

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 9909 / September 8, 2015

SECURITIES EXCHANGE ACT OF 1934
Release No. 75858 / September 8, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16796

In the Matter of

Marc S. Mandel,

Respondent.

: ORDER INSTITUTING ADMINISTRATIVE
: AND CEASE-AND-DESIST PROCEEDINGS
: PURSUANT TO SECTION 8A OF THE
: SECURITIES ACT OF 1933 AND SECTIONS
: 15(b) AND 21C OF THE SECURITIES
: EXCHANGE ACT OF 1934, MAKING
: FINDINGS, AND IMPOSING
: REMEDIAL SANCTIONS AND A
: CEASE-AND-DESIST ORDER
:

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 ("Securities Act") and Sections 15(b) and 21C of the Securities Exchange Act of 1934 ("Exchange Act") against Marc S. Mandel ("Mandel" or "Respondent").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer") which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over him and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Sections 15(b) and 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order ("Order"), as set forth below:

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that:

Respondent

1. **Marc S. Mandel**, age 63, is a resident of Boulder, Colorado. Since 1998, he has been the President and Chief Executive Officer of Wall Street Radio, Inc., through which he hosts a daily financial talk radio program and distributes a financial newsletter to paid subscribers.

Relevant Entity & Individual

2. **Ditto Holdings, Inc.** ("Ditto Holdings") is a Delaware corporation with offices in Los Angeles, California and Chicago, Illinois.² It is not registered with the Commission in any capacity. Ditto Holdings owns 100% of Ditto Trade, Inc. ("Ditto Trade"), an Illinois corporation with headquarters in Chicago, Illinois. According to its website, Ditto Trade is a "first-of-its-kind social brokerage firm." Ditto Trade has been registered with the Commission as a broker-dealer pursuant to Section 15 of the Exchange Act since July 2010.

3. **Joseph J. Fox** ("Fox"), also known as Yosef Yehuda Fox, age 49, is a resident of Los Angeles, California. He is the current Chief Executive Officer of Ditto Holdings and served as the Chief Executive Officer of Ditto Trade from its inception until December 2014. He was a registered representative with Ditto Trade from 2010 to December 2014.

Ditto Holdings, Inc.'s Securities Offerings

4. Ditto Holdings conducted a series of common and preferred stock offerings ending in September 2013.

5. Beginning in late 2012, Ditto Holdings sought help from Mandel to, among other things, introduce his newsletter subscribers to Ditto Trade's services and Ditto Holdings' securities offerings.

6. Mandel discussed Ditto Holdings' securities offerings with Fox and obtained special pricing and incentives for the investors that he brought to Ditto Holdings.

7. Mandel sent a number of emails to his roughly 350 newsletter subscribers describing Ditto Holdings as the "best opportunity of his lifetime" and suggesting that Ditto

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

² Ditto Holdings, Inc. was formed in December 2010 as a successor to FB Financial Group, Inc., an Illinois corporation that was formed in January 2009. Ditto Holdings changed its name to SoVesTech, Inc. in December 2014. For simplicity, we refer to all of these entities as Ditto Holdings throughout this Order.

Holdings planned to conduct an initial public offering during 2014 at a price that was nearly ten times higher than the price at which Ditto Holdings was then selling its shares. He also co-hosted a series of online webinars and in-person meetings for investors with Fox.

8. From late 2012 to September 2013, more than seventy of Mandel's subscribers purchased securities from Ditto Holdings at a total cost of approximately \$3.7 million. Mandel took possession of some of the investors' funds before transferring them to Ditto Holdings.

9. Several of Mandel's subscribers who purchased securities from Ditto Holdings identified themselves to Ditto Holdings as non-accredited investors. The investors were not given financial statements or certain other required financial information about Ditto Holdings.

Fox's Offering of Ditto Holdings, Inc.'s Securities

10. Beginning in February 2013, Fox sought Mandel's help in selling some of Fox's personal shares of Ditto Holdings common stock. Fox told Mandel that he wanted to sell approximately one million shares of Ditto Holdings stock and asked Mandel to see if any of Mandel's newsletter subscribers were interested in purchasing shares. Fox provided Mandel with a stock purchase agreement, which included instructions for how to wire investment funds to Fox, and told him that the stock purchase agreement was the only document interested purchasers would need to complete.

11. In March 2013, Mandel began sending emails to some of his roughly 350 newsletter subscribers describing Ditto Holdings as an excellent investment opportunity, stating that Ditto Holdings planned to have an initial public offering at \$10 per share during 2014, and telling them that he had "worked out a sweetheart deal" with Fox to gain access to one million shares at \$1 per share. He also co-hosted a series of online webinars and in-person meetings with Fox for investors.

12. When individuals indicated an interest in purchasing shares of Ditto Holdings stock from Fox, Mandel provided them with a copy of the stock purchase agreement and put them in contact with Fox if they wanted more information.

13. From April 2013 to July 2013, approximately 28 of Mandel's subscribers purchased stock from Fox at a total cost of approximately \$1.25 million.

14. During the same period, Fox paid Mandel at least \$124,000 in three installments. Each of the payments was worth approximately 10% of the amount of money that Fox had received from his sales of Ditto Holdings stock as of the date of the payment.

