

Special Alert

April 12, 2024

Senvest Management Enforcement Action- Electronic Communications



The Securities and Exchanges Commission (SEC) has announced a settled Administrative Proceeding with Senvest Management LLC (“Senvest”). Pursuant to the SEC issued Order, Senvest failed to maintain and preserve certain electronic communications and failed to enforce its code of ethics. The code of ethics issues are related to failures to enforce required pre-clearance for personal securities transactions and requiring supervisory review of employees’ quarterly transaction and holdings reports. This DCS Alert focuses on the failure of Senvest to maintain and preserve electronic communications.

Advisers Act Rule 204-2(a)(7) requires investment advisers to preserve originals of all written communications received and copies of all written communications sent relating to, among other things:

- **Recommendations made or proposed to be made and any advice given or proposed to be given;**
- **Disbursement, or delivery of funds or securities; or**
- **The placing or execution of any order to purchase or sell any security.**

Senvest’s policies and procedures, relating to the retention of business-related records, including electronic communications, said the the firm would retain all electronic communication that it sends and receives. Senvest’s approved communication platforms were set-up to capture and retain electronic communications.

In addition, the Senvest compliance manual provided that employees were “strictly prohibited from using non-Senvest electronic communications services for any business purpose.”

Finally, on an annual basis Senvest employees acknowledged in writing that they read, understood and abided by Senvest’s compliance manual, which was inclusive of the prohibitions on utilizing unapproved electronic communication systems, e.g. personal email, text messaging.

The Order states that the proceedings arise from widespread and longstanding failures by employees of Senvest to adhere to the recordkeeping requirements. From at least January 2019 through December 2021, Senvest employees sent and received thousands of business-related communications, internally and externally, using personal texting platforms and other off-channel communications platforms in violation of Senvest’s policies and procedures. Supervisory personnel, tasked with preventing violations of Senvest’s policies and procedures, also engaged in such off-channel electronic communications. The Order cites as an example where three senior employees utilized off-channel communications platforms that were set to automatically delete messages after 30 days. Despite the unapproved use of off-channel communication, Senvest did not access employees’ personal devices to determine whether they were complying with the firm’s communication policies. Therefore, Senvest failed to keep these messages as the Advisers Act and its policies and procedures required.

Between January 2019 and December 2021, Senvest received and responded to SEC record requests and document subpoenas. In the Order, the SEC says by failing to maintain the off-channel electronic communications as required, Senvest likely deprived the SEC of these off-channel communications in response to the SEC’s requests and subpoenas.



The SEC notes that Senvest revised its policies and procedures prior to the Order. Under these revised policies and procedures, employees have been provided with firm-issued cell phones to reduce the opportunities for off-channel communications. These cell phones automatically upload communications into Senvest’s archiving system for retention.

Senvest was subject to a \$6,500,000 civil penalty. In addition, Senvest was required to engage a compliance consultant to engage in a comprehensive review of Senvest’s relevant policies and procedures.

Here is the link to the Press Release Announcing the Enforcement

Actions: <https://www.sec.gov/news/press-release/2024-44>

Questions? Contact the DCS Team

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