

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

----- X
HOWARD RUBINSKY,

Plaintiff,

Case No.: 2:14-cv-01540

-against-

AHMED ZAYAT, a/k/a
EPHRAIM ZAYAT,

Defendant.

----- X

REQUESTS TO TAKE JUDICIAL NOTICE

Pursuant to Federal Rule of Evidence 201(b)(2) Plaintiff respectfully requests that the Court take judicial notice of the following facts that are generally known within its territorial jurisdiction or can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned:

Request No. 1: In a letter dated June 2, 2015, from United States Senator Elizabeth Warren to Hon. Mary Jo White, Chair, Securities and Exchange Commission, Senator Warren criticized the SEC's routine practice of failing "to require admissions of wrongdoing from companies that appear to have violated the law" in the context of entering into settlement agreements with them. The substance of Senator Warren's letter, as well as the letter itself, was reported prominently in the national press. *See* Exhibit A attached hereto.

Request No. 2: The disclosure in 2010 in the bankruptcy filings of Zayat Stables, LLC, of loans to the Jelinsky Brothers attracted nation-wide attention and questions as to whether the “loans” were truly loans or gambling related debts. This in turn resulted in investigations by regulatory authorities in California, New York and Kentucky. *See Exhibits B, C and D.*

Request No. 3: Defendant was also the subject of press coverage in 2013 as the result of litigation charging illegal online gambling that resulted in an investigation by the New Jersey Racing Commission. *See Exhibit E.*

Request No. 4: No Google™ or other search will reveal an association between Plaintiff and Defendant of any kind whatsoever prior to May 2015.

Dated: New York, New York
June 5, 2015

BAINTONLYNCH LLP

By: 

Joseph Bainton (JB-5934)

Attorneys for Plaintiff

767 Third Avenue

New York, NY 10017-2079

Telephone: (212) 201-5705

e-mail: bainton@baintonlynch.com

Exhibit A

ELIZABETH WARREN
MASSACHUSETTS

COMMITTEES:
BANKING, HOUSING, AND URBAN AFFAIRS
HEALTH, EDUCATION, LABOR, AND PENSIONS
ENERGY AND NATURAL RESOURCES
SPECIAL COMMITTEE ON AGING

United States Senate

June 2, 2015

UNITED STATES SENATE
WASHINGTON, DC 20510-2105
P: 202-224-4643

2400 JFK FEDERAL BUILDING
15 NEW SUDBURY STREET
BOSTON, MA 02203
P: 617-565-3170

1600 MAIN STREET
SUITE 408
SPRINGFIELD, MA 01103
P: 413-788-2690

www.warren.senate.gov

The Honorable Mary Jo White
Chair
Securities and Exchange Commission
100 F St. NE
Washington, DC 20549

Dear Chair White:

As the U.S. economy continues to recover from the 2008 financial crisis, the need for strong and effective regulations to protect Americans and their investments is more important than ever. The nation's largest financial institutions are mounting an aggressive effort to repeal, postpone, and dilute the laws Congress passed in the wake of the crisis.

The Securities and Exchange Commission (SEC) plays a critical role in the protection of consumers and investors. On April 20, 2013, you were sworn in as the Chair of the SEC. I voted for your nomination despite my concerns about your lack of experience as a regulator. As I said at the time, my hope was that you would be "the strong leader the SEC needs to be a tough watchdog for the American people."¹

You have now been SEC Chair for over two years, and to date, your leadership of the Commission has been extremely disappointing.

At your confirmation hearing, you stated without reservation that you would implement a strong enforcement policy at the SEC. You said that the SEC's enforcement of regulations:

[I]t will be a high priority throughout my tenure to further strengthen the enforcement function of the SEC – it must also be bold and unrelenting ... Strong enforcement is necessary for investor confidence and it is essential to the integrity of our markets. Proceeding aggressively against wrongdoers ... also will serve to deter the unlawful practices of others who must be made to think twice and stop in their tracks, rather than risk discovery, pursuit and punishment by the SEC.²

¹ Sen. Elizabeth Warren, Statement on the Banking Committee's Approval of the Nominations of Rich Cordray and Mary Jo White (Mar. 19, 2013).

² Testimony of Mary Jo White, Nominee for Chair of the Securities and Exchange Commission Before the United States Senate Committee on Banking, Housing, and Urban Affairs (Mar. 12, 2013) (http://www.banking.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=619e5603-c2c8-4085-98c6-0014ce29bde7).

During this confirmation hearing and in the period immediately after, you also made promises to members of the Senate in four key areas. In each case, you appear to have broken those promises. First, under your leadership, the SEC has failed to finalize important Dodd-Frank rules requiring disclosure of the ratio of CEO pay to the median worker. Second, the SEC has failed to curb the use of waivers for companies found to be in violation of securities law. Third, the agency has settled the vast majority of cases without requiring that companies admit guilt. And fourth, you have been unable to participate in numerous cases because of recusals related to your prior employment at a Wall Street defense firm, and you have been and will continue to be unable to participate in certain cases because of recusals relating to your husband's ongoing employment at a Wall Street defense firm.

These four major issues are not the only areas where there are concerns about your time as SEC Chair. You have also failed to act to address undisclosed corporate campaign contributions, have presided over new SEC rulemakings that have created large loopholes in important Dodd-Frank disclosure rules, and have issued new rules for small business capital formation that preempted important state consumer protections.

I am disappointed by the significant gap between the promises you made during and shortly after your confirmation and your performance as SEC Chair. We have continued to talk, and you and I met personally on Wednesday, May 21, 2015, to discuss these issues. At that meeting, however, you said little that indicated that you would be changing your practices at the SEC.

Even worse, at that same meeting, you provided me with what appeared to be misleading information about the timing of new CEO pay disclosure rules that was contradicted by an Office of Management and Budget (OMB) publication released that very same day. My questions and your answers at that meeting were both clear; there could not have been a misunderstanding, and I am perplexed as to how and why you would have provided me with this misinformation.

Below, please find additional information on the concerns related to the failure of SEC under your watch to consistently and aggressively enforce securities law and protect investors and the public, and specific requests related to each of these issues.

I. Failure to implement Dodd-Frank rules on CEO Pay Disclosure

Section 953(b) of the Dodd-Frank Act requires, for the first time, basic disclosure of CEO pay, pay for companies' median workers, and the ratio of the two. On at least four different occasions that are documented in the public record, you promised members of the Senate that you would move quickly to finalize this rule.

