

San Francisco Chronicle

Hedge fund manager settles fraud suit

Bob Egelko, Chronicle Staff Writer

Thursday, August 28, 2008

A prominent hedge fund manager agreed to a \$100,000 penalty and a five-year ban on acting as an investment adviser to settle a Securities and Exchange Commission lawsuit that accused him of misleading clients who invested \$20 million in real estate, the SEC said Wednesday.

Mark Boucher of Portola Valley, author of the book "The Hedge Fund Edge," was one of three defendants in the civil suit filed in San Francisco federal court.

Gary P. Johnson of Westlake Village (Ventura County), owner of one of the companies in which Boucher solicited investments, agreed to return \$1.8 million in commissions and pay \$120,000 in penalties and \$700,000 in interest, the commission said. The owner of the other development company, John Brake of Santa Monica, has not settled and remains in the suit, which accuses him of securities fraud.

The SEC alleged that Boucher recommended the two companies in his monthly newsletter to clients and claimed the investments were secured by real estate, generating \$20 million from investors between 1999 and 2005. In fact, the commission said, one company owned no property, the other company had a single property that was tied up in debt, and neither firm successfully developed any real estate.

In the meantime, the commission said, Boucher used investor money to help pay his home mortgage, Brake bought luxury cars and rented a beachfront home in Carmel, and Johnson used some of the funds to start a furniture business.

"Boucher lured clients into these fraudulent real estate deals by exploiting his reputation as a successful hedge fund manager," said Marc Fagel, director of the SEC's San Francisco regional office. "Johnson and Brake failed to develop the projects, instead diverting millions of dollars of investor money to finance their lavish lifestyles."

With no property backing their investments, investors are unlikely to recover their money, said Kristin Snyder, a commission lawyer.

The settlement carries no admission of wrongdoing.

John Cotton, Boucher's lawyer, said his client "is pleased to get the matter behind him and move on." Gary Grant, Johnson's lawyer, said his client denies the SEC's allegations. Douglas Foster, a lawyer for Brake, had no comment.

E-mail Bob Egelko at begeko@sfchronicle.com.

© 2008 Hearst Communications Inc.