

STATE OF ILLINOIS
SECRETARY OF STATE
SECURITIES DEPARTMENT

IN THE MATTER OF:)

TEN X HOLDINGS, LLC, its managers,)
officers, affiliates, subsidiaries, representatives,)
successors, and assigns.)

File No. 1300406

AMENDED ORDER OF PROHIBITION AND FINE

TO THE RESPONDENTS:

Ten X Holdings, LLC
3927 Bluejay Lane
Naperville, IL 60564

Ten X Holdings, LLC
Care of:
Ronald Duplack
55 W. Monroe St. Suite 3390
Chicago, IL 60603

WHEREAS, the above-captioned matter came on to be heard on October 6, 2016 thru October 12, 2016 pursuant to Notice of Hearing dated November 30, 2015 and properly served on Respondents through certified mail, also served through the Secretary of State Index Department, and the record of the matter under the Illinois Securities Law of 1953 [815 ILCS 5] (the "Act") has been reviewed by the Secretary of State or his duly authorized representative.

WHEREAS, the rulings of the Hearing Officer on the admission of evidence, and all motions, are deemed to be proper and are hereby concurred with by the Secretary of State.

WHEREAS, the proposed Findings of Fact, Conclusions of Law and Recommendations of the Hearing Officer, George P. Berbas, Esq., in the above-captioned matter have been read and examined.

WHEREAS, the Secretary of State finds the proposed Report and Findings of Fact of the Hearing Officer are correct and are hereby adopted as the Findings of Fact of the Secretary of State:

WHEREAS, the Secretary of State finds the proposed Conclusions of Law of the Hearing Officer are correct and are hereby adopted as the Conclusions of Law of the Secretary of State. Furthermore, the Secretary of State adopts the following additional Conclusions of Law:

HEARING OFFICER'S REPORT AND RECOMMENDATION

On October 6, 2016 thru October 12, 2016 George P. Berbas, Hearing Officer for the Illinois Secretary of State, Department of Securities (the Department) conducted a four day Hearing pursuant to Section 11.F of the Securities Law of 1953 [815 ILCS 5] (the Act) and 14 Ill. Adm. Code 130 Subpart K (the Code), to determine whether an order shall be entered prohibiting Ten X Holdings, LLC and their partners, officers, directors, members, employees, affiliates, successors, agents, and assigns, from offering or selling securities in or from the State of Illinois and/or granting such other relief as may be authorized under the Act, including but not limited to, the imposition of a monetary fine in the maximum amount pursuant to Sec. 11.E(4) of the Act.

I. NOTICE OF HEARING

On or about November 30, 2015 the Department issued a Notice of Hearing in this matter, scheduling a hearing for January 28, 2016, at 10:00 a.m., at 69 West Washington Street, Suite 1220, Chicago, Illinois. The Department properly served the Respondents. The Notice of Hearing included a statement of the time, place, and nature of the hearing, along with the other information required pursuant to Section 1102 of the Code. The hearing date was continued pursuant to an agreement of the parties, or by order of a Hearing Officer.

II. THE HEARING

The Hearing was conducted over four days on October 6, 2016, October 7, 2016, October 11, 2016, and October 12, 2016. The Hearing was transcribed by a certified Court Reporter. Accordingly, a full transcript of the proceedings is on file, and this Report and Recommendation contains and is intended only to be a summary. The transcript is incorporated herein as Exhibit 1 to this Report and Recommendation. Additionally, the Hearing Officer ruled on objections and issues that arose during the course of the hearing, the details of which are contained in the transcript of the proceedings.

Enforcement Attorneys Frank Loscuito and James J. Tierney appeared at the Hearing on behalf of the Department. Respondent Ten X Holdings failed to appear.

The witnesses that testified at the hearing are listed below. The Department retained the original exhibits. No summary of their testimony is provided, as a full transcript of the proceedings is available. The Hearing Officer found all the witnesses credible, and the Hearing Officer did not base any finding on the incredibility of a witness.

Witnesses (in order of Appearance):

1. J.H.
2. J.M.

3. James Nix, Senior Attorney, Securities Department
4. William A. Price, Attorney at Law, Expert Witness, Securities and Business Law
5. John W. Branch, Respondent

Exhibits:

Numerous Exhibits were offered and admitted into evidence at the hearing. Further details are contained in the transcript of the proceeding.

