

JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

SUN EMPIRE, LLC, ECAM, LLC a/k/a
EMPIRE CAPITAL ASSET
MANAGEMENT, DELILAH A.
PROCTOR, SHAUNTEL A. MCCOY,
SUN INVESTMENT SAVINGS AND
LOAN, SUN GROUP, BICH QUYEN
NGUYEN, and JOHNNY E. JOHNSON,

Defendants,

SUN COMMERCE AND
INVESTMENT, INFINITY
INVESTMENT CLUB, LLC, SUNLAND
INVESTMENT CLUB, LLC,
RECOMMENDED SERVICES, INC.,
and TYCOON CLUB
INTERNATIONAL, LLC,

Relief Defendants.

Case No. SACV09-399 DOC (RNBx)

**FINAL JUDGMENT OF
PERMANENT INJUNCTION AND
OTHER RELIEF AGAINST BICH
QUYEN NGUYEN, JOHNNY E.
JOHNSON, AND DELILAH
PROCTOR**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, Plaintiff Securities and Exchange Commission's ("Commission") Motion for Summary Judgment Against Bich Quyen Nguyen and Johnny E. Johnson and the Commission's Motion for Summary Judgment Against Delilah Proctor (collectively "Motions") came before the Court. The Court, having considered the Commission's Motions, the Memoranda of Points and Authorities and the other documents filed in support of the Motions, finds that:

I.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Commission's Motions against Bich Quyen Nguyen, Johnny E. Johnson, and Delilah A. Proctor (collectively "Defendants") are granted.

II.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendants and their agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 5 of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. § 77e, by, directly or indirectly, in the absence of any applicable exemption:

- (a) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;
- (b) Unless a registration statement is in effect as to a security, carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale; or
- (c) Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell

1 or offer to buy through the use or medium of any prospectus or
2 otherwise any security, unless a registration statement has been filed
3 with the Commission as to such security, or while the registration
4 statement is the subject of a refusal order or stop order or (prior to the
5 effective date of the registration statement) any public proceeding or
6 examination under Section 8 of the Securities Act, 15 U.S.C. § 77h.

7 **III.**

8 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
9 Defendants and their agents, servants, employees, attorneys, and all persons in
10 active concert or participation with them who receive actual notice of this Final
11 Judgment by personal service or otherwise are permanently restrained and enjoined
12 from violating Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a), in the offer
13 or sale of any security by the use of any means or instruments of transportation or
14 communication in interstate commerce or by use of the mails, directly or
15 indirectly:

- 16 (a) to employ any device, scheme, or artifice to defraud;
17 (b) to obtain money or property by means of any untrue statement of a
18 material fact or any omission of a material fact necessary in order to
19 make the statements made, in light of the circumstances under which
20 they were made, not misleading; or
21 (c) to engage in any transaction, practice, or course of business which
22 operates or would operate as a fraud or deceit upon the purchaser.

23 **IV.**

24 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
25 Defendants and their agents, servants, employees, attorneys, and all persons in
26 active concert or participation with them who receive actual notice of this Final
27 Judgment by personal service or otherwise are permanently restrained and enjoined
28 from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act

1 of 1934 (the “Exchange Act”), 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated
2 thereunder, 17 C.F.R. § 240.10b-5, by using any means or instrumentality of
3 interstate commerce, or of the mails, or of any facility of any national securities
4 exchange, in connection with the purchase or sale of any security:

5 (a) to employ any device, scheme, or artifice to defraud;

6 (b) to make any untrue statement of a material fact or to omit to state a
7 material fact necessary in order to make the statements made, in the
8 light of the circumstances under which they were made, not
9 misleading; or

10 (c) to engage in any act, practice, or course of business which operates or
11 would operate as a fraud or deceit upon any person.