At your confirmation hearing on March 23, 2013, you were asked by Sen. Menendez if you would "make sure that we get to the rule that is called for under the law." You replied, "I will, Senator." In response to questions for the record that I sent to you after that hearing, you told me that, "completing the rulemaking mandates that the Commission has received from

Congress will be a priority for me if confirmed. This is the case for ... the Section 953(b) 'pay ratio' rulemaking mandate."³

Four months later, in July 2013, after you were confirmed, Sen. Menendez again asked you if you were moving forward with the rule. You replied that, "It should be in the near future. ... I would hope that it is completed in the next month or two."⁴

Soon after this hearing, on September 13, 2013, the SEC released the proposed rule on CEO pay reporting, with the standard 60-day public comment period.⁵ Almost a year later, the rule was still not finalized, but you testified that, "[o]ur focus now is on finishing ... executive compensation rules as required by Dodd-Frank."⁶ You told Sen. Menendez that, "It is certainly a priority to complete it this year ... It is my hope and expectation to complete it this year."⁷ But later that year, an update on the rule indicated it would not be completed until October 2015.⁸

When you and I met on May 21, 2015 — nearly two years after you predicted completion of this rule within, "the next month or two" — you told me that you, "hope[d] to be done by fall" 2015 with the rule. When you were asked if anything was likely to delay the rule past that point, you responded that there should not, "be anything that holds it up past this fall."⁹

Later that same day, OMB published its updated 2015 Current Unified Agenda of Regulatory and Deregulatory Actions. The SEC submissions for that publication were due on March 23, 2015 — two months before our meeting.¹⁰ The newly published information from OMB indicates that the CEO pay rule is not expected to be finalized until April 2016, adding another six month delay compared to the previously posted OMB deadline.¹¹ I cannot understand how and why this rule has been delayed for so long, and I am perplexed as to why

³ Mary Jo White, Responses to Questions for the Record from Sen. Elizabeth Warren, Mar. 23, 2013.

⁴ Senate Banking, Housing, and Urban Affairs Committee, Hearing on Systemic Risk in Financial Markets (July 20, 2013).

⁵ <https://www.sec.gov/rules/proposed/2013/33-9452.pdf>

⁶ Senate Banking, Housing, and Urban Affairs Committee, Hearing on the Financial Regulatory System (Sept. 9, 2014).

⁷ Senate Banking, Housing, and Urban Affairs Committee, Hearing on the Financial Regulatory System (Sept. 9, 2014).

⁸ OMB, Unified Agenda, Fall 2014, RIN: 3235-AL47 (Nov. 21, 2014) (<http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201410&RIN=3235-AL47>)

⁹ Sen. Elizabeth Warren, meeting with The Honorable Mary Jo White (May 21, 2015).

¹⁰ OMB, Memorandum for Regulatory Policy Managers (Feb. 23, 2015) (<https://www.whitehouse.gov/sites/default/files/omb/inforeg/for-agencies/spring-2015-regulatory-plan-and-unified-agenda-of-federal-regulatory-and-deregulatory-actions.pdf>).

¹¹ OMB, Unified Agenda, Spring 2015, RIN: 3235-AL47 (May 21, 2015) (<http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201504&RIN=3235-AL47>);

OMB, Unified Agenda, Fall 2014, RIN: 3235-AL47 (Nov. 21, 2014)

(<http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201410&RIN=3235-AL47>)

you told me personally that the rule would be completed by the fall of 2015 when it appears that you were or should have been aware of additional delays.

2. Failure to Require Admissions of Wrongdoing in SEC Enforcement Cases

On multiple occasions and with multiple regulators, Senators have raised concerns about enforcement patterns in which such regulators – including the SEC – fail to require admissions of wrongdoing from companies that appear to have violated the law.

At your confirmation hearing, you spoke of the need for strong SEC enforcement, stating that:¹²

[I]t will be a high priority throughout my tenure to further strengthen the enforcement function of the SEC. ... it must be bold and unrelenting....market participants need to know ... that all wrongdoers ... of whatever position or size, will be aggressively and successfully called to account by the SEC.

At the same hearing, when asked about prosecutions of wrongdoers by Sen. Menendez, you replied:¹³

I think you proceed quite vigorously against ... anyone that you find evidence of wrongdoing going on, but certainly, financial institutions ... at the SEC, there's no institution too big to charge.

Sen. Menendez then asked you to clarify, "If you were to be confirmed as the Chair ... to the extent that the SEC has powers of charging and proceeding, you would vigorously do that when you found the causes to be appropriate?" You replied, "Absolutely, Senator."

In June 2013, soon after your confirmation, you announced that you would take a stronger line on requiring admissions of wrongdoing. While acknowledging that, "[t]he option

¹² Testimony of Mary Jo White, Nominee for Chair of the Securities and Exchange Commission Before the United States Senate Committee on Banking, Housing, and Urban Affairs, (Mar. 12, 2013) (http://www.banking.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=619e5603-c2c8-4085-98c6-0014ce29bde7).

¹³ Testimony of Mary Jo White, Nominee for Chair of the Securities and Exchange Commission Before the United States Senate Committee on Banking, Housing, and Urban Affairs (Mar. 12, 2013) (http://www.banking.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=619e5603-c2c8-4085-98c6-0014ce29bde7).

to settle without admissions of misconduct will remain a 'major, major tool in the arsenal,'" ¹⁴ you also stated that: ¹⁵

We are going to in certain cases be seeking admissions going forward ... There may be particular individuals or institutions where it is very important it be a matter of public record that they acknowledge their wrongdoing, and if not you go to trial ... You are trying to get as strong a deterrent message out there as you possibly can, and in some situations it can be important that admissions be part of that process.

A year later, in September 2014, you provided me with a detailed explanation of when you would seek admissions of wrongdoing. You wrote that: ¹⁶

[W]e now demand an additional measure of public accountability through an acknowledgment of wrongdoing in certain of our cases ... Under this policy, [SEC] now considers requiring admissions in cases where the violation of securities law included particularly egregious conduct; where large numbers of investors were harmed; where the markets or investors were placed at significant risk; where the conduct obstructs the Commission's investigation; where an admission can send a particularly important message to the markets; or where the wrongdoing poses a particular future threat to the investors or the markets.

I also asked for specific details on the number of settlements in which the SEC had required admissions of guilt since your initial June 2013 announcement of the new policy. This information reveals that – as of September 2014 – in the vast number of cases, SEC continues to settle cases without requiring admissions of guilt. These records show that in 520 settlements, SEC required admissions of guilt in only 19 cases – less than 4 percent. The New York Times reached a similar conclusion, finding that, "it is clear that most of the time defendants are still being allowed to settle without admitting to or denying the agency's allegations."¹⁷

In fact, the record of the SEC under your leadership is even worse than those numbers suggest. In 11 of these 19 cases, SEC required only a broad admission of facts specified by the

¹⁴ Bloomberg, *SEC Says It Will Seek Admissions of Wrongdoing More Often* (June 19, 2013) (online at <http://www.bloomberg.com/news/articles/2013-06-18/sec-to-seek-guilt-admissions-in-more-cases-chairman-white-says>).

¹⁵ Bloomberg, *SEC Says It Will Seek Admissions of Wrongdoing More Often* (June 19, 2013) (online at <http://www.bloomberg.com/news/articles/2013-06-18/sec-to-seek-guilt-admissions-in-more-cases-chairman-white-says>).

¹⁶ Mary Jo White, Response to Questions for the Record, Senate Banking, Housing, and Urban Affairs Committee, Hearing on the Financial Regulatory System (Sep. 9, 2014).

