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In Insider Trading Settlement, Steven Cohen Will Be Free to Manage Outside Money in 2 Years

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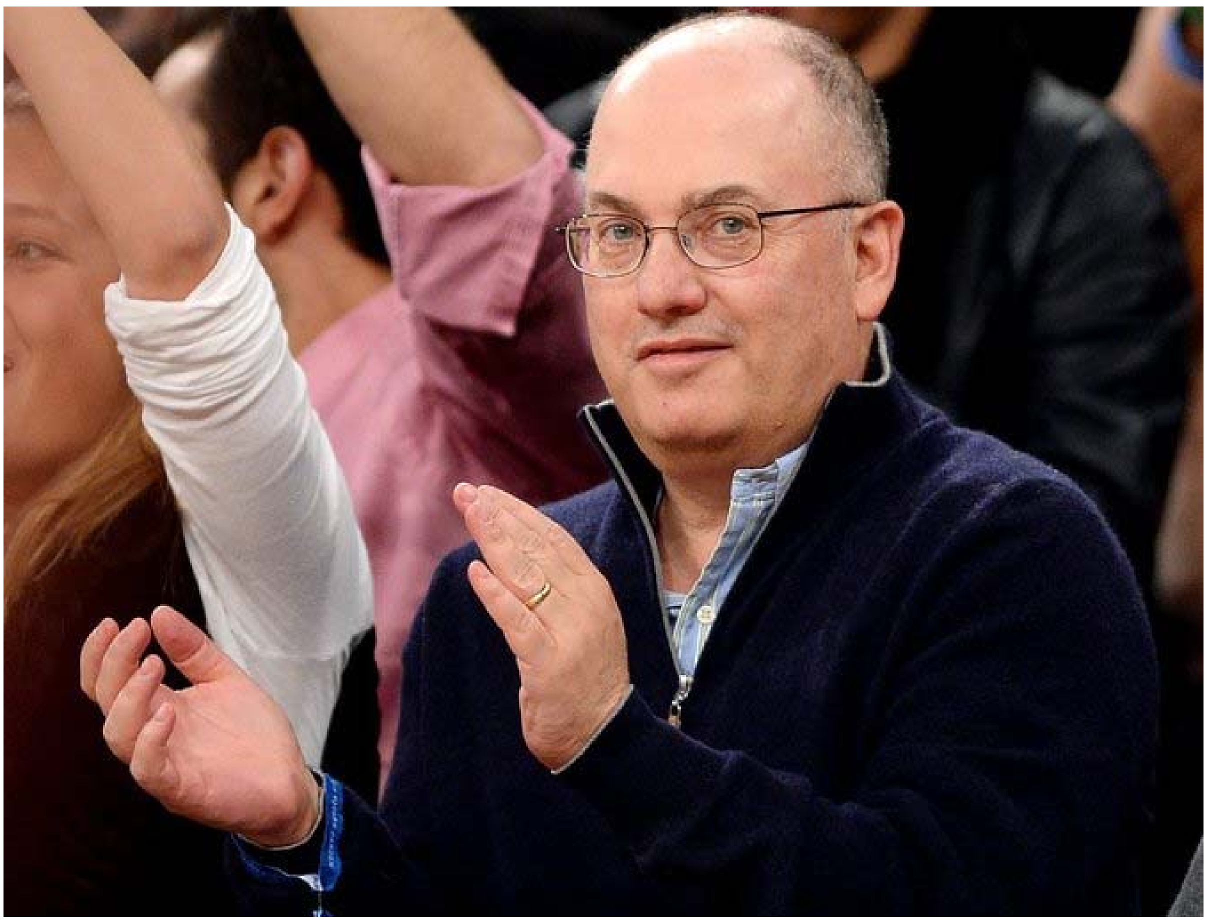

Steven A. Cohen closed his hedge fund, SAC Capital Partners, as part of the firm's guilty plea. He now oversees a large family office. Justin Lane/European Pressphoto Agency

Steven A. Cohen, the billionaire investor, is walking away largely unscathed from nearly a decade of investigations by federal prosecutors and securities regulators into accusations of insider trading at his former hedge fund.

On Friday, Mr. Cohen reached a deal with the Securities and Exchange Commission that will bar him from managing money for outside investors for the next two years. That is a far cry from the lifetime ban that securities regulators sought when they filed an administrative case against him more than two years ago.

Lifetime bans from the industry are rare. Nonetheless, the case against Mr. Cohen — accusing him of failing to adequately oversee an employee — was among the most prominent administrative actions brought by securities regulators in recent years. And he is not paying a fine in the settlement.

“It’s a huge victory for him not to get fined personally,” said Ross B. Intelisano, a securities lawyer at the law firm Rich, Intelisano & Katz. “In a ‘failure to supervise’ case, the S.E.C. is usually pretty aggressive in getting fines, so it seems like a hollow victory” for the S.E.C., he said.

