

SEC charges Connecticut-based hedge fund in multi-million dollar fraud

Washington, D.C., United States 27 April 2009 (www.biznewsselect.com) The Securities and Exchange Commission today obtained an emergency court order to freeze the assets of a Connecticut-based money manager and the hedge funds that he controls, alleging that he forged documents, promised false returns, and misrepresented assets managed by the funds to illicitly raise more than USD30 million from investors.

Additional Materials

- [Litigation Release No. 21012](#) [SEC Complaint](#)

According to the SEC's complaint, filed in federal court in Austin, Francesco Rusciano solicited investments for two hedge funds he controls — Ponta Negra Fund I, LLC and Ponta Negra Offshore Fund I, LTD — and also is the principal of Ponta Negra Group, LLC, which is located at his residence in Stamford, Conn. Specifically, the SEC alleges that on at least two occasions, Rusciano forged brokerage account statements to make it appear that a hedge fund account had millions of dollars more in assets than it actually had.

"Rusciano went to great lengths to deceive investors, and the SEC is committed to ensuring that money managers who provide inaccurate information to investors and fail to uphold their fiduciary duties are held responsible for their misconduct," said Rose Romero, Director of the SEC's Fort Worth Regional Office.

Pursuant to the SEC's motions for emergency relief for investors, U.S. District Judge Sam Sparks entered a temporary restraining order, froze the defendants' assets, and ordered a hearing on the appointment of a receiver to marshal assets belonging to the funds.

According to the SEC's complaint, Rusciano provided a selling agent with a 11 January 2008, brokerage statement reflecting an account balance of more than USD43 million for Ponta Negra Fund I. The SEC alleges that the correct balance for that account on that date was less than USD3 million. Similarly, the SEC's complaint says that on 5 August 2008, Rusciano produced to another selling agent a brokerage account statement reflecting an "equity" balance for Ponta Negra Fund LLC of more than USD64 million. The SEC alleges that Rusciano altered the

account statement by "whiting out" the word "excess" in the "excess equity" field on the account statement to make it appear as though the hedge fund's account had approximately USD64 million, when in fact the account had less than USD7 million.

In addition to forging brokerage account statements, the SEC alleges that Rusciano misrepresented the hedge fund's monthly and yearly performance results. Rusciano falsely represented that the funds had consistently achieved positive results for every month throughout 2007 and 2008 when, in fact, the hedge funds lost money in 10 of the 24 months from March 2007 through March 2009 in the account that held most of the hedge fund's assets. The SEC also alleges that Rusciano misrepresented that the Ponta Negra hedge funds earned total annual returns of 42.99 percent for 2007, 24.85 percent for 2008, and 6.14 percent for the first two months of 2009. The account that held most of the Ponta Negra hedge funds' assets actually suffered substantial trading losses in 2007, had modest profits in 2008, and again sustained losses in 2009.

The SEC further alleges that on 21 April 2009, Rusciano sent an e-mail to a selling agent detailing the hedge fund's assets under management. According to the e-mail, the Ponta Negra hedge funds had USD59 million in assets under management as of February 2009. According to the SEC's complaint, the hedge funds had less than USD10 million.

The SEC's complaint charges, among other things, that the defendants violated the anti-fraud provisions of the Securities Act of 1933 and the Securities Exchange Act of 1934. In addition to emergency and interim relief that has been obtained, the SEC seeks a final judgment permanently enjoining the defendants from future violations of the relevant provisions of the federal securities laws and ordering them to pay financial penalties and disgorgement of ill-gotten gains with prejudgment interest.

The SEC acknowledges the assistance of the Commodity Futures Trading Commission (CFTC) in this matter.

The SEC's investigation is continuing.

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