¹⁷ Gretchen Morgenson, New York Times, *SEC Wants the Sinners to Own Up*, March 14, 2015. (<http://www.nytimes.com/2015/03/15/business/sec-wants-the-sinners-to-own-up.html>)

SEC rather than requiring that these firms admit to violations of specific securities laws. One analyst described these types of admissions as, “the weakest admission of guilt as possible.”¹⁸

3. Waivers Allowing Companies Found to be in Violation of Securities Law to Continue to Take Advantage of SEC Special Privileges

SEC rules allow certain large issuers – known as “Well Known Seasoned Issuers” (WKSIs) – to take advantage of special regulatory privileges that provide these issuers with shortcuts to bypass certain SEC reviews to raise capital and issue securities.¹⁹ Other SEC provisions allow companies with clean records to raise private capital without undergoing the full SEC registration process.²⁰ These are significant benefits for the eligible companies.

It is no surprise that the law requires that persons or entities that have been convicted of felonies or misdemeanors or that have violated anti-fraud provisions of federal securities laws be deemed ineligible to receive these benefits. This is the rule, as provided by law, with an exception. The SEC may waive this ineligibility and continue to allow access to regulatory shortcuts even for those that have violated the law, but only “upon a showing of good cause.”²¹ In the wake of the financial crisis, members of Congress and the public became concerned about whether these waivers were provided too easily in cases where companies broke the law.

You have been asked about your policies with regard to these waivers on multiple occasions. In questions for the record from your confirmation hearing, Sen. Brown asked you, “Will you revisit this waiver policy in a manner that is less friendly to large broker-dealers?” You responded by promising to, “examine the issue if confirmed,” adding that “I certainly believe that wrongdoers must be held accountable for their misconduct, including large broker dealers.”

Less than a year later, in April 2014, SEC updated its guidance for the application of WKSI waivers, with new language that “raise[d] the bar for companies with criminal convictions or intentional fraud liability to demonstrate ‘good cause’ for why the SEC should grant them a waiver to retain their WKSI status.”²²

You elaborated on this new policy for the House Financial Services Committee two weeks later, stating that:

¹⁸ Stephen Gandel, *Fortune*, *Did the SEC Let JP Morgan Off the Hook?*, (Sep. 20, 2013) (online at <http://fortune.com/2013/09/20/did-the-sec-let-jpmorgan-off-the-hook/>).

¹⁹ SEC, *Revised Statement on Well-Known Seasoned Issuer Waivers* (Apr. 24, 2014) (<https://www.sec.gov/divisions/corpfin/guidance/wksi-waivers-interp-031214.htm>).

²⁰ SEC, *Process for Requesting Waivers of “Bad Actor” Disqualification Under Rule 262 of Regulation A and Rules 505 and 506 of Regulation D* (2015) (online at <https://www.sec.gov/divisions/corpfin/guidance/262-505-waiver.htm>).

²¹ SEC, *Revised Statement on Well-Known Seasoned Issuer Waivers* (Apr. 24, 2014) (<https://www.sec.gov/divisions/corpfin/guidance/wksi-waivers-interp-031214.htm>).

²² Reuters, *Debate Brews at US SEC Over Waiver Policy* (Apr. 29, 2014) (online at <http://www.reuters.com/article/2014/04/29/sec-waiver-gallagher-idUSL2N0NL25F20140429>).

Waivers of WKSI disqualifications should be granted only after a thorough analysis ... Waivers should not be granted to either "soften" the impact of an enforcement action nor should they be used to add additional penalties if disqualification is not warranted or necessary under the applicable standards and the facts and circumstances at issue. The burden to demonstrate that the standards are met is the responsibility of the applicant seeking a waiver.²³

These were strong words, and they appeared to herald a new era in which the SEC would no longer rubber-stamp valuable waivers from SEC rules for companies that broke the law. However, information that you revealed in March 2015 indicates that in the majority of cases in which institutions requested a WKSI or "bad actor" waiver after the new policies were put in place – 20 of 38 – the wrongdoers received it.²⁴ Since you became SEC Chair, a total of 20 WKSI waivers have been granted,²⁵ with virtually all going to large financial institutions. This pattern has led one of your SEC colleagues to conclude that the SEC, "continues to erode even this lowest of hurdles for large companies, while small and mid-sized businesses appear to face different treatment."²⁶

Moreover, under your leadership, the SEC, for the first time since 2005, has once again begun granting waivers for companies guilty of criminal misconduct. The first of these waivers – to UBS in September 2013, after the bank settled allegations of manipulating the key LIBOR benchmark interest rate – was granted by SEC staff, and the second, to the Royal Bank of Scotland, was approved on a 3-2 vote by the Commission, with your vote in support.²⁷

The third WKSI waiver granted to a bank despite a criminal conviction was given to Deutsche Bank just this month, on May 1, 2015. Like the others, Deutsche Bank was accused of manipulating LIBOR and other key interest rates. For more than six years, Deutsche Bank engaged in criminal conduct to rig interest rates in a manner that was "systemic and pervasive"

²³ The Honorable Mary Jo White, Response to Questions for the Record from Rep. Keith Ellison (Apr. 9, 2014) (<http://www.datacoalition.org/wp-content/uploads/archivedfiles/white-qfr-replies.pdf>).

²⁴ Chair Mary Jo White, *Understanding Disqualifications, Waivers, and Exemptions Under the Federal Securities Laws* (Mar 12, 2015) (online at <http://www.sec.gov/news/speech/031215-spch-cmjw.html>).

²⁵ SEC, Division of Corporate Finance No Action, Interpretive, and Exemption Letters (accessed May 27, 2015) (<http://www.sec.gov/divisions/corpfin/cf-noaction.shtml#405>).

²⁶ SEC, Commissioner Kara Stein, *Dissenting Statement in the Matter of Deutsche Bank AG, Regarding WKSI* (May 4, 2015). (http://www.sec.gov/news/statement/dissenting-statement-deutsche-bank-ag-wksi.html#_ftnref6).

²⁷ BBC, *UBS Fined \$1.5bn for LIBOR Rigging* (Dec. 19, 2012). (<http://www.bbc.com/news/business-20767984>); SEC, Commissioner Kara Stein, *Dissenting Statement in the Matter of Royal Bank of Scotland Group, plc, Regarding Order Under Rule 405 of the Securities Act of 1933, Granting a Waiver From Being an Ineligible Issuer*, (Apr. 28, 2014) (<http://www.sec.gov/News/PublicStmnt/Detail/PublicStmnt/1370541670244>).

and sought profits at the expense of its customers.²⁸ This waiver was granted by a 3-2 vote of the Commissioners, and once again, you voted for the waiver.

And last week – one day before our meeting – five banks (BS AG, Barclays Plc, Citigroup Inc., JPMorgan Chase & Co., and the Royal Bank of Scotland Group) pled guilty to “conspiring to manipulate the price of U.S. dollars and euros exchanged in the foreign currency exchange” and paid fines of more than \$2.5 billion.²⁹ Despite the widespread criminal conduct to which these large banks admitted, the SEC granted WKSI waivers to each of them. The Commission also granted them several additional waivers, which in effect allow the banks to continue conducting their business with minimal consequences.³⁰ These waivers apparently reflected the Commission’s view that these banks deserved to continue to enjoy special privileges under the securities laws despite the deep breaches of trust and evident mismanagement displayed in these cases.

