
*
IN THE MATTER OF: *
*
CHRISTOPHER MURPHY *
*
VIR-SEC, INC. *
*
(Collectively, “Respondents”) *
*

CONSENT ORDER
DOCKET NO. CRF-18-8268-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, the Commissioner, through the Securities and Business Investments Division (“Division”) of the Department of Banking, conducted an investigation pursuant to Section 36b-26(a) of the Act into the activities of Respondents to determine if they violated, were violating or were about to violate provisions of the Act or Regulations (“Investigation”);

WHEREAS, as a result of the Investigation on July 20, 2018, the Commissioner, acting pursuant to Section 36b-27 of the 2018 Supplement to the General Statutes (“2018 Supplement”), issued an Order to Cease and Desist, Order to Make Restitution, Notice of Intent to Fine and Notice of Right to Hearing against Respondents (Docket No. CRF-18-8268-S) (collectively, “Notice”), which Notice is incorporated by reference herein;

WHEREAS, on August 17, 2018, Respondents requested a hearing on the matters alleged in the Notice;

WHEREAS, on August 27, 2018, the Commissioner issued a Notification of Hearing and Designation of Hearing Officer, wherein the Commissioner appointed Department of Banking Attorney Stacey Serrano as the Hearing Officer and scheduled a hearing on the matters alleged in the Notice for October 24, 2018 (“Hearing”);

WHEREAS, Hearing Officer Serrano granted several continuances of the Hearing, with the Hearing being currently scheduled for December 19, 2018;

WHEREAS, Respondent Murphy has provided the Commissioner with a sworn financial affidavit demonstrating that he is financially unable to pay either restitution to the affected investors or the administrative fine that might otherwise have been imposed against him pursuant to Section 36b-27 of the 2018 Supplement as a result of an administrative proceeding or as a term of this Consent Order;

WHEREAS, it is the Division’s understanding based on the Investigation that Respondent Vir-Sec, Inc. is an inactive Delaware corporation with no assets;

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-27 of the 2018 Supplement would constitute a “contested case” within the meaning of Section 4-166(4) of the General Statutes of Connecticut;

WHEREAS, Section 36b-27(f) of the 2018 Supplement provides, in relevant part, that “[a]ny time after the issuance of an order or notice provided for in subsection (a), (b) . . . or subdivision (1) of

subsection (d) of this section, the commissioner may accept an agreement by any respondent named in such order or notice to enter into a written consent order in lieu of an adjudicative hearing”;

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

WHEREAS, Respondents and the Commissioner now desire to resolve the matters alleged in the Notice without the need for further administrative proceedings;

WHEREAS, the Commissioner finds that 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;

WHEREAS, Respondents expressly consent to the Commissioner’s jurisdiction under the Act and to the terms of this Consent Order;

WHEREAS, Respondent Murphy maintains that he relied on the advice of his legal counsel in connection with all aspects of the Vir-Sec securities registration;

WHEREAS, through his execution of this Consent Order, Respondents represent to the Commissioner that for a period of three (3) years neither Respondent shall engage in any activity that would require registration under the Act;

AND WHEREAS, Respondents, through their execution of this Consent Order, specifically assure the Commissioner that none of the violations alleged in the Notice or this Consent Order shall occur in the future.

II. CONSENT TO WAIVER OF PROCEDURAL RIGHTS

WHEREAS, Respondents, through their execution of this Consent Order, voluntarily waive the following rights:

1. To be afforded an opportunity for a hearing within the meaning of Section 36b-27 of the 2018 Supplement and Section 4-177(a) of the General Statutes of Connecticut;

2. To present evidence and argument and to otherwise avail themselves of Section 36b-27 of the 2018 Supplement and Section 4-177c(a) of the General Statutes of Connecticut;
3. To present their position in a hearing in which they are 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, through their execution of this Consent Order, Respondents acknowledge the Commissioner's allegations of the Commissioner in the Notice, without admitting or denying them, yet admit that, if proven, sufficient evidence exists from which the Commissioner could find facts to support the issuance of an order to cease and desist, an order to make restitution, and/or an order imposing a maximum administrative fine of One Hundred Thousand Dollars (\$100,000) per violation of the Act or any regulation, rule or order adopted or issued under the Act;

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

AND WHEREAS, Respondents acknowledge the possible consequences of an administrative hearing and voluntarily agree to consent to the entry of the sanctions described below.

