

Accepted for filing
12/2/2019

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x
:
UNITED STATES OF AMERICA :
:
- v. - :
:
SETH HOROWITZ, :
:
Defendant. :
:
----- x

SEALED INFORMATION

19 Cr. 861 (JFK)

COUNT ONE
(Conspiracy to Commit Securities Fraud, to Make False Filings with the SEC, and to Improperly Influence the Conduct of Audits)

The United States Attorney charges:

1. From at least in or about 2013 through at least in or about 2015, in the Southern District of New York and elsewhere, SETH HOROWITZ, the defendant, and others known and unknown, willfully and knowingly did combine, conspire, confederate and agree together and with each other to commit offenses against the United States, to wit, securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5; making false and misleading statements of material fact in applications, reports and documents required to be filed with the Securities and Exchange Commission ("SEC") under the Securities Exchange Act of 1934 and the rules and regulations promulgated thereunder, in violation of Title 15, United States

Code, Sections 78m(a) and 78ff, and Title 17, Code of Federal Regulations, Sections 240.12b-20, 240.13a-1, 240.13a-11, 240.13a-13, and 244.100(b); and improperly influencing the conduct of audits, in violation of Title 15, United States Code, Sections 7202, 7242, and 78ff, and Title 17, Code of Federal Regulations, Section 240.13b2-2.

Objects of the Conspiracy

2. It was a part and an object of the conspiracy that SETH HOROWITZ, the defendant, and others known and unknown, including a co-conspirator not named as a defendant herein ("CC-1"), willfully and knowingly, directly and indirectly, by use of the means and instrumentalities of interstate commerce, and of the mails and of the facilities of national securities exchanges, would and did use and employ, in connection with the purchase and sale of securities, manipulative and deceptive devices and contrivances, in violation of Title 17, Code of Federal Regulations, Section 240.10b-5 by: (a) employing devices, schemes, and artifices to defraud; (b) engaging in acts, practices, and courses of business which operated and would operate as a fraud and deceit upon persons; and (c) making untrue statements of material fact and omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made,

not misleading, in violation of Title 15, United States Code, Sections 78j(b) and 78ff.

3. It was a further part and an object of the conspiracy that SETH HOROWITZ, the defendant, and others known and unknown, including CC-1, willfully and knowingly would and did make and cause to be made statements in reports and documents required to be filed with the SEC under the Securities Exchange Act of 1934 and the rules and regulations promulgated thereunder, which statements were false and misleading with respect to material facts, in violation of Title 15, United States Code, Sections 78m(a) and 78ff, and Title 17, Code of Federal Regulations, Sections 240.12b-20, 240.13a-1, 240.13a-11, 240.13a-13, and 244.100(b).

4. It was a further part and an object of the conspiracy that SETH HOROWITZ, the defendant, and others known and unknown, including CC-1, willfully and knowingly would and did take actions to fraudulently influence, coerce, manipulate, and mislead independent public and certified accountants engaged in the performance of audits of the financial statements of an issuer for the purpose of rendering such financial statements materially misleading, and did so by, as officers of a company issuing publicly traded securities, (a) making, and causing to be made, materially false and misleading statements to an accountant, and (b) omitting to state, and causing another

person to omit to state, material facts necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading, to an accountant; with these false statements and omissions being in connection with audits, reviews and examinations of required financial statements of the company and the preparation and filing of documents and reports required to be filed with the SEC, in violation of Title 15, United States Code, Sections 7202, 7242, and 78ff, and Title 17, Code of Federal Regulations, Section 240.13b2-2.

Overt Acts

5. In furtherance of the conspiracy and to effect the illegal objects thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. On or about June 30, 2014, CC-1 signed a document entitled "Amendment No. 1 to Master License Agreement," relating to a joint venture between Iconix Brand Group, Inc. ("Iconix") and a Hong Kong-based international apparel licensing company ("Company-1").

b. On or about August 6, 2014, CC-1 signed Iconix's Form 10-Q, filed with the SEC for the second quarter of 2014.

c. On or about September 5, 2014, SETH HOROWITZ, the defendant, sent an email to his assistant requesting that she

print for a meeting a summary of certain deal terms relating to joint ventures between Iconix and Company-1.

d. On or about September 18, 2014, CC-1 signed a document entitled "Amendment No. 2 to Master License Agreement," relating to a joint venture between Iconix and Company-1.

e. On or about September 29, 2014, HOROWITZ forwarded to an Iconix employee ("Employee-1") an email sent by a representative of Company-1 attaching invoices for purported marketing expenses and directed Employee-1 not to "do anything with these."

f. On or about November 7, 2014, CC-1 signed Iconix's Form 10-Q, filed with the SEC, for the third quarter of 2014.

(Title 18, United States Code, Section 371.)

COUNT TWO
(Securities Fraud)

The United States Attorney further charges:

6. From at least in or about 2013 through at least in or about 2015, in the Southern District of New York and elsewhere, SETH HOROWITZ, the defendant, willfully and knowingly, directly and indirectly, by use of the means and instrumentalities of interstate commerce, and of the mails and of the facilities of national securities exchanges, used and employed, in connection with the purchase and sale of securities, manipulative and

deceptive devices and contrivances, in violation of Title 17, Code of Federal Regulations, Section 240.10b-5, by: (a) employing devices, schemes, and artifices to defraud; (b) engaging in acts, practices, and courses of business which operated and would operate as a fraud and deceit upon persons; and (c) making untrue statements of material fact and omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, to wit, HOROWITZ and CC-1 engaged in a scheme to fraudulently inflate Iconix's publicly reported revenue and earnings per share.