SEC Commissioner Kara Stein dissented from this decision, noting the “recidivism” of the banks, and the fact that SEC has, “granted at least 23 WKSI waivers to these five institutions in the past nine years.”³¹ Commissioner Stein concluded that, “the latest series of actions has effectively rendered criminal convictions of financial institutions largely symbolic.”³²

4. Failure to Address Conflict of Interest Concerns Related to Your Husband’s Role as a Wall Street Attorney

When you were nominated to head the SEC, you were employed by the law firm

²⁸ CFTC, *Deutsche Bank to Pay \$800 Million to Settle CFTC Charges of Manipulation, Attempted Manipulation, and False Reporting of LIBOR and Euribor* (Apr. 23, 2015) (<http://www.cftc.gov/PressRoom/PressReleases/pr7159-15>).

²⁹ Department of Justice, *Five Major Banks Agree to Parent-Level Guilty Pleas* (May 20, 2015) (<http://www.justice.gov/opa/pr/five-major-banks-agree-parent-level-guilty-pleas>).

³⁰ In addition to the WKSI waivers, the Commission granted UBS AG, Barclays, and JPMC waivers from automatic disqualification provisions related to the safe harbor for forward-looking statements under Section 27A of the Securities Act and Section 21E of the Securities Exchange Act of 1934, and UBS AG and three Barclays entities waivers from the automatic Bad Actor disqualification provided under Rule 506. SEC, Commissioner Kara Stein, *Dissenting Statement Regarding Certain Waivers Granted by the Commission for Certain Entities Pleading Guilty to Criminal Charges Involving Manipulation of Foreign Exchange Rates* (May 21, 2015) (<http://www.sec.gov/news/statement/stein-waivers-granted-dissenting-statement.html>).

³¹ SEC, Commissioner Kara Stein, *Dissenting Statement Regarding Certain Waivers Granted by the Commission for Certain Entities Pleading Guilty to Criminal Charges Involving Manipulation of Foreign Exchange Rates* (May 21, 2015) (<http://www.sec.gov/news/statement/stein-waivers-granted-dissenting-statement.html>).

³² SEC, Commissioner Kara Stein, *Dissenting Statement Regarding Certain Waivers Granted by the Commission for Certain Entities Pleading Guilty to Criminal Charges Involving Manipulation of Foreign Exchange Rates* (May 21, 2015) (<http://www.sec.gov/news/statement/stein-waivers-granted-dissenting-statement.html>).

Debevoise & Plimpton and your husband was employed by the law firm Cravath, Swaine & Moore. Both firms frequently represent companies with business before the SEC.

These connections raised concerns about whether the recusals required due to these conflicts of interest would affect your ability to do your job as Chair. You were asked about these concerns in your confirmation hearing, and you replied:³³

Before I agreed to be nominated for this position, I detailed to the White House, the Independent Office of Government Ethics, and the career SEC ethics official the nature and extent of my and my spouse's and our firm's legal practices to be certain that there were no conflicts that could be problematic or limit my ability to function effectively as SEC Chair . . . I was also focused in that process very much on making certain I could effectively function as the Chair. . . . while I have recusals, as do many nominees, mine were not out of the ordinary in scope, nor out of the ordinary for past Chairmen or other Commissioners of the SEC. . . . I do not believe, Mr. Chairman, that the recusals, the extent of them, will prevent me from fully performing my duties . . . the scope of those recusals is also quite narrow.

I was particularly concerned about both the potential for conflicts of interest and the potential that regular recusals could disrupt the Commission's work. I raised those concerns personally with you in a meeting prior to your nomination, and you assured me that potential recusals would lead to minimal disruption.³⁴

But this does not appear to be the case. A recent review by the New York Times found that:³⁵

In the nearly two years since Ms. White took over the agency, she has had to recuse herself from more than four dozen enforcement investigations, the interviews and records show, sometimes delaying settlements and opening the door, in at least one case, to a lighter punishment.

As you know, the impact of a recusal on the operations of the SEC can be quite damaging. If, for example, the SEC is split 2-2 on whether to pursue a prosecution, your recusal would mean that no prosecution could go forward.

³³ Mary Jo White, Testimony of Mary Jo White, Nominee for Chair of the Securities and Exchange Commission Before the United States Senate Committee on Banking, Housing, and Urban Affairs (Mar. 12, 2013). (http://www.banking.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=619e5603-c2c8-4085-98c6-0014ce29bde7).

³⁴ Sen. Elizabeth Warren, Meeting with SEC Chair Nominee Mary Jo White (Mar. 5, 2013).

³⁵ New York Times, *She Runs S.E.C., He's A Lawyer. Recusals and Headaches Ensue* (Feb. 23, 2015) (online at http://www.nytimes.com/2015/02/24/business/dealbook/sec-hamstrung-by-its-leaders-legal-ties.html?ref=topics&_r=0).

The article noted that while your personal restrictions ended in April 2015, your restrictions related to your husband's work would continue indefinitely, despite the fact that you have already recused yourself from at least ten investigations into clients of your husband's firm.³⁶ The article- and a new article published late last week - described the circumstances of a settlement with Computer Sciences Corporation, in which your recusal created a deadlock among the four remaining commissioners "that at times have imperiled the case altogether" and resulted in significant reductions in fines.³⁷ It also raised the specter that companies might seek to hire your husband's firm to "neutralize" you, and it concluded that your recusals, "remain an important issue for the agency."³⁸

5. Other Concerns

There are several additional concerns about your leadership. Even as it unleashed unlimited corporate spending on political campaigns in its 2010 *Citizens United* decision, the Supreme Court noted that, "prompt disclosure of expenditures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters. Shareholders can determine whether their corporation's political speech advances the corporation's interest in making profits."³⁹ As you are well aware, there is overwhelming interest and demand in a corporate campaign spending disclosure rule; more than one million public comments in support of a 2011 petition to the SEC have called on the agency to set disclosure rules.⁴⁰ Just this week, a letter from a bipartisan group of former SEC Chairmen described the SEC's failure to require these disclosures as, "inexplicable," and said that the lack of action, "flies in the face of the primary mission of the commission."⁴¹

Such disclosure rules had been on the SEC agenda at the time you took over the agency, but in December 2013, you removed a potential rulemaking on this topic from the Commission's agenda, later noting that the Commission and its staff, "have not devoted resources to a

³⁶ New York Times, *She Runs S.E.C., He's A Lawyer: Recusals and Headaches Emerge* (Feb. 23, 2015) (online at http://www.nytimes.com/2015/02/24/business/dealbook/sec-hamstrung-by-its-leaders-legal-ties.html?ref=topics&_r=0).

³⁷ New York Times, *Political Fights Throw Sand in the Gears of SEC* (May 29, 2015) (<http://www.nytimes.com/2015/05/29/business/political-fights-throw-sand-in-gears-of-sec.html?ref=dealbook>).

³⁸ New York Times, *She Runs S.E.C., He's A Lawyer: Recusals and Headaches Emerge* (Feb. 23, 2015) (online at http://www.nytimes.com/2015/02/24/business/dealbook/sec-hamstrung-by-its-leaders-legal-ties.html?ref=topics&_r=0).

