



Department of Justice

United States Attorney Melinda Haag
Northern District of California

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**FORMER PRESIDENT OF REGISTERED INVESTMENT ADVISER FIRM CHARGED WITH MAIL
FRAUD AND OBSTRUCTION**

SAN FRANCISCO - Today the United States Attorney's Office for the Northern District of California charged Kurt S. Hovan, of Belvedere, Calif., with mail fraud and obstruction, United States Attorney Melinda Haag announced. The charges result from Hovan's alleged fraudulent use of "soft dollars" and his subsequent obstruction of an investigation being conducted by the Securities and Exchange Commission (SEC).

According to the Information filed today, Hovan, 43, is alleged to have created a scheme to defraud brokerage firms into paying "soft dollars" to Hovan's brother, who then funneled the money back to benefit Hovan's company, Hovan Capital Management, LLC (HCM). "Soft dollars" are credits from a brokerage firm on commissions generated by client trades in brokerage firm accounts. Brokerage firm clients, such as a registered investment adviser firm like HCM, are allowed to use those credits to pay for research services to benefit the investment adviser's clients. The investment adviser, however, must disclose its use of these "soft dollar" credits, and the investment adviser is prohibited from using these credits to pay for its own benefit instead of its clients' benefit.

According to the Information, Hovan allegedly caused the creation of Bolton Research, LLC, in Connecticut. Hovan then submitted invoices to brokerage firms to support requests that those firms pay Bolton using HCM's accumulated soft dollars. Hovan falsely claimed to the

brokerage firms that Bolton's invoices reflected charges for independent research Bolton had conducted to benefit HCM's clients. The brokerage firms paid the invoices to Bolton, which was, in fact, simply Hovan's brother. Hovan's brother then funneled a substantial amount of the payments back to HCM to pay HCM's rent.

In January 2010, the SEC asked Hovan to provide documentation of the purported independent research Bolton had conducted. In response, Hovan allegedly created false and misleading documents to falsely reflect that Bolton had conducted significant independent research, that Bolton had prepared reports summarizing the research, and that Bolton had done so on a schedule coinciding with the monthly soft dollar payments to Bolton. Hovan then produced these false documents to the SEC, and later falsely stated to the SEC that He did not create them.

Hovan's initial appearance in federal court has not been scheduled. The maximum statutory penalty for mail fraud, in violation of Title 18, United States Code, Section 1341, is 20 years in prison, a \$250,000 fine, and five years of supervised release. The maximum statutory penalty for obstruction is five years in prison, a \$250,000 fine, and three years of supervised release. Any sentence following conviction, however, would be imposed by the court after consideration of the U.S. Sentencing Guidelines and the federal statute governing the imposition of a sentence, 18 U.S.C. § 3553.

Doug Sprague is the Assistant U.S. Attorney who is prosecuting the case with the assistance of Rayneisha Booth. The prosecution is the result of a five-month investigation by the Federal Bureau of Investigation, with substantial assistance from the San Francisco Regional Office of the Securities and Exchange Commission.

Please note, an information contains only allegations against an individual and, as with all defendants, Mr. Hovan must be presumed innocent unless and until proven guilty.

Further Information:

Case #: CR 11-0699 RS

A copy of this press release may be found on the U.S. Attorney's Office's website at www.usdoj.gov/usao/can.

Electronic court filings and further procedural and docket information are available at <https://ecf.cand.uscourts.gov/cgi-bin/login.pl>.

Judges' calendars with schedules for upcoming court hearings can be viewed on the court's website at www.cand.uscourts.gov.

All press inquiries to the U.S. Attorney's Office should be directed to Jack Gillund at (415) 436-6599 or by e-mail at Jack.Gillund@usdoj.gov