IV. CONSENT TO ENTRY OF SANCTIONS

WHEREAS, Respondents, through their execution of this Consent Order, consent to the Commissioner's entry of a Consent Order imposing on them the following sanctions:

1. Respondents shall cease and desist from directly or indirectly violating the provisions of the Act or any regulation, rule or order adopted or issued under the Act, including without limitation, engaging in any activity in or from Connecticut that violates Sections 36b-16 or 36b-4(a)(2) of the Act; and
2. Based on the contents of the financial affidavit submitted to the Division, enforcement of the Order to Make Restitution contained in the Notice shall be temporarily stayed for three years from the date this Consent Order is entered by the Commissioner, provided that such stay shall no longer be in force and effect, and Respondents will be obligated to immediately pay restitution, if 1) either of the Respondents is able to pay restitution to the affected investors; or

2) the Commissioner ascertains at any time that (a) either of the Respondents is able to pay restitution to the affected investors; or (b) Respondent Murphy failed to disclose any material asset, materially misstated the value of any asset or made any other material misstatement or omission in the financial affidavit. This paragraph is without prejudice to the right of the Commissioner, in his discretion, to take such further action on the matter in the future following expiration of the temporary stay as may be warranted by the then existing circumstances. Each Respondent, through such Respondent's execution of this Consent Order, knowingly, wilfully and voluntarily waives such Respondent's right to notice and an administrative hearing in conjunction with the implementation of this paragraph; provided, however, that, prior to invoking any enforcement measures contemplated by this paragraph, the Commissioner shall provide the affected Respondent with an informal opportunity to demonstrate its compliance with this Consent Order.

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 Respondents 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 or if any representation made by either Respondent and set forth herein is subsequently determined to be untrue;
3. Nothing in this Consent Order shall be construed as limiting the Commissioner's ability to take enforcement action against Respondents based upon evidence of which the Division was unaware on the date hereof relating to a violation of the Act or any regulation, rule or order adopted or issued under the Act;
4. Respondents shall not take any action or make or permit to be made any public statement, including in regulatory filings 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. Respondents 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. However, nothing in this Consent Order affects Respondents' testimonial obligations or right to take any legal or factual position in litigation, arbitration, or other legal proceedings in which the Commissioner is not a party;
6. As long as Respondents comply with this Consent Order, this Consent Order is not intended by the Commissioner to subject either Respondent to any disqualifications under the laws of the United States, any state, the District of Columbia, Puerto Rico, or the U.S. Virgin Islands, including, without limitation, any disqualification from relying upon state or federal registration exemptions or safe harbor provisions; and

7. This Consent Order shall become final when entered.

So ordered at Hartford, Connecticut,
this 17th day of January 2019

_____/s/_____
Jorge L. Perez
Banking Commissioner

CONSENT TO ENTRY OF ORDER

I, Christopher Murphy, 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/_____
Christopher Murphy

State of: Florida

County of Pinellas

On this the 8 day of January 2019, before me, the undersigned officer, personally appeared Christopher Murphy, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand.

_____/s/_____
Notary Public
Date Commission Expires: 1/29/2021

CONSENT TO ENTRY OF ORDER

I, Christopher Murphy, state on behalf of Vir-Sec, Inc. (“Vir-Sec”), that I have read the foregoing Consent Order; that I know and fully understand its contents; that I am authorized to execute this Consent Order on behalf of Vir-Sec; that Vir-Sec agrees freely and without threat or coercion of any kind to comply with the terms and conditions stated herein; and that Vir-Sec consents to the entry of this Consent Order.

Vir-Sec, Inc.

By: _____/s/_____
Christopher Murphy
President

State of: Florida

County of: Pinellas

On this the 8 day of January 2019, before me, the undersigned officer, personally appeared Christopher Murphy, who acknowledged himself to be the President of Vir-Sec, Inc., and that he, as such President, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of Vir-Sec, Inc. by himself as President.

In witness whereof I hereunto set my hand.

_____/s/_____
Notary Public
Date Commission Expires: 1/29/2021