

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF COLUMBIA

SECURITIES AND EXCHANGE COMMISSION,  
450 Fifth Street, N.W.  
Washington, D.C. 20549,

Plaintiff,

v.

MEMBERS SERVICE CORPORATION,  
PHILIP SUNG,  
JOHN R. SILSETH, II,  
WALL STREET STRATEGIES, INC.,  
TODD H. MOORE,  
CHARLES V. PAYNE,  
UNION SECURITIES LTD.,  
DAVID GILBERT,  
JOSEPH LANZA, and  
KENNETH O'NEAL,

Defendants.

-and-

JAYNE LANZA,

Relief Defendant.

**FILED**

OCT 04 2000

NANCY MAYER WHITTINGTON, CLERK  
U.S. DISTRICT COURT

CASE NO. 1:97CV01146(HHK)

Next Scheduled Court Event:  
10/16/00-Trial

DEFAULT JUDGMENT AS TO  
DEFENDANT PHILIP SUNG

WHEREAS,

1. Plaintiff, the United States Securities and Exchange Commission (the "Commission"), having filed this action against Philip Sung and nine other defendants on May 22, 1997;

2. This Court having ordered the Commission on October 9, 1997 to serve process in this case on defendant Sung by having a Notice published once in week in The Palm Beach Post for four consecutive weeks;

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3. It appears from the Proof of Service filed by the Commission on November 19, 1997 that defendant Sung was properly served in this action by Notice published in the The Palm Beach Post on October 15, 1997, October 22, 1997, October 29, 1997 and November 5, 1997 as directed by the Court's October 9, 1997 Order;

4. Defendant Sung has not served or filed an Answer to the Commission's Complaint or otherwise responded thereto;

5. The Clerk of this Court entered the Default of defendant Sung on September 26, 2000;

6. The Commission has applied for entry of Default Judgment against Defendant Sung pursuant to Fed. R. Civ. P. 55(b); and

7. With respect to the Commission's request for a civil penalty pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)], it appears that Defendant Sung's violations, as pleaded in the Complaint, (i) involved fraud and a deliberate or reckless disregard of regulatory requirements, and (ii) directly or indirectly created a significant risk of substantial losses to other persons;

**NOW, THEREFORE, IT IS HEREBY:**

I.

**ORDERED, ADJUDGED AND DECREED** that Defendant Sung, his agents, servants, employees, attorneys, and those persons in active concert or in participation with them who receive actual

notice of this Final Judgment by personal service or otherwise, and each of them, be and they hereby are permanently restrained and enjoined from violating Section 5(a) and 5(c) of the Securities Act [15 U.S.C. §§77e(a) and 77e(c)] by, directly or indirectly, in the absence of any applicable exemption:

- a. making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell the securities of any issuer, through the use or medium of any prospectus or otherwise, unless and until a registration statement is in effect as to such securities;
- b. carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, for the purpose of sale or for delivery after sale, the securities of any issuer, unless and until a registration statement is in effect as to such securities; or
- c. making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium or any prospectus or otherwise the securities of any issuer, unless and until a registration statement has been filed with the Commission as to such securities, or while a registration statement as to such securities is the subject of a refusal order or stop order (prior to the

effective date of the registration statement) in any public proceeding or examination under Section 8 of the Securities Act [15 U.S.C. §77h].

II.

**ORDERED, ADJUDGED AND DECREED** that Defendant Sung, his agents, servants, employees, attorneys, and those persons in active concert and participation with them who receive actual notice of this Final Judgment by personal service or otherwise, and each of them, be and they hereby are permanently restrained and enjoined from, directly and indirectly, violating Section 17(a) of the Securities Act [15 U.S.C. §77q(a)] by, directly or indirectly using any means or instruments of transportation or communication in interstate commerce, or the mails:

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

in the offer or sale of any securities.

III.

**ORDERED, ADJUDGED AND DECREED** that Defendant Sung, his agents, servants, employees, attorneys, and those persons in

active concert and participation with them who receive actual notice of this Final Judgment by personal service or otherwise, and each of them, be and they hereby are permanently restrained and enjoined from, directly and indirectly, violating Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] promulgated thereunder by, directly or indirectly, using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

in connection with the purchase or sale of any security.

IV.