³⁹ Supreme Court of the United States, *Citizens United v. Federal Election Commission* (2010) (<http://www.supremecourt.gov/opinions/09pdf/08-205.pdf>).

⁴⁰ Corporate Reform Coalition, *As Dark Money Monsters Torment Investors, Shareholders Need SEC Chair to Be Superhero; They Ask: 'Where Is Mary Jo White?'* (Mar. 30, 2015) (https://secure.avaaz.org/act/media.php?press_id=644).

⁴¹ Letter from William Henry Donaldson, Arthur Levitt, and Bevis Longstreth to the Honorable Mary Jo White (May 27, 2015) (<http://www.citizen.org/documents/sec-commissioner-letter-re-political-spending.pdf>).

consideration of a corporate political spending disclosure rule.”⁴² One month later, in January 2014, 16 of my Senate colleagues and I wrote to you to express our disappointment about this decision and requested that, “disclosure of corporate political spending would have great value for investors and should also be a top priority” for the SEC.⁴³ But your reply indicated that the agency would not be addressing the issue. More recently, in March 2015, you again indicated to the House Committee on Financial Services that the SEC was not focused on this issue.⁴⁴

Under your leadership the SEC also backed down on important Dodd-Frank rules (Rule “ABII”) requiring disclosure of information for asset-backed securities.⁴⁵ The goal of this rule was to increase transparency and improve investor information, and the SEC initially published a strong draft. However, in May 2013 – one month after you were sworn in as SEC Chair – the SEC named an industry insider who had publicly opposed a strong rule to lead the group writing that rule.⁴⁶

Unsurprisingly, by the time it was finalized in 2014, the new rule was watered down substantially: “disclosure rules advocated by many within the agency had been stripped out. Of particular concern: Banks could continue to sell asset-backed securities to institutional investors on the private market with no new disclosure requirements.”⁴⁷ One expert described this outcome as an, “end run around all the disclosure efforts” by the big banks.⁴⁸

Finally, in March 2015, the SEC implemented rules to carry out Title IV of the JOBS Act, which facilitates mid-sized companies in making public offerings of their securities. During the rulemaking process I wrote to you about my concerns that the SEC rules would preempt state rules protecting investors, noting that such action, “could unnecessarily place many ordinary investors at risk of securities fraud.”⁴⁹ But, under your leadership and with your vote in support, the SEC finalized rules that, “provide[d] for the preemption of state securities law registration

⁴² Mary Jo White, Response to Questions for the Record, Senate Banking, Housing, and Urban Affairs Committee, Hearing on the Financial Regulatory System (Sep. 9, 2014).

⁴³ Letter from Sens. Menendez, Warren, et al., to The Honorable Mary Jo White (Jan. 9, 2014) (online at <http://www.menendez.senate.gov/news-and-events/press/senators-to-sec-disclosure-of-corporate-political-spending-should-be-part-of-2014-agenda>).

⁴⁴ The Honorable Mary Jo White, Hearing on Examining the SEC’s Agenda, Operations, and FY 2016 Budget Request, House Financial Services Committee (Mar. 24 2015) (<http://financialservices.house.gov/calendar/eventsingle.aspx?EventID=398795>).

⁴⁵ P.L. 111-203, §942(b).

⁴⁶ Charles Levinson, Reuters, *How Wall Street Captured Washington’s Effort to Rein in Banks*, (Apr. 9, 2015) (<http://www.reuters.com/investigates/special-report/usa-bankrules-weakening/>).

⁴⁷ Charles Levinson, Reuters, *How Wall Street Captured Washington’s Effort to Rein in Banks*, (Apr. 9, 2015) (<http://www.reuters.com/investigates/special-report/usa-bankrules-weakening/>).

⁴⁸ Thomas Adams, quoted in Charles Levinson, Reuters, *How Wall Street Captured Washington’s Effort to Rein in Banks*, (Apr. 9, 2015) (<http://www.reuters.com/investigates/special-report/usa-bankrules-weakening/>).

⁴⁹ Letter from Sen. Elizabeth Warren to Mary Jo White (Aug. 2014).

and qualification requirements for securities offered or sold to 'qualified purchasers,'⁵⁰ thereby undermining important investor protections.

Conclusion

The public relies on the SEC to act as the cop on the beat for an honest marketplace — issuing rules that ensure that investors can make informed decisions and holding rule breakers accountable for their actions. When the SEC falls down on the job, the impact is felt throughout the economy, and it touches every American family.

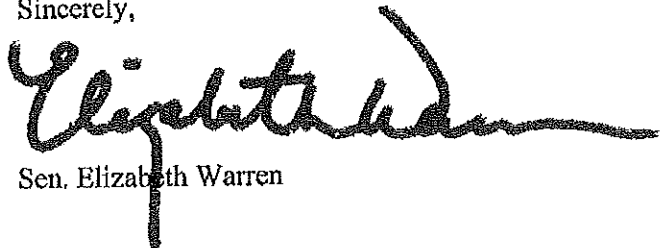
During your confirmation hearings two years ago, I said, "The SEC needs a strong leader to issue meaningful and final rules under the Dodd-Frank Act and to hold big banks and other powerful interests accountable when they break the law." I am disappointed that you have not been the strong leader that many hoped for — and that you promised to be. I hope that you will step up to the job for which you have been confirmed, and that you will guide the SEC once again to meet its core mission of protecting investors and maintaining fair, orderly, and efficient markets.

In addition, I ask that you provide the following information no later than July 1, 2015 so that the public can better understand your previous actions and assess your ongoing actions as SEC Chair.

1. An explanation of the inconsistencies between the statements you made about the timing of the CEO pay disclosure rules in your confirmation hearing, in questions for the record, in other hearings, and in our private meeting, and the continuing delays of this rule, including the latest delay posted on the OMB website on May 21, 2015.
2. A detailed timeline for completion of the CEO pay rule.
3. A list of all SEC settlements since September 2014, with information on whether the settlement contained an admission of guilt, and if so, the details on these admissions. Moving forward, I ask that you provide updated information on these settlements every six months.
4. A list of all waiver decisions by the SEC from January 2015 to the present, including information on who requested the waiver, what kind(s) of waivers were requested, the reason for the waiver, the outcome of the waiver request (including information on any votes by Commissioners on waivers), and the reason why the waiver was or was not granted. Moving forward, I ask that you provide updated information on these waivers every six months.
5. A list of all SEC investigations or cases from which you have had to recuse yourself from January 1, 2014 to the present, the reason for the recusal, and the outcome of the investigation or case. Moving forward, I ask that you provide updated information on these waivers every six months.
6. An explanation for why the SEC removed campaign finance disclosure from its rulemaking agenda, and an explanation of why the SEC has not responded to Petition 4-

637 which asked the agency to require public disclosure of the use of corporate resources for political activities.

Sincerely,

A handwritten signature in cursive script, appearing to read "Elizabeth Warren". The signature is written in black ink and is positioned above the printed name.

