

Ex-CFO Of Fraud-Ridden Video Startup Spared More Prison

By Pete Brush

Law360, New York (April 9, 2019, 7:45 PM EDT) -- The former CFO of KIT Digital Inc. was spared additional prison time Tuesday by a Manhattan federal judge who credited his cooperation in a fraud case against the now-incarcerated former head of the fallen online video startup.

U.S. District Judge Paul G. Gardephe credited Robin Smyth's 2017 testimony against ex-KIT CEO Kaleil Tuzman and, at a second trial, Smyth's testimony against former financial adviser Irfan Amanat. The judge held that the roughly eight months Smyth spent behind bars after his 2015 arrest was sufficient.

"At some point he lost his moral compass and I do believe he sincerely regrets that," Judge Gardephe said of the 65-year-old defendant, who smiled upon learning he would serve no more time in prison.

Tuzman and Amanat **both were convicted** of a long-running fraud that Smyth **characterized on the stand** at his first jury trial as "the elephant in the room" at KIT. Both Tuzman and Amanat are incarcerated and awaiting sentencing.

Tuzman and Amanat were convicted of telling investors and financial regulators a slew of lies, including that KIT had \$2 million parked in Amanat's investment concern, Enable Invest Ltd., when much of that money had been spent.

Judge Gardephe fined Smyth \$100,000 Tuesday, calling the penalty "appropriate" given that more than \$31 million of market value disappeared from KIT, which once was listed on the Nasdaq, as a result of the fraud. In total, Smyth admitted helping create some \$25 million of fake revenue for KIT from 2009 to 2012.

Smyth's lawyer, Michael Bachner, said the sentence marked Smyth's "personal redemption" in a journey that went from assisting Tuzman in cooking KIT's books for years to cooperating with U.S. prosecutors.

"Mr. Smyth is gratified by the court's decision to recognize the depth of his cooperation," Bachner said.

A sentencing letter lodged by prosecutors from the Manhattan U.S. Attorney's office calls Smyth's cooperation "invaluable."

"In addition to the information he provided concerning fraudulent revenue, Smyth provided information about how [KIT] was hiding the loss of more than \$2 million that had been invested in Enable," the filing says.

Smyth was arrested in September 2015 in Australia and pled guilty in March 2016, agreeing to cooperate after being brought to New York. He plans to return to Australia.

Also incarcerated and awaiting sentencing in the alleged KIT fraud is former entrepreneur Omar Amanat, the brother of Iran Amanat. Omar Amanat was also found guilty of manipulating KIT's share price.

Smyth is represented by Michael Bachner and Howard Weiner of Bachner & Associates PC.

The government is represented by Damian Williams of the U.S. Attorney's Office for the Southern District of New York.

The case is USA v. Tuzman, case number 1:15-cr-00536, in the U.S. District Court for the Southern District of New York.

--Editing by Michael Watanabe.

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