

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-v-

VALI MANAGEMENT PARTNERS d/b/a AVALON
FA LTD, NATHAN FAYYER, AND SERGEY
PUSTELNIK a/k/a SERGE PUSTELNIK,

Defendants.
----- X

17cv1789 (DLC)

SPECIAL VERDICT
FORM

COURT
EXHIBIT
11

PLEASE CHECK (✓) YOUR ANSWERS

All jurors must agree on the answers to all of the questions:

Issue I: Section 10(b) of the Exchange Act and Rules 10b-5(a)
and (c) and Substantial Assistance Under Section 20(e)

1. Did the SEC establish by a preponderance of the evidence that Avalon violated Section 10(b) of the Exchange Act and Rule 10b-5(a) or (c)?

YES ✓ NO

2. If your answer to Question 1 is YES, did the SEC establish by a preponderance of the evidence that Nathan Fayer knowingly or recklessly provided substantial assistance to Avalon in doing so?

YES ✓ NO

3. If your answer to Question 1 is YES, did the SEC establish by a preponderance of the evidence that Sergey Pustelnik knowingly or recklessly provided substantial assistance to Avalon in doing so?

YES ✓ NO

4. Did the SEC establish by a preponderance of the evidence that Nathan Fayer violated Section 10(b) of the Exchange Act and Rule 10b-5(a) or (c)?

YES ✓ NO

5. If your answer to Question 4 is YES, did the SEC establish by a preponderance of the evidence that Sergey Pustelnik knowingly or recklessly provided substantial assistance to Nathan Fayer in doing so?

YES ✓ NO

6. Did the SEC establish by a preponderance of the evidence that Sergey Pustelnik violated Section 10(b) of the Exchange Act and Rule 10b-5(a) or (c)?

YES ✓ NO

7. If your answer to Question 6 is YES, did the SEC establish by a preponderance of the evidence that Nathan Fayer knowingly or recklessly provided substantial assistance to Sergey Pustelnik in doing so?

YES ✓ NO

Issue II: Section 17(a)(1) of the Securities Act and Substantial Assistance Under Section 15(b)

8. Did the SEC establish by a preponderance of the evidence that Avalon violated Section 17(a)(1) of the Securities Act?

YES ✓ NO

9. If your answer to Question 8 is YES, did the SEC establish by a preponderance of the evidence that Nathan Fayer knowingly or recklessly provided substantial assistance to Avalon in doing so?

YES ☒

NO ☐

10. If your answer to Question 8 is YES, did the SEC establish by a preponderance of the evidence that Sergey Pustelnik knowingly or recklessly provided substantial assistance to Avalon in doing so?

YES ☒

NO ☐

11. Did the SEC establish by a preponderance of the evidence that Nathan Fayer violated Section 17(a)(1) of the Securities Act?

YES ☒

NO ☐

12. If your answer to Question 11 is YES, did the SEC establish by a preponderance of the evidence that Sergey Pustelnik knowingly or recklessly provided substantial assistance to Nathan Fayer in doing so?

YES ☒

NO ☐

13. Did the SEC establish by a preponderance of the evidence that Sergey Pustelnik violated Section 17(a)(1) of the Securities Act?

YES ☒

NO ☐

14. If your answer to Question 13 is YES, did the SEC establish by a preponderance of the evidence that Nathan Fayer knowingly or recklessly provided substantial assistance to Sergey Pustelnik in doing so?

YES ☒

NO ☐

Issue III: Section 17(a) (3) of the Securities Act and Substantial Assistance Under Section 15(b)

15. Did the SEC establish by a preponderance of the evidence that Avalon violated Section 17(a)(3) of the Securities Act?

YES ☒ NO ☐

16. If your answer to Question 15 is YES, did the SEC establish by a preponderance of the evidence that Nathan Fayyer knowingly or recklessly provided substantial assistance to Avalon in doing so?

YES ☒ NO ☐

17. If your answer to Question 15 is YES, did the SEC establish by a preponderance of the evidence that Sergey Pustelnik knowingly or recklessly provided substantial assistance to Avalon in doing so?

YES ☒ NO ☐

18. Did the SEC establish by a preponderance of the evidence that Nathan Fayyer violated Section 17(a)(3) of the Securities Act?

YES ☒ NO ☐

19. If your answer to Question 18 is YES, did the SEC establish by a preponderance of the evidence that Sergey Pustelnik knowingly or recklessly provided substantial assistance to Nathan Fayyer in doing so?

YES ☒ NO ☐

20. Did the SEC establish by a preponderance of the evidence that Sergey Pustelnik violated Section 17(a)(3) of the Securities Act?

YES ☒ NO ☐

21. If your answer to Question 20 is YES, did the SEC establish by a preponderance of the evidence that Nathan Fayer knowingly or recklessly provided substantial assistance to Sergey Pustelnik in doing so?

