocated joint authority to limited partner John Irwin and Forte with respect to the selection of an accountant for the Partnership. All investments in the Partnership were pooled in bank and/or brokerage accounts;
5. Forte and the Partnership, directly or through their agents or others acting on their behalf, raised money from potential investors through fraudulent misrepresentations that, *inter alia*, the funds collected within the Partnership would be managed as a pool, would be used to trade in securities futures, and were being profitably traded on behalf of the pool and pool participants, and that Forte was a successful securities futures trader;
6. Beginning in 1995 and continuing through 2008, Forte and the Partnership, directly or through their agents or others acting on their behalf, consistently and deliberately misrepresented and falsified the Partnership’s trading performance in statements regularly provided to investors and other persons. By way of example, statements were issued to investors misrepresenting the value of their respective holdings, the income of the Partnership, the fees charged and expenses paid, income earned, and the annualized return on capital in the Partnership. Such statements were issued annually from 1995 through 2000 and quarterly from 2001 through the third quarter of 2008;
7. Throughout this period, Forte and the Partnership, directly or through their agents or others acting on their behalf, communicated to the investors that the Partnership was earning profits ranging from 18% to 38%; these performance results were fictitious. Forte knew that he consistently lost money on his actual trades and that he fabricated both the claimed rates of return and the extent of his trading transactions;
8. Throughout this period, Forte and the Partnership, directly or through their agents or others acting on their behalf, deliberately and consistently misrepresented to the investors the use of their investments in the Partnership. Throughout the existence of the Partnership, Forte did not invest limited partners’ funds in accordance with the Partnership’s stated purpose of investing in securities futures; rather, Forte misappropriated those funds to create the illusion of a prosperous enterprise and for his own personal advantage. For example, he misappropriated

funds to meet redemption requests; pay a portion of the management fee to Jacklin Associates; fund Jacklin Associates' engagement of certain mentees or apprentices to assist Forte; pay himself a management fee based on the fictitious profits; make personal investments in closely held companies; fund his retirement account(s); make payments to or for the benefit of family and friends; make philanthropic contributions; and make other payments unrelated to the stated purpose of the Partnership; and

9. Forte and the Partnership, directly or through their agents and others acting on their behalf, used the U.S. Mails and the Internet in connection with the dissemination of the false and misleading statements or omissions set forth above.

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendants and Defendants' agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Partial 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.

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants and Defendants' agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Partial 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 HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants shall pay disgorgement of ill-gotten gains, prejudgment interest thereon, and a civil penalty pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. The Court shall determine the amounts of the disgorgement and civil penalty upon motion of the Commission. Prejudgment interest shall be

calculated from March 1, 1995, 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) Defendants will be precluded from arguing that they did not violate the federal securities laws as alleged in the Complaint; (b) Defendants may not challenge the validity of the Consent or this Partial Final Judgment; (c) for the purposes of such motion, the allegations of the Complaint, including those not admitted herein, 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.

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent is incorporated herein with the same force and effect as if fully set forth herein, and that Defendants shall comply with all of the undertakings and agreements set forth therein.

V.

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 Partial Final Judgment.

VI.

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 Partial Final Judgment forthwith and without further notice.

Dated: September 30, 2009

Paul B. Diamond

Diamond, J.