12 **V.**

13 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
14 Defendants and their agents, servants, employees, attorneys, and all persons in
15 active concert or participation with them who receive actual notice of this Final
16 Judgment by personal service or otherwise are permanently restrained and enjoined
17 from violating, directly or indirectly, Section 15(a) of the Exchange Act, 15 U.S.C.
18 § 78o(a), by, directly or indirectly, in the absence of any applicable exemption
19 engaging in the business of a broker or a dealer by making use of the mails or any
20 means or instrumentality of interstate commerce to induce the purchase or sale of,
21 any security (in the absence of an applicable exemption), without being associated
22 with a broker-dealer that has been registered with the Commission.

23 **VI.**

24 IT IS ORDERED, ADJUDGED, AND DECREED that Bich Quyen Nguyen
25 (“Nguyen”) and Johnny E. Johnson (“Johnson”) are jointly and severally liable for
26 disgorgement of \$9,750,691.94, representing profits gained as a result of the
27 conduct alleged in the Third Amended Complaint (“Complaint”), together with
28 prejudgment interest thereon in the amount of \$262,300.12, for a total of

1 \$10,012,992.06. Nguyen and Johnson shall satisfy this obligation by paying
2 \$10,012,992.06 within 14 days after entry of this Final Judgment to the Court-
3 appointed receiver in this action, Richard Weissman, 12121 Wilshire Boulevard,
4 Suite 600, Los Angeles, California 90025, and specifying that payment is made
5 pursuant to this Final Judgment. Nguyen and Johnson shall simultaneously
6 transmit photocopies of such payment and letter to the Commission's counsel in
7 this action. By making this payment, Nguyen and Johnson shall relinquish all legal
8 and equitable right, title, and interest in such funds, and no part of the funds shall
9 be returned to Nguyen and/or Johnson. Nguyen and Johnson shall pay post-
10 judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961

11 **VII.**

12 IT IS ORDERED, ADJUDGED, AND DECREED that Delilah A. Proctor is
13 liable for disgorgement of \$3,069,424.35, representing profits gained as a result of
14 the conduct alleged in the Complaint, together with prejudgment interest thereon in
15 the amount of \$82,569.56, for a total of \$3,151,993.91. Proctor shall satisfy this
16 obligation by paying \$3,151,993.91 within 14 days after entry of this Final
17 Judgment to the Court-appointed receiver in this action, Richard Weissman, 12121
18 Wilshire Boulevard, Suite 600, Los Angeles, California 90025, and specifying that
19 payment is made pursuant to this Final Judgment. Proctor shall simultaneously
20 transmit photocopies of such payment and letter to the Commission's counsel in
21 this action. By making this payment, Proctor shall relinquish all legal and
22 equitable right, title, and interest in such funds, and no part of the funds shall be
23 returned to Proctor. Proctor shall pay post-judgment interest on any delinquent
24 amounts pursuant to 28 U.S.C. § 1961.

25 **VIII.**

26 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Nguyen
27 and Johnson shall pay a civil penalty in the amount of \$20,000,000.00 and Proctor
28 shall pay a civil penalty in the amount of \$1,200,000 pursuant to Section 20(d) of

1 the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act,
2 15 U.S.C. § 78u(d)(3). The Defendants shall make these payments within 14 days
3 after entry of this Final Judgment by certified check, bank cashier's check, or
4 United States postal money order payable to the Court-appointed receiver in this
5 action, Richard Weissman, 12121 Wilshire Boulevard, Suite 600, Los Angeles,
6 California 90025, and shall be accompanied by a letter specifying that payment is
7 made pursuant to this Final Judgment. The Defendants shall pay post-judgment
8 interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

9 **IX.**

10 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this
11 Court shall retain jurisdiction of this matter for the purposes of enforcing the terms
12 of this Final Judgment.

13 **X.**

14 There being no just reason for delay, pursuant to Rule 54(b) of the Federal
15 Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment
16 forthwith and without further notice.

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18 Dated: January 12, 2011

David O. Carter

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20 HONORABLE DAVID O. CARTER
21 UNITED STATES DISTRICT JUDGE
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