Sen. Elizabeth Warren

Exhibit B



California Clears Zayat on Jelinsky Loans

By Ron Mitchell, | March 5, 2010 5:40 PM | Comment



Photo: Anne M. Eberhardt

Ahmed Zayat

The California Horse Racing Board has looked into ties between Ahmed Zayat and two convicted bookmakers and determined there is nothing to indicate the prominent horse owner has violated terms of his license in the state.

Documents filed in connection with a Chapter 11 bankruptcy petition by Zayat Stables showed Jeffrey and Michael Jelinsky owed Zayat more than \$605,000. Zayat said the Jelinsky brothers owed him for loans he made to them in 2006 and 2007. Zayat said he knew the Jelinsky brothers' late father, who was a broker on Wall Street.

Michael and Jeffrey Jelinsky are serving prison sentences of 15 months and 21 months, respectively, after pleading guilty to illegal bookmaking in 2009.

The brothers pleaded guilty in connection with their illegal gambling business that operated out of Nevada, according to published reports leading up to their convictions. Among the assets confiscated by federal authorities from the Jelinsky brothers was \$1.5 million traced to International Racing Group, an offshore betting operation that was hit with federal charges in 2005.

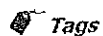
California, like most states, has regulations prohibiting licensees, including owners, from associating with illegal or convicted bookmakers. The debt from the Jelinsky brothers to Zayat was first reported by the *New York Times*.

"Our chief of investigations has gone over all the court documents and based on what we can find, Mr. Zayat made the loans (according to the *New York Times* article) long before these two individuals were convicted of a crime – bookmaking," CHRHB executive director Kirk Breed said in a statement. "Therefore, we can't see any reason to pull the license of Mr. Zayat. As more information becomes available, we will certainly look into it."

Regulators in Kentucky and New York have said they are also looking into the arrangement between Zayat and the convicted bookmakers.

Under the category of "other liquidated debts owed to debtor," the bankruptcy filing for Zayat Stables shows 12 outstanding loans. Included were a \$450,000 loan to Jeffrey Jelinsky Sept. 27, 2007, and a \$155,000 loan made to Michael Jelinsky Sept. 27, 2006. Additional loans included \$50,000 to B. Jelinsky (Oct. 2, 2007) and \$2,500 to L.A. Jelinsky (Feb. 1, 2008).

Zayat Stables filed for Chapter 11 bankruptcy after the leading racing stable was sued by Fifth Third Bank to recover more than \$34 million in outstanding loans. Zayat, who races **Eskendereya**, a leading contender for this year's Kentucky Derby Presented by Yum! Brands (gr. I), contends the bank's loan officers misled him into believing his loans would be renewed.



Tags: Ahmed Zayat • California Horse Racing Board • Chrb • Fifth Third Bank • Jelinsky Brothers • Kirk Breed • Zayat Stables

Most Popular Stories

Back to the Future With California Chrome

American Pharoah Draws Post 5 for Belmont

Boden to Leave Darley Effective July 1

Poignant Win for Connections of Rock Scene

The American Pharoah Story

American Pharoah Flawless in Preparation

Judge Tosses Civil Suit Filed Against Zayat

Reliving a Classic Rivalry: Part 1 of 4

American Pharoah Arrives at Belmont

American Pharoah Gets First Look at Belmont

Copyright © 2015 Blood-Horse LLC. All rights reserved internationally.

Exhibit C

MAHJONGG™ DARK DIMENSIONS

Thursday, June 4, 2015

78°F Clouds and
Las Vegas

Search this site

- Home
 - News
 - Politics
 - Business
 - A&E
 - Sports
 - Life
 - Trending
 - Opinion
 - Travel
 - Obits
 - Autos
 - Homes
 - Jobs
 - Marketplace
 - Best of LV
- Editorials | Letters | Columns

Home » Columns and Blogs » John L. Smith

LEAVE US A MESSAGE

Magician Remembers Michael...

With lights on Brooks,...

SUBMIT A NEWS TIP

Posted date March 7, 2010 - 11:12am

Jelinsky-thoroughbred owner link scrutinized



John L. Smith writes on topics from human interest to politics. His column appears Sunday, Tuesday, Wednesday and Friday in Nevada News. Visit the eForums to discuss local news

Email Follow on: More Columns/Blogs

John L. Smith

Finally, it appears the thoroughbred racing community in Kentucky is beginning to look into the relationship between the bookmaking Jelinsky brothers and high-rolling horse owner Ahmed Zayat.

The Lexington Herald-Leader's Janet Patton reports that Kentucky racing regulators are exploring the connections between Zayat and Michael and Jeffrey Jelinsky, who pleaded guilty last year in Las Vegas in connection with their illegal bookmaking and money laundering activities.

It's considered unethical for a horse owner to associate with illegal bookmakers. Zayat is suspected of making loans to the Jelinskys.

Las Vegas sources informed more than a year ago that Zayat was betting with the brothers. Others have floated rumors that the thoroughbred owner had partnered with them.

From the newspaper:

"We're looking into the relationship," said Marc A. Guilfoil, deputy commissioner of the Kentucky Horse Racing Commission. Zayat's horse Eskendereya is a top contender for the Kentucky Derby this year.

According to financial documents filed in his bankruptcy case in New Jersey, Zayat lent \$657,500 to members of the Jelinsky family from November 2006 to February 2008. Zayat told The New York Times the money is not owed to him from gambling but from personal loans made to the brothers because he was a friend of their father.

The Jelinsky brothers pleaded guilty in February 2009 to operating an illegal gambling business using offshore race books as well as casino race books in Las Vegas from 2005 to August 2007.

Tweets

John L. Smith @jinevadasmith 22h
No longer lauding Chinese govt: Macau in a free-fall and taking Wynn Resorts with it shar.es/12rrGc via @reviewjournal #lvj Show Summary

John L. Smith @jinevadasmith 3 Jun
They ran the table: Sandoval, Republicans defy cynical expectations shar.es/12ps51 via @reviewjournal #lvj Show Summary

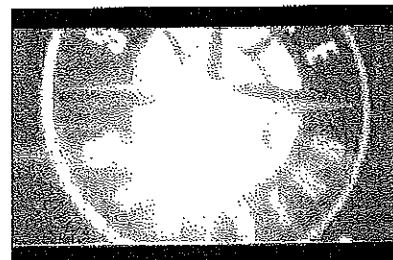
Compose new Tweet...

AdChoices

CLARINS

Total Eye Concentrate

SHOP NOW



6/2/15: MLB.com FastCast



Most Popular Most Shared

Top Commented

The brothers forfeited nearly \$5 million.

0 0 Share 0 0 Share 0 8

Magician Remembers Michael With lights on Brooks

From the Web

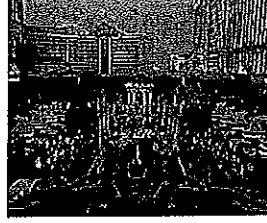
Sponsored Links by Taboola



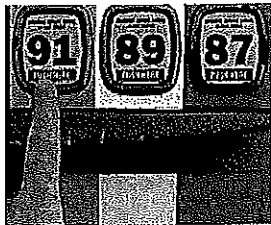
The 7 Most Unbelievable Credit Cards If You Have Less Than Perfect Credit
NextAdvisor



The Black Card That's Changing the Face of NYC
JustLux | Select



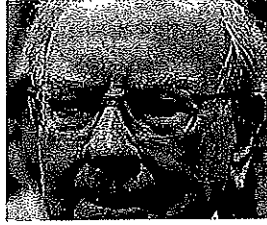
Sapphire Preferred Opens Doors to Special Experiences
CHASE Sapphire Preferred® Card



Drivers Surprised They Never Knew This Rule
Improve Insurance Quotes



How Much Money Do You Really Get from a Reverse Mortgage?
NowRetirement



4 in 5 Americans Are Ignoring Buffet's Warning
The Motley Fool

Comments for this thread are now closed.