The settlement clears the way for Mr. Cohen, who is 59, to return to the hedge fund business, where his ability to mint money trading stocks has been envied for decades. One of the richest men on Wall Street, Mr. Cohen is also an active art collector known for buying pieces by Damien Hirst and Jeff Koons.

“Resolving the case gives us certainty and opens the path to raising outside capital,” Mr. Cohen wrote in a memo on Friday to his employees, which was reviewed by The New York Times.

The road back has come at a cost, however.

During the years when his former firm, SAC Capital Advisors, was under investigation by prosecutors, some top traders left and legal costs mounted. Mr. Cohen's reputation, on Wall Street and more widely, was tarnished as some questioned how he had outperformed the industry for so many years.

In 2013, SAC Capital pleaded guilty to insider trading charges and paid a record $1.8 billion penalty. In pleading guilty, the hedge fund had to return outside money to investors.

Since then, Mr. Cohen has been managing largely his own $11 billion fortune. And his new "family office" firm in Stamford, Conn., Point72 Asset Management, has been on a tear.

In 2015, the firm was highly profitable even in a year when many prominent hedge fund managers posted double-digit losses, said a person briefed on Point72's performance but not authorized to speak publicly.

Some of Mr. Cohen's former lieutenants have gone on to start successful hedge funds of their own. Gabriel Plotkin, a former manager at SAC, and his hedge fund Melvin Capital, was a top performer in the hedge fund industry in 2015. The stock-focused fund had gained almost 40 percent by the end of November.

Over the last year, Mr. Cohen has taken steps to increase compliance and oversight at Point72. Some on Wall Street have seen the moves as an effort by Mr. Cohen to gain the confidence of regulators and permit him to again manage money for outside investors.

Toward that end, he has sought to fill his new firm with former F.B.I agents and federal prosecutors. In May, Point72 hired Kevin J. O'Connor, a former United States attorney for Connecticut. The firm also hired a former federal prosecutor, Vincent Tortorella, in 2014.

"It would seem that he had already been moving in a direction to put himself in a circumstance where he may be able to be back in the industry in a very meaningful way," said Rita Glavin, a lawyer who is co-head of the white-collar practice at Seward & Kissel.

The settlement with the S.E.C. heads off a showdown before an administrative law judge that was scheduled to begin in April.

The agency had accused Mr. Cohen of failing to properly supervise Mathew Martoma, a former trader at SAC who was convicted on charges that he used inside information to generate profits and avoid losses totaling $275 million while working at the hedge fund.

The administrative proceeding had been delayed for several years at the request of federal prosecutors, who have all but wrapped up a nearly decade-long investigation into insider trading in the hedge fund industry and specifically at SAC.

The S.E.C.'s hand was weakened in 2014, when a federal appeals court in 2014 overturned the criminal convictions of two hedge fund managers.

Following that decision and the Supreme Court's refusal to take up the case, federal prosecutors in Manhattan dismissed the insider trading conviction of Michael Steinberg, a former SAC portfolio manager and a onetime confidant of Mr. Cohen.

The S.E.C. then dropped its civil insider trading case against Mr. Steinberg. It also amended the failure-to-supervise action against Mr. Cohen to remove accusations concerning his supervision of Mr. Steinberg.

In the end, all that was left in the failure-to-supervise case was the claim that Mr. Cohen did not properly oversee Mr. Martoma, who was convicted in 2014 and is serving a nine-year sentence in federal prison. Mr. Cohen did not admit or deny any wrongdoing in the settlement.

Still, the settlement order is striking for its strong words about Mr. Cohen. The agency blamed him for ignoring red flags that should have prompted Mr. Cohen to question whether Mr. Martoma was engaging in insider trading.

Mr. Martoma, the agency said, gave information to Mr. Cohen in 2008 that "should have caused a reasonable hedge fund manager to investigate" whether the employee had access to inside information.

If Mr. Cohen seeks to manage money for outside investors beginning in 2018, the settlement requires him to obtain an independent consultant through the end of 2019. Even before then, his family office will be subject to periodic examinations by the S.E.C. and must retain an independent consultant to monitor its activities.

“Before Cohen can handle outside money again, an independent consultant will ensure that there are legally sufficient policies, procedures and supervision mechanisms in place to detect and deter any insider trading,” said Andrew J. Ceresney, director of the S.E.C.’s division of enforcement.

The independent consultant to monitor the activities of Point72 will either be Bart M. Schwartz of Guidepost Solutions, who was previously retained as a consultant as part of the SAC guilty plea, or some other person approved by the S.E.C.

A spokesman for Mr. Cohen declined to comment.

In the memo sent to the more than 800 employees of Point72, Mr. Cohen said that after SAC pleaded guilty, he “vowed that what happened to SAC would never happen to Point72.”

The settlement “is not and cannot — be a reason to become complacent,” Mr. Cohen wrote, adding that the firm would become a leader in compliance.