III. FINDINGS OF FACT

1. Ten X Holdings, LLC ("Ten X") is an Illinois limited liability company and is a consulting and business holdings entity that was established in May 2004. Ten X was *involuntarily dissolved as a limited liability company with the State of Illinois on November 8, 2013.*
2. Respondent Rainmaker Securities, LLC ("RMS") was registered with the Secretary of State as a broker-dealer in the State of Illinois pursuant to Section 8 of the Act.
3. Respondent Richard F. Beston, an Illinois resident was listed as Manager /President /CEO of Respondent Ten X and was registered as a direct /indirect owner of RMS. During the period of November 19, 2009 to April 21, 2010 Beston was listed as the CEO and COO of RMS.
4. Respondent John W. Branch ("Branch") is a California resident who was listed as the Manager/Chief Operating Officer of Respondent Ten X Holdings, LLC.
5. From January 2010 to July 2010, Respondent Brian Pebley ("Pebley") a Colorado resident was a registered representative of Respondent RMS.
6. On November 5, 2009, and January 15, 2010 Ten X issued two confidential disclosure statements wherein Respondents stated that Ten X was formed to acquire and develop various businesses operating in the financial services industry for the purpose of contributing and thereafter operating such businesses in one or more public companies. The disclosure statement also provides that RMS was founded in 2005 by Ten X founders as a securities broker/dealer, and that the membership interests of RMS were transferred to Ten X in the first quarter of 2008.
7. Respondents list another part of the Company in the disclosure statement as Ten X Capital Partners III, LLC ("TXCP"). TXCP is a defined purpose private equity fund investing in real estate and telecommunications assets. In June 2007, the telecommunications assets were sold. The remaining real estate asset was a data center building located in Chicago, Illinois.

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8. In March 2010 J.H. invested \$165,000.00 in Ten X with the purchase of a promissory note in Ten X. J.H. had the sum of \$165,000.00 transferred from her IRA account at Equity Trust on March 30, 2010. Ten X listed J.H. as an accredited investor with over one million in net worth.
9. On February 25, 2010 J.M., as executor of his uncle's Donald Pratt's estate invested \$300,000.00 in Ten X Holdings, LLC and was given a promissory note by Ten X to repay the funds.
10. J.H. and J.M. were both solicited to invest in Ten X by a Brian Pebley. At the time of the investments, Brian Pebley was a registered representative of Respondent RMS. Records indicate that Respondent Pebley was registered with Respondent RMS from January 25, 2010 to July 30, 2010.
11. Brian Pebley acted as the main contact person in soliciting the investments for both J.H. and J.M. for Respondents Ten X.
12. Brian Pebley did not disclose to the investors he solicited for Respondents or that he was a registered representative of Respondent RMS.
13. Respondent Ten X Holdings, LLC failed to disclose material facts to the investors to provide them with information necessary to make an informed decision before investing in Ten X, and in subsequent renewals of the notes.
14. The two confidential disclosure agreements of November 5, 2009, and January 15, 2010, failed to disclose that Respondent Ten X had invested in Blue Jay Holdings, LLC ("Blue Jay") which was an entity controlled by Respondents Branch and Beston. That beginning on December 2, 2009 to March 29, 2010, Respondent Ten X, by and through its principals Respondents Branch and Beston, transferred \$350,000.00 to Blue Jay.
15. The two confidential disclosure agreements of November 5, 2009, and January 15, 2010, failed to disclose that Ten X was currently in the process of purchasing Compass Financial Solutions, Ltd. ("CFS"), a financial services company with its principal place of business in Colorado.
16. Respondent Ten X by and through its principals Respondents Branch and Beston executed several wire transfers to CFS Holding Company. The first occurring on January 5, 2010 in the amount of \$60,000.00. The second on January 29, 2010 in the amount of \$100,000.00, and the last on February 16, 2010 in the amount of \$75,000.00 for a total of \$235,000.00. These transfers were not disclosed to either Investors J.H. or J.M. prior to their investment, nor were they disclosed in the subscription agreement or the confidential disclosure documents.
17. The two confidential disclosure agreements of November 5, 2009, and January 15, 2010, failed to disclose that Respondent Ten X was engaged in a joint venture with Kenneth

Brewington ("Brewington") and his company Brewington Holdings, LLC ("Brewington Holdings") located in California. Moreover the disclosure agreements and Respondent Ten X failed to disclose a judgment against Brewington in the amount of \$1,240,000.00 by the MGM Grand Hotel and the Bellagio Hotel on November 9, 2009. In addition, Ten X failed to disclose wire transfers to Brewington totaling \$535,000.00 from December 12, 2009, thru March 16, 2010, and additional wire transfers to Brewington in the amount of \$540,000.00 between April 1, 2010 and May 12, 2010.

18. Respondent Ten X failed in the two confidential disclosure agreements of November 5, 2009, and January 15, 2010, or otherwise in their dealings with investors, to disclose the investments in Bluejay, CFS, or Brewington.
19. Respondent Ten X failed to update and disclose to J.H. and J.M. before extending their notes, distributions and investments made after their initial investment.
20. Investors J.H. and J.M. were not "accredited investors" as was alleged by Respondent Branch

IV. CONCLUSIONS OF LAW

1. The Department properly served the Notice of Hearing on Respondent.
2. The Notice of Hearing included the information required under Section 1102 of the Code.
3. The Secretary of State has jurisdiction over the subject matter pursuant to the Illinois Securities Law of 1953 [815 ILCS 5].
4. The offer and sale of the promissory notes in Respondent Ten X constitutes the offer and sale of a security as those terms are defined in Sections 2.1, 2.5, and 2.5a of the Illinois Securities Law of 1953 [815 ILCS 5/1 et. seq.] ("the Act").
5. Under Section 130.200 of the Rules and Regulations under the Illinois Securities Law of 1953, "material" when used to qualify a requirement for the furnishing of information as to any subject, limits the information required to those matters as to which there is a substantial likelihood that a reasonable investor would consider it important in deciding upon a course of action to be taken, including, but without limitation, purchasing, selling, or holding the security or securities involved, or accepting or rejecting an offer or proposal made with regard to any security or securities. 14 Ill. Adm. Code Section 130.200.
6. Brian Pebley did not disclose to the investors he solicited for Respondents that he was a registered representative of Respondent RMS.
7. Respondent Ten X Holdings, LLC failed to disclose material facts to the investors to provide them with information necessary to make an informed decision before investing in Ten X, and in subsequent renewals of the notes.