X

0 Comments Las Vegas Review-Journal

Login

Recommend Share

Sort by Best

More Columnists

This discussion has been closed.

ALSO ON LAS VEGAS REVIEW-JOURNAL

WHAT'S THIS?

Former Texas Governor Rick Perry announces 2016 White House bid

9 comments • 4 hours ago

bigdogiv — A choice is better than a coronation of supposed royalty any day.

EDITORIAL: Dumped reform means fewer schools at higher cost

20 comments • 10 hours ago

NateOgden — shocking to hear Verizon some how paid no social security or medicare taxes on their tens of ...

Here's the longest home run in MLB this season — VIDEO

1 comment • 19 hours ago

DJames — These announcers are the worst ever!

Governor signs education bills, declares state 'at the bottom no more'

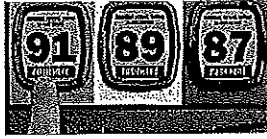
89 comments • 18 hours ago

Big O — It is too bad that Nevada Tax payers had no one representing us during this legislative session. The losers are ...

Subscribe Add Disqus to your site Privacy

From the Web

Sponsored Links by Taboola



Macau in a free-fall and taking Wynn Resorts with it

7 Italian restaurants in Las Vegas you might not know

Coroner IDs woman found dead in MGM Grand hotel room

Take a look inside the home of an architect of the Strip— PHOTOS

War Machine to stay behind bars until trial for brutal beating

Columnists Features



Doug Elfman
How HBO threw away a \$28 million show after Vegas choking

Patrick Everson
High school grads shouldn't dismiss vocational trades



Jane Ann Morrison
Next up: Unintended consequences of 2015 legislative session



Terri Schlichenmeyer
'A Sky of Diamonds' guides young readers through grief

Exhibit D



Zayat Made Loans to Jelinsky Brothers

By Blood-Horse Staff | March 1, 2010 2:17 PM | Comment



Photo: Anne M. Eberhardt

Ahmed Zayat

Documents filed in connection with Ahmed Zayat's Chapter 11 bankruptcy petition show the prominent horse owner made loans totaling more than \$600,000 to two brothers who have been convicted in connection with illegal bookmaking.

Under the category of "other liquidated debts owed to debtor," the bankruptcy filing for Zayat's Zayat Stables shows 12 outstanding loans. Included were a \$450,000 loan to Jeffrey Jelinsky Sept. 27, 2007 and a \$155,000 loan made to Michael Jelinsky Sept. 27, 2006. Additional loans included \$50,000 to B. Jelinsky (Oct. 2, 2007) and \$2,500 to L.A. Jelinsky (Feb. 1, 2008).

Zayat Stables filed for Chapter 11 bankruptcy after the leading racing stable was sued by Fifth Third Bank to recover more than \$34 million in outstanding loans. Zayat, who races **Eskendereya**, a leading contender for this year's Kentucky Derby Presented by Yum! Brands (gr. I), contends the bank's loan officers misled him into believing his loans would be renewed.

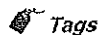
Otherwise, he would have sold some of the 200-plus horses he owns to pay off part of the debt. Zayat has said he is in the process of drafting a reorganization plan that will enable him to continue his horse-racing enterprise and be able to pay off Fifth Third.

Michael and Jeffrey Jelinsky are both serving prison sentences of 15 months and 21 months, respectively, after pleading guilty to illegal bookmaking in 2009.

The brothers pleaded guilty in connection with their illegal gambling business that operated out of Nevada, according to published reports leading up to their convictions. Among the assets confiscated by federal authorities from the Jelinsky brothers was \$1.5 million traced to International Racing Group, an off-shore betting operation that was hit with federal charges in 2005.

The New York *Times*, which first reported the Zayat loans to the Jelinsky brothers, reported the stable operator acknowledged being a bettor but said the loans were not owed to him from wagering.

The *Times* also reported that some states—including New York and California—prohibit horse owners and trainers from associating with convicted felons or known bookmakers. However, neither of those two states are conducting an investigation into the ties between Zayat and the Jelinsky brothers, according to the newspaper.



Tags

Ahmed Zayat • Fifth Third Bank • International Racing Group • Irg • Jeffrey Jelinsky • Michael Jelinsky • Zayat Stables

Most Popular Stories

Back to the Future With California Chrome

American Pharoah Flawless In Preparation

American Pharoah Draws Post 5 for Belmont

Judge Tosses Civil Suit Filed Against Zayat

Exhibit E

NorthJersey.com

NO. 1 IN BREAKING LOCAL NEWS

North Jersey risk-taker is a force in horse racing

MAY 3, 2013
BY HUGH R. MORLEY
STAFF WRITER | THE RECORD



ELIZABETH LARA / STAFF PHOTOGRAPHER

Ahmed Zayat of Teaneck, known as one of the top owners in horse racing, acknowledges he gambles about \$200,000 a week as a strategy to bring in revenue.

One of the more unusual things about Saturday's Kentucky Derby is that Teaneck's Ahmed Zayat doesn't have a horse in the race.

Zayat is among the nation's most successful racing moguls, owner of a Hackensack company with \$100 million invested in 120 horses around the country that have racked up millions in winnings, including three second-place Derby finishes in the last five years.

He's also one of New Jersey's biggest gamblers, betting about \$200,000 a week, which came to light in a February lawsuit that revealed him as a major player in New Jersey's online betting system.

Zayat's panoramic life has taken him from his native Egypt to the U.S. and back, as he parlayed his business skills and a partnership with investors into a massive \$280 million beer company deal that gave him his stake in horse racing.

Along the way, the flamboyant horseman with a big appetite for risk has filed for bankruptcy in a dispute over \$34 million in loans, earned the enmity of racing aficionados for his attempts to keep a rival horse out of the Derby, and was the target of three investigations — ultimately dropped — over loans he made to two Wayne men who were later convicted of running an illegal gambling operation.

These are all pieces of a rich and complicated life Zayat has made for himself since arriving from his native Egypt more than 30 years ago, settled now with his family in Teaneck and focused on the sport that has made him famous.

"He plays the game at the highest level," said Bob Kulina, president of Darby Development LLC, which manages Monmouth Park Racetrack. "He is an asset to wherever he rides his horses because he brings a top product to the consumer, ... He loves the game, he loves the horses. And he hires the best, he surrounds himself with the top talent."

The scale of Zayat's gambling was outlined in the suit filed by the owners of Freehold Raceway alleging that the New Jersey Sports and Exposition Authority improperly granted him credit in the state's online betting system.

