

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 77525 / April 5, 2016

ADMINISTRATIVE PROCEEDING
File No. 3-17194

In the Matter of

STEVE PAPPAS,

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO SECTIONS 15(b) AND 21C
OF THE SECURITIES EXCHANGE ACT OF
1934, MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS AND A CEASE-
AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against Steve Pappas (“Pappas” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (“Offer”) that the Commission has determined to accept. Respondent admits the facts set forth in Section III. below, acknowledges that his conduct violated the federal securities laws, admits the Commission’s jurisdiction over him and the subject matter of these proceedings, and consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that:

Summary

These proceedings arise out of a fraudulent scheme in which insiders of publicly-traded penny stock companies paid secret kickbacks to a purported corrupt hedge fund manager, who was in fact an undercover agent with the Federal Bureau of Investigation ("Fund Manager"), in exchange for the Fund Manager's purchase of restricted stock of the penny stock companies on behalf of his purported hedge fund ("the Fund"), which did not actually exist.

Respondent

1. Respondent, age 72, of Brooklyn, New York is the Chairman and Chief Executive Officer of Xemex Group, Inc. ("Xemex"), a publicly traded company. Respondent participated in an offering of Xemex stock, which is a penny stock. Respondent previously served as a Director of Envirokare Technology, Inc., a formerly publicly-traded company that became Xemex after a reverse merger.

Other Relevant Entity and Individual

2. Xemex Group, Inc. ("Xemex"), a company incorporated in Nevada from 1998 through June 2014, when its license was revoked, and with its principal place of business in Brooklyn, New York, is a real estate services company that develops, owns, manages, and operates residential and commercial development properties. Its stock is publicly quoted on OTC Link under the symbol "XMEX," but the OTC website contains a warning that the company may not be making material information publicly available. Xemex was formerly known as Envirokare Tech, Inc. ("Envirokare") and changed its name to Xemex Group, Inc. on July 2, 2010 in a reverse merger. Envirokare's common stock was registered with the Commission under Section 12(g) of the Exchange Act, but the company filed a notice of termination of its registration on February 25, 2009.

3. Barry Hawk ("Hawk"), age 47, a resident of Woodmere, New York, was the Managing Director of Status Equities LLC and was purportedly in the business of bringing private companies public and assisting public companies in finding sources of funding. He was also the President and Chief Executive Officer of Arctic Enterprises, Inc. and Strategic Rare Earth Metals, Inc. Hawk was charged with one count of wire fraud on July 7, 2014 and pleaded guilty to that charge on December 2, 2014 in *U.S. v. Hawk*, 14-CR-10199-DPW (D. Mass.). On March 13, 2015, Hawk was sentenced to 36 months' probation and was ordered to pay a \$20,000 fine and a \$100 special assessment. On March 16, 2015, Hawk was also ordered to forfeit \$12,150. On June 1, 2015, the Commission instituted settled administrative and cease and desist proceedings against

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

Hawk and issued an order finding that he willfully violated Section 10(b) of the Exchange Act and Rule 10b-5(a) thereunder and imposing a cease and desist order, permanent officer and director bar and a penny stock bar.

Background

4. At some time prior to September 14, 2011, Hawk arranged for Pappas to meet with the Fund Manager to discuss funding for Xemex. On or about September 21, 2011, Pappas and Hawk participated in a meeting with the Fund Manager ("September 21 Meeting") during which they discussed the possibility of the Fund Manager's investing Fund monies in Xemex in exchange for a secret fifty percent kickback of the invested monies.

5. During the September 21 Meeting, the Fund Manager explained to Pappas and Hawk that the Fund Manager was prepared to invest Fund monies of up to \$5 million in Xemex in exchange for a secret fifty percent kickback to the Fund Manager, enabling the Fund Manager to keep half of the money he was supposedly investing on behalf of the Fund. Pappas and Hawk were informed that the Fund was not to be told of the kickback.

6. At the September 21 Meeting, the Fund Manager also explained the mechanics of the funding, informing Pappas and Hawk that while the Fund Manager could commit to an investment of \$5 million of the Fund's money with \$2.5 million being kicked back to the Fund Manager, the Fund Manager would not invest the entire amount at once. The Fund Manager told Pappas and Hawk that he would invest the money over time in tranches, or installments, of increasing amounts.