15. Mandel took no steps to determine whether any of the individuals who purchased Fox's shares of Ditto Holdings stock were sophisticated investors. At least two of the purchasers had previously identified themselves to Ditto Holdings as non-accredited investors.

16. Mandel did not provide the purchasers with access to any financial statements or other required information about Ditto Holdings.

17. During 2012 and 2013, Mandel was not registered with the Commission in any capacity or associated with a registered broker or dealer.

18. No registration statement was filed in connection with any of Ditto Holdings' securities, and no exemption from registration was applicable to either Ditto's or Fox's sales through Mandel.

Violations

19. As a result of the conduct described above, Mandel willfully violated Sections 5(a) and 5(c) of the Securities Act, which prohibit the direct or indirect offer and sale of securities through the mails or interstate commerce unless a registration statement has been filed or is in effect or an exemption from registration is available.³

20. As a result of the conduct described above, Mandel willfully violated Section 15(a) of the Exchange Act, which prohibits the use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security without being registered with the Commission pursuant to Section 15(b) of the Exchange Act or being associated with a registered broker or dealer.

Disgorgement and Civil Penalties

21. Respondent has submitted a sworn Statement of Financial Condition dated September 20, 2014 (updated March 18, 2015) and other evidence and has asserted his inability to pay disgorgement plus prejudgment interest and a civil penalty.

Undertaking

22. In determining whether to accept the Respondent's Offer, the Commission has considered the following undertaking:

- a. Respondent agrees to cooperate fully with the Commission with respect to this action and any judicial or administrative proceeding or investigation commenced by the Commission or to which the Commission is a party relating to the matters in this Order or other matters related to Ditto Holdings' securities or officers. Respondent's cooperation shall include, but is not limited to:
 - i. Production of Information. At the Commission's request on reasonable notice and without a subpoena, Respondent shall truthfully and completely disclose information and documents requested by Commission staff in connection with the Commission's related

³ A willful violation of the securities laws means merely "that the person charged with the duty knows what he is doing." Wonsover v. SEC, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting Hughes v. SEC, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor "also be aware that he is violating one of the Rules or Acts." Id. (quoting Gearhart & Otis, Inc. v. SEC, 348 F.2d 798, 803 (D.C. Cir. 1965)).

investigation, litigation or other proceedings. Respondent will have no obligation to provide information voluntarily that it is not able to provide without a subpoena.

- ii. Statements and Testimony. At the Commission's request on reasonable notice and without a subpoena, Respondent shall attend and provide truthful statements or testimony at any meeting, interview, testimony, deposition, trial or other legal proceeding in connection with the Commission's related investigation, litigation or other proceedings.

IV.

In view of the foregoing, the Commission deems it appropriate, in the public interest, and for the protection of investors to impose the sanctions agreed to in Respondent's Offer.

Accordingly, pursuant to Section 8A of the Securities Act and Sections 15(b) and 21C of the Exchange Act, it is hereby ORDERED that:

A. Respondent Mandel cease and desist from committing or causing any violations and any future violations of Sections 5(a) and 5(c) of the Securities Act and Section 15(a) of the Exchange Act;

B. Respondent Mandel be, and hereby is:

barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; and

barred from participating in any offering of a penny stock, including: acting as a promoter, finder, consultant, agent or other person who engages in activities with a broker, dealer or issuer for purposes of the issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock

with the right to apply for reentry after two (2) years to the appropriate self-regulatory organization, or if there is none, to the Commission.

C. Any reapplication for association by the Respondent will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

D. Respondent shall pay disgorgement of \$124,000 which represents profits gained as a result of the conduct described herein, and prejudgment interest of \$5,374, but that payment of such amount except for \$62,000 is waived and the Commission is not imposing a penalty against Respondent based upon Respondent's sworn representations in his Statement of Financial Condition dated September 20, 2014 (updated March 18, 2015) and other documents submitted to the Commission. The payment required by this Order shall be made to the Securities and Exchange Commission. Payment shall be made in the following installments:

- (1) \$1,033 no later than the 28th day of each month beginning in September 2015 and continuing through July 2020; and
- (2) \$1,053 no later than the 28th day of August 2020.

If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of disgorgement, plus any additional interest accrued pursuant to SEC Rule of Practice 600, shall be due and payable immediately, without further application. Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Marc Mandel as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Anne C. McKinley, Assistant Regional Director, Division of Enforcement, Securities and Exchange Commission, Chicago Regional Office, 175 West Jackson Boulevard, Suite 900, Chicago, Illinois 60604.

E. The Division of Enforcement ("Division") may, at any time following the entry of this Order, petition the Commission to: (1) reopen this matter to consider whether Respondent provided accurate and complete financial information at the time such representations were made; (2) seek an order directing payment of disgorgement and pre-judgment interest; and (3) seek an order directing payment of the maximum civil penalty allowable under the law. No other

issue shall be considered in connection with this petition other than whether the financial information provided by Respondent was fraudulent, misleading, inaccurate, or incomplete in any material respect. Respondent may not, by way of defense to any such petition: (1) contest the findings in this Order; (2) assert that payment of disgorgement and interest should not be ordered; (3) contest the amount of disgorgement and interest to be ordered; or (4) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

V.

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

By the Commission.

Brent J. Fields
Secretary