State law prohibits gamblers from wagering more money than is in their account. But emails filed with the suit say the authority permitted Zayat to do so, racking up a debt of \$286,000, which went unpaid for a while.

The debt is the focus of an investigation by the state Racing Commission. Sports authority officials said Zayat repaid the debt, and the racehorse owner said any shortfall was because of accounting errors at the authority or because it was slow in moving money he wired to the agency into his accounts.

"They were never at risk" of a loss, he said.

Zayat said he has been interviewed by investigators looking into the sports authority's actions. He acknowledges that he gambles, on average, \$200,000 a week — "it could be more, it could be less." He describes it as part of his business strategy.

"When you run a stable of our size, you cannot make money per se from purses you win. The overhead is significantly higher than the income that can come from purses alone," he said.

Yet he admits there are limits to what the strategy can achieve.

"Any gambler that tells you he comes out ahead is a liar," he said. "At the end of the day it catches up with you because the house always has an advantage. But when you are looking at a cash flow, you can win one month and lose another month, and that cash flow will help you."

"I think it's pretty well-known that he likes to bet a lot," said Ray Paulick, publisher of the online racing site PaulickReport.com. "He is a risk-taker. Obviously, when you spend a lot of money on horses, that's a pretty big gamble in itself. And he's a risk-taker at the betting windows, too."

Born in Cairo, Zayat was educated in the U.S. and returned to Egypt in 1995, when he became involved in helping the Egyptian government solicit U.S. investors to buy government-owned companies. Two years later Zayat and a group of investors bought a government-owned beer company, Al Ahrum Beverages Co., that held the vast majority of the Egyptian beer market, modernizing the business and introducing Western management concepts, before taking it public in a widely admired initiative that some saw as an example of how privatization could be successfully executed in the struggling country.

Zayat recalled the dilapidated state of the company when he bought it.

"They were growing dope, literally, marijuana in the backyard. It was insane," he said. "I changed the whole concept of what privatization is because they found that, 'Hey, capitalism could be good.'"

The investors sold the business in 2002 to Heineken for \$280 million, more than three times the valuation before Zayat's group bought it. Zayat stayed on, running the company for four years, before leaving to find a new challenge back in the U.S.

He found it in horse racing, and he quickly made his mark. Since starting Zayat Stables LLC in 2005, Zayat, 50, has risen to horse racing's top ranks. His success includes five second-place finishes in Triple Crown races including three at the Kentucky Derby, in 2009, 2011 and 2012.

He's been among the top five owners in five of the last six years, with earnings totaling \$31 million, according to the Equibase.com website, which compiles racing data.

"By nature, I am a very competitive guy," he said in an interview. "This industry [is] about competition. I thrive under pressure."

"He is a major influence in the sport," said Steve Haskin, senior correspondent for BloodHorse, a Lexington, Ky., weekly racing magazine. "He went in first and just started buying up horses."

But Zayat's success on the track has been accompanied by missteps, as well as questionable financial dealings that have threatened his empire.

In 2009, there was a strong backlash to his public statements that he was considering joining with other owners to try to pack the Preakness Stakes with their own horses to prevent a famous and well-rated filly, Rachel Alexandra, from getting into the field.

They quickly dropped the idea, and Rachel Alexandra won — the first filly to do so since 1924, with Zayat's oddly named Pioneer of the Nile — combining the first two words — coming in 11th.

Zayat said he was merely protecting his interests when it appeared that race organizers would allow Rachel Alexandra to join the race with what he considered a less rigorous qualification process than his own horses had faced.

"It's my right, this is business for me. Why wouldn't I want to win the most prestigious race in America, if I can do anything to prevent a competitor from coming in," he said of his early thinking. "Why did I change my mind? Because I said: You know what, I want to be a sportsman, I'm going to let her in."

Less than a year later, Zayat Stables' Chapter 11 bankruptcy filing exposed a bitter dispute with Fifth Third Bank of Lexington, Ky., over loans totaling \$34 million, which Zayat had guaranteed personally.

The bank, claiming that Zayat had defaulted on four loans in 2009, sought to foreclose on the collateral — the stables' 200 horses — and alleged that the stables lost nearly \$52 million between 2006 and 2008, which Zayat's attorney disputed.

Zayat accused the bank of positioning the company "for financial ruin" by agreeing, and then refusing, to restructure the loans. In a July 2010 settlement Zayat agreed to repay his creditors over five years.

Documents filed in the case revealed that Zayat was owed \$600,000 by Jeffrey and Michael Jelinsky, formerly of Wayne, who had pleaded guilty in February 2009 to running an illegal gambling operation, with Jeffrey Jelinsky sentenced to 21 months in prison and Michael 15 months.

State racing regulators in California and Kentucky, where rules prohibit licensed racehorse owners from having a relationship with an illegal or convicted bookmaker, launched investigations, as did New York regulators.

But all three states concluded that no action was warranted against Zayat, who said he had known the Jelinskys for 20 years, since they were high school basketball stars, and that the money was loans he made in 2006 and 2007 to help the Jelinsky brothers through personal difficulties.

"I am not saying I am a saint. I am not saying that mistakes have not happened, errors of judgment," Zayat said. "Sometimes, as smart as I am, I am naïve."

He has also benefited for more than a decade from erroneous but widely reported information about his education.

The website of the National Thoroughbred Racing Association, the annual report for the beverage company, and Zayat's own website have stated that he attended or received a master's degree in business from Harvard University. Numerous publications have reported that over the last 10 years.

But Harvard's business school told The Record this week that it has no record of Zayat's attending the school. The Harvard reference was removed from the Zayat Stables' website after The Record raised the issue. A Zayat spokesman said the website was created by an outside consultant, and it was corrected to say that Zayat got a master's degree in public health administration from Boston University.

"Unfortunately, early in his career there was misinformation reported about Mr. Zayat's education," said Joseph Vann, an attorney for Zayat, of the reports that Zayat got a degree from Harvard. "These erroneous reports were not corrected and were repeated by other outlets."

Away from the track, Zayat, an Orthodox Jew, continues to run several other businesses in Egypt. He's also known for his philanthropy to Jewish causes, including a \$500,000 donation to The Frisch School, a Jewish school in Paramus, which named an athletic center after him. In 2003, he and his wife were honored by Sen. Frank Lautenberg, who placed a mention in the Congressional Record that the SINAI Special Needs Institute honored the couple for their contribution to special needs children.

"God made me prosperous," said Zayat, who has four children, ages 12 to 23. "I worked very hard for my money. I have been successful. But at the end of the day, you need to give back."

It was Zayat's concern for one of his horses, Paynter, when it fell ill a few weeks after winning the \$1 million Haskell Invitational Stakes at Monmouth Park last July that brought him considerable attention recently.

The horse, suffering from colitis, a serious digestive disorder, and laminitis, a hoof disease, appeared near death, before recovering. Throughout the illness, Zayat (and his son Justin) sent regular, emotional updates through Twitter.

Racing fans picked the dramatic recovery as the "Moment of the Year" in a vote on the website of the National Thoroughbred Racing Association.

Staff Writer John Brennan contributed to this article.

© 2015 North Jersey Media Group