7. At the September 21 Meeting, the Fund Manager further discussed with Pappas and Hawk the mechanics of how monies would be kicked back to the Fund Manager. The Fund Manager arranged with Pappas that Xemex would execute a consulting agreement with one or more nominee consulting companies that the Fund Manager purportedly controlled, but that the Fund Manager would not actually provide any consulting services. Pappas and Hawk were told that, in order to conceal the kickback payments, the parties would utilize bogus invoices from the nominee company to Xemex for consulting services that were never rendered. At the September 21 Meeting, Pappas agreed to the kickback arrangement.

8. On various dates between on or about September 21, 2011 and on or about October 20, 2011, Pappas sent the Fund Manager documents related to the kickback transaction, including two stock purchase agreements between Xemex and the Fund, a fraudulent consulting agreement between Xemex and the Fund Manager's nominee consulting company, and an invoice for consulting services purportedly provided by the Fund Manager to Xemex that were never performed.

9. On or about September 27, 2011, Pappas caused a stock certificate representing the purchase by the Fund of 11,429 Xemex shares to be sent to the Fund Manager.

10. On or about September 29, 2011, in accordance with wiring instructions provided by Pappas, \$16,000 was sent by wire transfer from a bank account purportedly belonging to the Fund to a Xemex corporate bank account. This wire transfer represented the first tranche of funding to Xemex.

11. On or about September 29, 2011, Pappas caused \$8,000 to be sent by wire transfer from a Xemex corporate bank account to a bank account purportedly belonging to one of the Fund Manager's nominee companies. This wire transfer represented Pappas's kickback to the Fund Manager from the first tranche of funding to Xemex.

12. On or about October 20, 2011, in accordance with wiring instructions provided by Pappas, \$32,000 was sent by wire transfer from a bank account purportedly belonging to the Fund to a Xemex corporate bank account. This wire transfer represented the second tranche of funding to Xemex.

13. On or about October 20, 2011, Pappas caused \$16,000 to be sent by wire transfer from a Xemex corporate bank account to a bank account purportedly belonging to one of the Fund Manager's nominee companies. This wire transfer represented Pappas's kickback to the Fund Manager from the second tranche of funding to Xemex.

14. In or about October 2011, Pappas caused a stock certificate representing the purchase by the Fund of 20,000 Xemex shares to be sent to the Fund Manager.

15. On or about October 28, 2011 and on or about October 31, 2011, Pappas emailed the Fund Manager various documents in connection with a proposed third tranche of funding and kickback payments including a consulting agreement, bogus invoice for consulting services, and stock subscription agreement, but the transaction did not ultimately occur.

16. As a result of the conduct described above, Pappas willfully violated Section 10(b) of the Exchange Act and Rule 10b-5(a) thereunder, which prohibit fraudulent conduct in connection with the purchase or sale of securities.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent Pappas' Offer.

Accordingly, pursuant to Sections 15(b) and 21C of the Exchange Act, it is hereby ORDERED that:

- A. Respondent Pappas shall cease and desist from committing or causing any violations and any future violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.
- B. Respondent Pappas be, and hereby is:

prohibited from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)] for a period of five (5) years from entry of this Order; and

barred from participating in any offering of a penny stock, including: acting as a promoter, finder, consultant, agent or other person who engages in activities with a broker, dealer or issuer for purposes of the issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock, with the right to apply for reentry after five (5) years to the appropriate self-regulatory organization, or if there is none, to the Commission. Any reapplication for association by the Respondent will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

- C. Respondent shall pay civil penalties of \$50,000 to the Securities and Exchange Commission. Payment shall be made in the following installments: \$12,500.00 on or before May 15, 2016; \$12,500.00 on or before August 15, 2016; \$12,500.00 on or before November 15, 2016; and \$12,500.00 on or before January 31, 2017. If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of civil penalties, plus any additional interest accrued pursuant to 31 U.S.C. §3717, shall be due and payable immediately, without further application.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or

- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Steve Pappas as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to John T. Dugan, Associate Regional Director, Boston Regional Office, 33 Arch Street, 23rd Floor, Boston, MA 02110-1424.

- D. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, he shall not argue that he is entitled to, nor shall he benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that he shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Brent J. Fields
Secretary