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8. Section 12.G of the Act states *inter alia* that it shall be a violation of this Act for any person to obtain money or property through the sale of securities by means of any untrue statement of material fact or, any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.
9. Respondent Ten X violated Section 12.G by:
 - (1) failing to disclose in the two confidential disclosure agreements of November 5, 2009, and January 15, 2010, that Respondent Ten X had invested in Blue Jay Holdings, LLC ("Blue Jay") which was an entity controlled by Respondents Branch and Beston;
 - (2) failed to disclose in the disclosure agreements that Ten X was currently in the process of purchasing Compass Financial Solutions, Ltd. ("CFS");
 - (3) failed to disclose in the confidential agreements that several wire transfers were made to CFS Holding Company;
 - (4) failed to disclose that Respondent Ten X was engaged in a joint venture with Kenneth Brewington ("Brewington") and his company Brewington Holdings, LLC ("Brewington Holdings");
 - (5) Respondent Ten X failed to disclose a judgment against Brewington in the amount of \$1,240,000.00 by the MGM Grand Hotel and the Bellagio Hotel on November 9, 2009. In addition, they failed to disclose wire transfers to Brewington totaling \$535,000.00 from December 12, 2009, thru March 16, 2010, and additional wire transfers to Brewington in the amount of \$540,000.00 between April 1, 2010, through May 12, 2010;
 - (6) Respondent Ten X failed to update and disclose to J.H. and J.M. before extending their notes, distributions and investments made after their initial investment.
10. The facts stated in paragraph 9 above were material facts that that should have been disclosed to the investors. Failure to disclose these facts constituted a violation of Section 12.G of the Act.
11. By virtue of the foregoing Findings of Fact and Conclusions of Law, Respondent Ten X Holdings LLC violated Sections 12.G of the Act.

V. ADDITIONAL CONCLUSIONS OF LAW

1. Because of Respondent Ten X's failure to file a timely answer, make a special appearance or other responsive pleading in accordance with Section 130.1104:
 - (a) the allegations contained in the Notice of Hearing are deemed admitted;
 - (b) Respondent Ten X waived their right to a hearing;
 - (c) Respondent Ten X is subject to an Order of Default.
2. Because Respondent Ten X failed to appear at the time and place set for hearing, in accordance with Section 130.1109, it:
 - (a) waived its right to present evidence, argue, object or cross-examine witnesses; or
 - (b) otherwise participate at the hearing.

VI. RECOMMENDATION AS TO DISPOSITION

The Hearing Officer recommends that:

1. Respondent Ten X Holdings LLC, and their partners, officers, directors, agents, employees, affiliates, successors, and assigns are prohibited from offering or selling securities in or from the State of Illinois.
2. Respondent Ten X Holdings LLC is fined in the amount of \$110,000.00.

NOW THEREFORE IT IS HEREBY ORDERED THAT:

Respondent **Ten X Holdings, LLC**, and their partners, officers, directors, agents, employees, affiliates, successors, and assigns are PROHIBITED from offering or selling securities in or from the State of Illinois.

Respondent **Ten X Holdings, LLC** is FINED \$110,000 (One Hundred and Ten Thousand Dollars) made payable to the Office of the Secretary of State, Securities Audit and Enforcement Fund located at 69 West Washington, Suite 1220, Chicago, IL 60602 and referencing case # 1300406 within 30 (thirty) days of this Order.

NOTICE: Failure to comply with the terms of this Order shall be a violation of Section 12.D of the Illinois Securities Law of 1953, as amended, 815 ILCS 5/1 et seq. (the "Act"). Any person or entity who fails to comply with the terms of this Order of the Secretary of State, having knowledge of the existence of this Order, shall be guilty of a Class 4 felony.

This is a Final Order subject to judicial review pursuant to the Administrative Review Law, 735 ILCS 5/3-101 et seq. and the Rules and Regulations of the Act (14 Ill. Admin. Code, Ch. I, Sec. 130.1123. Any action for judicial review must be commenced within thirty-five (35) days from the date a copy of this Order is served upon the party seeking review. Mailing of this Order to the Respondent or representative of record constitutes service of the Order.

Delivery of notice to the designated representative of any Respondent constitutes service upon such Respondent.

Date of Mailing: This 20th day of September, 2018.



JESSE WHITE
Secretary of State
State of Illinois

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