YES ☒ NO ☐

Issue IV: Section 9(a)(2) of the Exchange Act and Substantial Assistance Under Section 20(e)

22. Did the SEC establish by a preponderance of the evidence that Avalon violated Section 9(a)(2) of the Exchange Act?

YES ☒ NO ☐

23. If your answer to Question 22 is YES, did the SEC establish by a preponderance of the evidence that Nathan Fayer knowingly or recklessly provided substantial assistance to Avalon in doing so?

YES ☒ NO ☐

24. If your answer to Question 22 is YES, did the SEC establish by a preponderance of the evidence that Sergey Pustelnik knowingly or recklessly provided substantial assistance to Avalon in doing so?

YES ☒ NO ☐

25. Did the SEC establish by a preponderance of the evidence that Nathan Fayer violated Section 9(a)(2) of the Exchange Act?

YES ☒ NO ☐

26. If your answer to Question 25 is YES, did the SEC establish by a preponderance of the evidence that Sergey Pustelnik knowingly or recklessly provided substantial assistance to Nathan Fayer in doing so?

YES ☒ NO ☐

Issue V: Section 20(a) of the Exchange Act (Control Person Liability)

27. Did the SEC establish by a preponderance of the evidence that any of Avalon's Traders violated Section 10(b) of the Exchange Act and Rule 10b-5(a) or (c)?

YES ☒ NO ☐

If your answer to Question 27 is YES, answer Questions 28 through 31:

28. Is Avalon liable as a control person under Section 20(a) of the Exchange Act for the Avalon's Traders' violation of Section 10(b) of the Exchange Act and Rule 10b-5(a) or (c)?

YES ☒ NO ☐

29. Did Avalon know, or was Avalon reckless in not knowing, that the Avalon Traders were engaged in a violation of Section 10(b) of the Exchange Act and Rule 10b-5(a) or (c)?

YES ☒ NO ☐

30. Is Nathan Fayyer liable as a control person under Section 20(a) of the Exchange Act for the Avalon Traders' violation of Section 10(b) of the Exchange Act and Rule 10b-5(a) or (c)?

YES ☒

NO ☐

31. Did Nathan Fayyer know, or was he reckless in not knowing, that the Avalon Traders were engaged in a violation of Section 10(b) of the Exchange Act and Rule 10b-5(a) or (c)?

YES ☒

NO ☐

32. Did the SEC establish by a preponderance of the evidence that any of Avalon's Traders violated Section 9(a)(2) of the Exchange Act?

YES ☒

NO ☐

If your answer to Question 32 is YES, answer Questions 33 through 36:

33. Is Avalon liable as a control person under Section 20(a) of the Exchange Act for the Avalon's Traders' violation of Section 9(a)(2) of the Exchange Act?

YES ☒

NO ☐

34. Did Avalon know, or was Avalon reckless in not knowing, that the Avalon Traders were engaged in a violation of Section 9(a)(2) of the Exchange Act?

YES ☒

NO ☐

35. Is Nathan Fayyer liable as a control person under Section 20(a) of the Exchange Act for the Avalon Traders' violation of Section 9(a)(2) of the Exchange Act?

YES ☒

NO ☐

36. Did Nathan Fayer know, or was he reckless in not knowing, that the Avalon Traders were engaged in a violation of Section 9(a)(2) of the Exchange Act?

YES ✓ NO

If you found in answer to Question 1 that Avalon violated Section 10(b) of the Exchange Act and Rules 10b-5(a) or (c), answer Questions 37 and 38:

37. Is Sergey Pustelnik liable as a control person under Section 20(a) of the Exchange Act for the Avalon violation of Section 10(b) of the Exchange Act and Rules 10b-5(a) or (c)?

YES ✓ NO

38. Did Sergey Pustelnik know, or was he reckless in not knowing, that Avalon was engaged in a violation of Section 10(b) of the Exchange Act and Rule 10b-5(a) or (c)?

YES ✓ NO

If you found in answer to Question 22 that Avalon violated Section 9(a)(2) of the Exchange Act, answer Questions 39 and 40:

39. Is Sergey Pustelnik liable as a control person under Section 20(a) of the Exchange Act for the Avalon violation of Section 9(a)(2) of the Exchange Act?

YES ✓ NO

40. Did Sergey Pustelnik know, or was he reckless in not knowing, that Avalon was engaged in a violation of Section 9(a)(2) of the Exchange Act?

YES ✓ NO

Issue VI: The Layering and Cross-Market Strategies

If you have answered any question with a YES, answer Questions 41 through 44:

41. Did the SEC prove by a preponderance of the evidence that orders placed by Avalon constituted a layering strategy?

YES ☒ NO ☐

42. If your answer to Question 43 is YES, did the SEC prove by a preponderance of the evidence that the layering strategy constituted a manipulation of the securities markets?

YES ☒ NO ☐

43. Did the SEC prove by a preponderance of the evidence that orders placed by Avalon constituted a cross-market strategy?

YES ☒ NO ☐

44. If your answer to Question 45 is YES, did the SEC prove by a preponderance of the evidence that the cross-market strategy constituted a manipulation of the securities markets?

YES ☒ NO ☐