
*
IN THE MATTER OF: *
*
FERNANDO MANUEL PAIVA *
*
CRD NO. 2821278 *
*

CONSENT ORDER
NO. CO-21-201914443-S

I. PRELIMINARY STATEMENT

WHEREAS, the Banking Commissioner (“Commissioner”) is charged with the administration of Chapter 672a of the General Statutes of Connecticut, the Connecticut Uniform Securities Act (“Act”), and Sections 36b-31-2 to 36b-31-33, inclusive, of the Regulations of Connecticut State Agencies (“Regulations”) promulgated under the Act;

WHEREAS, Fernando Manuel Paiva (“Paiva”) is an individual whose address last known to the Commissioner is 44 Palomina Way, Wethersfield, Connecticut 06109. Paiva has been registered as a broker-dealer agent under the Act during various times between August 26, 1997 to May 27, 2021. Most recently, Paiva was registered as a broker-dealer agent of Davinci Capital Management, Inc. (“Davinci”) under the Act from February 24, 2012 to May 27, 2021. Davinci, located at 801 Cambridge Street, Cambridge, Massachusetts 02141, has been registered as a broker-dealer under the Act from February 14, 2000 to the present;

WHEREAS, the Commissioner, through the Securities and Business Investments Division (“Division”) of the Department of Banking, conducted an investigation of Paiva under Section 36b-26 of

the Act to determine whether Paiva had violated, was violating or was about to violate any provision of the Act or any regulation or order under the Act (“Investigation”);

WHEREAS, as a result of the Investigation, the Division ascertained that during the term of his association with Davinci, Paiva failed to amend his Form U-4 in a timely manner in violation of Section 36b-31-14e(a) of the Regulations. Specifically, Paiva failed to amend his Form U4 to reflect that, in addition to working out of his home office in Wethersfield, Connecticut (reflected on his Form U4), he consistently worked out of an office in Hartford, Connecticut, a location that was not registered as a branch office under the Act. In addition, Paiva failed to amend his Form U4 in January 2018 to disclose that he had an unsatisfied judgment or lien pending against him, which judgment was satisfied in September 2018;

WHEREAS, as a result of the Investigation, the Commissioner has reason to believe that the foregoing conduct violates a certain provision of the Regulations, and would support administrative proceedings against Paiva under Section 36b-15 of the Act and Section 36b-27 of the Act. Section 36b-15(e)(1) of the Act permits the Commissioner to initiate revocation or suspension proceedings within one year after a registration withdrawal becomes effective;

WHEREAS, Section 36b-31(a) of the Act provides, in relevant part, that “[t]he commissioner may from time to time make . . . such . . . orders as are necessary to carry out the provisions of sections 36b-2 to 36b-34, inclusive”;

WHEREAS, Section 36b-31(b) of the Act provides, in relevant part, that “[n]o . . . order may be made . . . unless the commissioner finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of sections 36b-2 to 36b-34, inclusive”;

WHEREAS, an administrative proceeding initiated under Section 36b-15 of the Act and Section 36b-27 of the Act would constitute a “contested case” within the meaning of Section 4-166(4) of the General Statutes of Connecticut;

WHEREAS, Section 4-177(c) of the General Statutes of Connecticut and Section 36a-1-55(a) of the Regulations provide that a contested case may be resolved by consent order, unless precluded by law;

WHEREAS, without holding a hearing and without trial or adjudication of any issue of fact or law, and prior to the initiation of any formal proceeding, the Commissioner and Paiva reached an agreement, the terms of which are reflected in this Consent Order, in full and final resolution of the matters described herein;

WHEREAS, Paiva acknowledges that he has had the opportunity to consult with and be represented by independent counsel in negotiating and reviewing this Consent Order and executes this Consent Order freely;

WHEREAS, Paiva expressly consents to the Commissioner's jurisdiction under the Act and to the terms of this Consent Order;

WHEREAS, the issuance of this Consent Order is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of the Act;

AND WHEREAS, Paiva, through his execution of this Consent Order, specifically assures the Commissioner that the violation alleged in this Consent Order shall not occur in the future.