**ORDERED, ADJUDGED AND DECREED** that Defendant Sung, his agents, servants, employees, attorneys, and those persons in active concert and participation with them who receive actual notice of this Final Judgment by personal service or otherwise, and each of them, be and they hereby are permanently restrained and enjoined from violating Section 13(d) of the Exchange Act [15 U.S.C. § 78m(d)] and Rule 13d-1 promulgated thereunder [17 C.F.R.

240.13d-1] by failing or aiding and abetting a failure, within ten (10) days after acquiring, directly or indirectly, whether singly or as part of a partnership, limited partnership, syndicate, or other group for the purpose of acquiring, holding, voting or disposing of securities, the beneficial ownership of more than five (5) percent of:

(A) any equity security of a class which is registered pursuant to Section 12 of the Exchange Act, or

(B) any equity security of an insurance company which would have been required to be so registered except for the exemption contained in Section 12(g)(2)(G) of the Exchange Act, or

(C) any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940 [15 U.S.C. § 80a-1, et seq.],

to file or cause to be filed with the Commission, and to send or cause to be sent to the issuer of such equity security and to any national securities exchange where such equity security is traded, the statements containing information required by Section 13(d) of the Exchange Act [15 U.S.C. § 78m(d)] and Rule 13d-1 promulgated thereunder [17 C.F.R. § 240.13d-1].

V.

**ORDERED, ADJUDGED AND DECREED** that Sung pay disgorgement in the amount of \$2,637,338.00, representing his gains from the conduct alleged in the Complaint, plus pre-judgment interest thereon in the amount of \$1,953,106.00. Payment shall be made within 30 days of the date of entry of this Final Judgment into

the registry of this Court by certified check or money order payable to the order of "Clerk, United States District of Columbia." Upon receipt, the Clerk shall deposit such check or money order into an interest bearing account with the Court Registry Investment System ("CRIS"). At the times he remits payment, Sung shall send photocopies of the check or money order to the following:

Office of the Secretary  
Securities & Exchange Commission  
450 Fifth Street, NW  
Mail Stop 6-9  
Washington, D.C. 20549

The photocopies shall be accompanied by a letter setting forth Sung's identity as the defendant on whose behalf the payment is made; the name of this Court and the docket number of this action; and the SEC's internal file number (HO-2660). Copies of all such letters to the Secretary shall be sent simultaneously to counsel of record for the SEC, Peter H. Bresnan, Division of Enforcement, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 8-8, Washington, D.C. 20549. The disgorgement thus paid shall be held by the CRIS until further order of the Court. In no event shall any money in the disgorgement account revert to Sung, his heirs or assigns. Interest earned on the money in the disgorgement account shall be credited to that account and treated in the same manner as principal. In accordance with the guidelines set by the Director of the Administrative Office of the United States Courts, the clerk of the Court is directed, without further order of this

Court, to deduct from the income earned on the money in the disgorgement account a fee equal to 10 percent of the income earned thereon. Such fee shall not exceed that authorized by the Judicial Conference of the United States.

VI.

**ORDERED, ADJUDGED AND DECREED** that Sung pay, pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)], a civil penalty of \$100,000.00 within 30 days of entry of this Final Judgment, (a) by United States money order, certified check, bank cashier's check or bank money order, (b) made payable to the "Securities and Exchange Commission," (c) mailed by certified mail (return receipt requested) to the Comptroller, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 0-3, Washington, D.C. 20549, for deposit into the United States Treasury, and (d) submitted under a cover letter that identifies Sung as a defendant in this action, the civil action number assigned to the Complaint, the District Court in which the Complaint, the Consent, and the Final Judgment were filed, and the Commission's internal case number (HO-2660), a copy of which letter shall be sent to counsel of record for the Commission.

VII.

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

  
UNITED STATES DISTRICT JUDGE

Dated: October 4, 2000

CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the State of Maryland, I am over the age of eighteen years and not a party to the above entitled action; my business address is 450 Fifth Street, N.W., Washington, D.C., 20549. On September 27, 2000, I served a copy of the attached proposed Default Judgment as to Philip Sung by sending it by First Class mail to:

Wayne Hartke, Esq.  
Hartke & Hartke  
7637 Leesburg Pike  
Falls Church, Va. 22043  
(Attorney for defendant Joseph Lanza and relief defendant Jayne Lanza)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 27, 2000 at Washington, D.C.



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Peter H. Bresnan