

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST STEVEN T.
BERMAN, ATTORNEY AT LAW.

CASE CODE 30912

OFFICE OF LAWYER REGULATION,

CASE NO. 2013AP 2126-D

Complainant;

STEVEN T. BERMAN,

Respondent.

RECEIVED

SEP 25 2013

COMPLAINT

CLERK OF SUPREME COURT
OF WISCONSIN

NOW COMES the Wisconsin Supreme Court - Office of
Lawyer Regulation (OLR), by its retained counsel, William
F. Bedker, and alleges as follows:

1. OLR was established by the Wisconsin Supreme
Court and operates pursuant to Supreme Court Rules. This
Complaint is filed pursuant to SCR 22.11.

2. Steven T. Berman (Berman) is an attorney
admitted to the practice of law in Wisconsin in June 1987,
State Bar ID 1018834. The most recent address Berman
furnished to the State Bar of Wisconsin is 318 E. Main
Street, Hillsboro, OH 45133-1546. However, Berman is
currently in federal custody at FCI Morgantown, Federal
Correctional Institution, 446 Greenbag Road, Route 857,
Morgantown, WV 26501.

3. On August 9, 2013, pursuant to a SCR 22.20 summary suspension motion brought by OLR, the Supreme Court of Wisconsin suspended Berman's Wisconsin law license. *Office of Lawyer Regulation v. Steven T. Berman*, Case No. 2013XX000977-D. Berman's Wisconsin law license remains suspended.

4. On April 12, 2013, Berman appeared before the Honorable Nathaniel M. Gorton in United States District Court for the District of Massachusetts in the matter of *United States of America vs. Steven Berman*, CR No. 11-10415-NMG, and entered a guilty plea to the felony offense of Conspiracy to Commit Securities Fraud, in violation of 18 U.S.C. §§ 1348, 1349 and 2.

5. During the April 12, 2013 plea hearing, Berman agreed that the government would have been able to prove the following facts beyond a reasonable doubt if its case against him had gone to trial:

- a. In 2011, Berman was the CEO of China Wi-Max Communications, Inc., a publicly traded company that issued shares registered under Section 12(g) of the Securities and Exchange Act of 1934.
- b. [I]n July 2011, James Prange introduced Berman to a person identified in the Superseding Indictment as E.H. and later to an individual who purported to be a representative of a major investment fund so that Berman could solicit the fund to buy shares of China Wi-Max. Unbeknownst to Berman, E.H. was cooperating with the FBI.

The purported investment fund representative was, in fact, an undercover FBI agent, and the fund did not exist.

- c. In a series of consensually recorded telephone calls in July 2011, E.H. described an arrangement to Berman which required that Berman pay secret kickbacks to the purported fund representative in order to induce the representative to use fund assets to buy shares of China Wi-Max at above market prices. In response to a question from Berman, E.H. told Berman that E.H. believed the transaction to be inappropriate and illegal.
- d. After speaking with E.H., Prange and Berman traveled to Boston to meet with the purported investment fund manager where Berman was again told, among other things, that the fund representative would use up to \$5 million of his fund's money to buy shares of China Wi-Max but only in exchange for a secret kickback to the fund representative in an amount equal to 50 percent of the total purchase.
- e. The representative told Berman that he would cause the fund to purchase restricted stock in an inflated price and that the \$5 million purchase would be made in installments, or tranches, with a 50 percent kickback paid with each tranche. The representative also told both Berman and Prange that the fund would not know about the kickback, and the kickback arrangement had to be kept confidential.
- f. Berman agreed to this arrangement and also agreed to various measures that would conceal the kickback. Berman was told that the kickback payments were not to be made to the fund representative directly but rather to a nominee consulting company that the representative purportedly controlled.
- g. Berman was told that the fund representative would not actually be doing any consulting but that, first, the representative and then Berman would prepare invoices for non-existent consulting services as a way to cover up the kickback from both the fund and

China Wi-Max's own auditors.

- h. Following his meeting with the undercover agent in Boston, Berman enlisted the help of Richard Kranitz, an attorney and fellow China Wi-Max board member, to assist in creating the documentation necessary to consummate the secret kickback transaction. Specifically, with Berman's knowledge and at Berman's direction, Kranitz prepared a stock purchase agreement that reflected a purchase of \$32,000 worth of China Wi-Max restricted stock at three cents per share when at the time China Wi-Max's free-trading stock was trading at less than one penny per share.
- i. With Berman's knowledge and at Berman's direction, Kranitz also prepared a consulting agreement between the undercover agent's nominee consulting company and China Wi-Max which, as Berman had been told, would be used to conceal the contemplated kickback payments.
- j. After Kranitz forwarded the necessary documentation to the undercover agent, the FBI wire transferred \$32,000.01 to China Wi-Max's bank account representing the first installation of the transaction. The undercover agent also forwarded an invoice for \$16,000, or 50 percent of the purported funding, which invoice reflected consulting services that had never been performed.
- k. After receiving the bogus invoice, Berman paid it by sending a wire transfer of \$16,000 to a bank account purportedly belonging to the undercover agent's nominee company, which \$16,000 was the secret 50 percent kickback on the first installment of the transaction.
- l. Berman also directed the China Wi-Max transfer agent to mail a stock certificate to the undercover agent reflecting the fund's purchase of 1,066,667 shares of restricted stock of China Wi-Max at three cents per share.
- m. Following the first \$32,000 transaction and payment of the accompanying \$16,000 kickback, Berman, Prange, and Kranitz

attempted to facilitate additional purchases of China Wi-Max stock and pay additional kickbacks in connection with those purchases. Among other things, Prange and Berman contacted the undercover agent and the cooperating witness to make arrangements for the additional kickback transactions.

- n. Kranitz, at Berman's direction and with Berman's knowledge, prepared additional stock purchase agreements and also prepared additional fake invoices in order to conceal the anticipated kickback payments. The FBI, however, did not forward any additional monies to Berman or China Wi-Max.

6. Based upon Berman's guilty plea and the above-recited facts, Judge Gorton adjudged Berman guilty of Conspiracy to Commit Securities Fraud, and set the matter over for sentencing.

7. On July 16, 2013, Berman was sentenced to the custody of the Federal Bureau of Prisons to be imprisoned for a term of 18 months, plus a term of one year of supervised release upon his release from imprisonment. Judge Gorton also imposed a fine and other terms and conditions.

COUNT ONE

8. By engaging in conduct leading to his conviction for the felony offense of Conspiracy to Commit Securities Fraud, in violation of 18 U.S.C. §§ 1348, 1349 and 2, Berman violated SCR 20:8.4(b)¹

¹ SCR 20:8.4(b) provides in pertinent part: "It is professional misconduct for a lawyer to: (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects."

WHEREFORE, the Office of Lawyer Regulation asks that Respondent, Steven T. Berman, be found in violation of the Supreme Court Rules as alleged in connection with this Complaint, that Berman's license to practice law in Wisconsin be suspended for a period of two (2) years, and that the Court grant such other and further relief as may be just and equitable, including an award of costs.

Dated this 25 day of September, 2013.

OFFICE OF LAWYER REGULATION

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