(Title 15, United States Code, Sections 78j(b) and 78ff; Title 17, Code of Federal Regulations, Sections 240.10b-5 and 244.100(b); and Title 18, United States Code, Section 2.)

COUNT THREE
(False SEC Filings)

The United States Attorney further charges:

7. From at least in or about 2014 through at least in or about 2015, in the Southern District of New York and elsewhere, SETH HOROWITZ, the defendant, willfully and knowingly made and caused to be made statements in reports and documents required to be filed with the SEC under the Securities Exchange Act of 1934 and the rules and regulations promulgated thereunder, which statements were false and misleading with respect to material facts, to wit, HOROWITZ and CC-1 caused to be filed with the SEC

quarterly filings on Form 10-Q, press releases on Form 8-K, and an annual report on Form 10-K, regarding Iconix's financial results for the second and third quarters of 2014, and year-end 2014, that omitted material facts and contained materially misleading statements.

(Title 15, United States Code, Sections 78m(a) and 78ff; Title 17, Code of Federal Regulations, Sections 240.12b-20, 240.13a-1, 240.13a-11, 240.13a-13, and 244.100(b); and Title 18, United States Code, Section 2.)

COUNT FOUR
(Improperly Influencing the Conduct of Audits)

The United States Attorney further charges:

8. From at least in or about 2014 through at least in or about 2015, in the Southern District of New York and elsewhere, SETH HOROWITZ, the defendant, willfully and knowingly took actions to fraudulently influence, coerce, manipulate, and mislead independent public and certified accountants engaged in the performance of audits of the financial statements of an issuer for the purpose of rendering such financial statements materially misleading, and did so, as officers of a company issuing publicly traded securities, by (a) making, and causing to be made, materially false and misleading statements to an accountant, and (b) omitting to state, and causing another person to omit to state, material facts necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading, to an

accountant; with these false statements and omissions being in connection with audits, reviews and examinations of required financial statements of the company and the preparation and filing of documents and reports required to be filed with the SEC, to wit, HOROWITZ aided and abetted CC-1 in making affirmative misrepresentations to Iconix's outside auditors, and intentionally withholding information from them, regarding certain joint venture transactions that Iconix entered into with Company-1.

(Title 15, United States Code, Sections 7202, 7242, and 78ff; Title 17, Code of Federal Regulations, Section 240.13b2-2; and Title 18 United States Code, Section 2.)

COUNT FIVE
(Conspiracy to Destroy, Alter, and Falsify Records in Federal Investigations)

The United States Attorney further charges:

9. From at least in or about 2014 through at least in or about 2015, in the Southern District of New York and elsewhere, SETH HOROWITZ, the defendant, and others known and unknown, willfully and knowingly did combine, conspire, confederate and agree together and with each other to commit an offense against the United States, to wit, to destroy, alter, and falsify records in federal investigations, in violation of Title 18, United States Code, Section 1519.

10. It was a part and an object of the conspiracy that SETH HOROWITZ, the defendant, and others known and unknown,

including CC-1, knowingly would and did alter, destroy, mutilate, conceal, cover up, falsify, and make false entries in records, documents, and tangible objects with the intent to impede, obstruct, and influence the investigation and proper administration of a matter within the jurisdiction of a department or agency of the United States, to wit, the SEC, and in relation to and contemplation of any such matter and case.

Overt Act

11. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt act, among others, was committed in the Southern District of New York and elsewhere:

a. On or about February 24, 2015, CC-1 caused Iconix to submit a response letter to the SEC discussing certain joint ventures between Iconix and Company-1.

(Title 18, United States Code, Section 371.)

FORFEITURE ALLEGATIONS

12. As a result of committing one or more of the offenses charged in Counts One through Four of this Information, SETH HOROWITZ, the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of said offenses, including but not limited to a sum of money in United

States currency representing the amount of proceeds traceable to the commission of said offenses that the defendant personally obtained.

Substitute Assets Provision

13. If any of the above-described forfeitable property, as a result of any act or omission by the defendant:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third party;

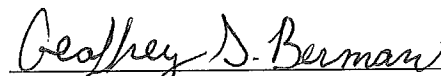
c. has been placed beyond the jurisdiction of the court;

d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), and Title 28, United States Code Section 2461, to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described above.

(Title 18, United States Code, Section 981(a)(1)(C);
Title 21, United States Code, Section 853(p);
Title 28, United States Code, Section 2461.)


GEOFFREY S. BERMAN
United States Attorney

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

SETH HOROWITZ,

Defendant.

SEALED INFORMATION

19 Cr. _____

(Title 15, United States Code, Sections 78j(b), 78m(a), 78ff, 7202, and 7242; Title 17, Code of Federal Regulations, Sections 240.10b-5, 240.12b-20, 240.13a-1, 240.13a-11, 240.13a-13, 240.13b2-2, and 244.100(b); Title 18, United States Code, Sections 2 and 371.)

GEOFFREY S. BERMAN

United States Attorney