II. CONSENT TO WAIVER OF PROCEDURAL RIGHTS

WHEREAS, Paiva, through his execution of this Consent Order, voluntarily waives the following rights:

1. To be afforded notice and an opportunity for a hearing within the meaning of Section 36b-15(f) of the Act, Section 36b-27 of the Act, and Section 4-177(a) of the General Statutes of Connecticut;
2. To present evidence and argument and to otherwise avail himself of Section 36b-15(f) of the Act, Section 36b-27 of the Act, and Section 4-177c(a) of the General Statutes of Connecticut;
3. To present his position in a hearing in which he is represented by counsel;
4. To have a written record of the hearing made and a written decision issued by a hearing officer; and

5. To seek judicial review of, or otherwise challenge or contest, the matters described herein, including the validity of this Consent Order.

III. ACKNOWLEDGEMENT OF THE COMMISSIONER'S ALLEGATIONS

WHEREAS, Paiva, through his execution of this Consent Order acknowledges the following allegation of the Commissioner:

Paiva violated Section 36b-31-14e(a) of the Regulations by failing to amend his Form U-4 in a timely manner;

WHEREAS, the Commissioner would have the authority to enter findings of fact and conclusions of law after granting Paiva an opportunity for a hearing;

AND WHEREAS, Paiva acknowledges the possible consequences of an administrative hearing and voluntarily agrees to consent to the entry of the sanctions described below.

IV. CONSENT TO ENTRY OF SANCTIONS

WHEREAS, Paiva, through his execution of this Consent Order, consents to the Commissioner's entry of a Consent Order imposing on him the following sanctions:

1. Paiva shall cease and desist from engaging in conduct constituting or which would constitute a violation of the Act or any regulation or order under the Act, including, without limitation, failing to amend his Form U-4 in a timely manner; and
2. No later than the date this Consent Order is entered by the Commissioner, Paiva shall remit to the Department of Banking by cashier's check, certified check or money order made payable to "Treasurer, State of Connecticut", or by wire transfer, the sum of five thousand dollars (\$5,000) as an administrative fine.

V. CONSENT ORDER

NOW THEREFORE, the Commissioner enters the following:

1. The Sanctions set forth above be and are hereby entered;
2. Entry of this Consent Order by the Commissioner is without prejudice to the right of the Commissioner to take enforcement action against Paiva based upon a violation of this Consent Order or the matters underlying its entry if the Commissioner determines that compliance with the terms herein is not being observed;

3. Nothing in this Consent Order shall be construed as limiting the Commissioner's ability to take enforcement action against Paiva based upon evidence of which the Division was unaware on the date hereof relating to a violation of the Act or any regulation or order under the Act;
4. Paiva shall not take any action or make or permit to be made any public statement, including in regulatory filings, any proceeding in any forum or otherwise, denying, directly or indirectly, any allegation referenced in this Consent Order or create the impression that this Consent Order is without factual basis;
5. Paiva shall not take any position in any proceeding brought by or on behalf of the Commissioner, or to which the Commissioner is a party, that is inconsistent with any part of this Consent Order. Nothing in this provision affects Paiva's testimonial obligations or right to take a legal or factual position in litigation, arbitration, or other legal proceeding in which the Commissioner is not a party; and
6. This Consent Order shall become final when entered.

So ordered at Hartford, Connecticut,
This 27th day of September 2021.

_____/s/_____
Jorge L. Perez
Banking Commissioner

CONSENT TO ENTRY OF ORDER

I, Fernando Manuel Paiva, state that I have read the foregoing Consent Order; that I know and fully understand its contents; that I agree freely and without threat or coercion of any kind to comply with the terms and conditions stated herein; and that I consent to the entry of this Consent Order.

_____/s/_____
Fernando Manuel Paiva

State of: Connecticut

County of: Hartford

On this the 22 day of Sept 2021, before me, the undersigned officer, personally appeared Fernando Manuel Paiva, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand.

_____/s/_____
Notary Public
Date Commission Expires: Aug. 31, 2024