

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

SIERRA BROKERAGE SERVICES, INC., ET AL.,

Defendants.

Case No. C2-03-326

Judge Marbley

Magistrate Judge Deavers

**AMENDED JUDGMENT AS TO DEFENDANTS
YONGZHI YANG AND K&J CONSULTING, LTD.**

Plaintiff Securities and Exchange Commission filed its Complaint in this matter on April 11, 2003. Defendants Yongzhi Yang (“Yang”) and K&J Consulting, Ltd. (“K&J”) (collectively “the Defendants”), having filed an answer, have admitted the Court’s jurisdiction over them and the subject matter of this action. On March 31, 2009, this Court entered an Opinion and Order in which it found that Plaintiff is entitled to summary judgment against the Defendants on Count I, liability for violating Sections 5(a) and 5(c) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. §§ 77e(a) and 77e(c)]; Count VIII, liability for violating Sections 13(d)(1) and (2) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. §§ 78m(d)(1) and (2)] and Rules 13d-1(a) and 13d-2(a) promulgated thereunder [17 C.F.R. §§ 240.13d-1(a) and 240.13d-2(a)]; and Count IX, liability for violating Section 16(a) of the Exchange Act [15 U.S.C. § 78p(a)] and Rule 16a-3 thereunder [17 C.F.R. § 240.16a-3] (see Docket #221). As part of that Opinion and Order, the Court granted a permanent injunction on Counts I, VIII and IX and ordered disgorgement against Yang and K&J. Furthermore, as to Count II (Section 17(a)(1) of the

Securities Act [15 U.S.C. §77q(a)(1)]; Count III (Sections 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C. §§77q(a)(2) and 77q(a)(3)]) and Count IV (Section 10(b) of the Exchange Act [15 U.S.C. §78j(b)] and Rule 10b-5 [17 C.F.R. §240.10b-5]), Defendants, having consented to the entry of a judgment without admitting or denying the un-adjudicated allegations of the Complaint (except as to jurisdiction), having waived findings of fact and conclusions of law, and having waived any right to appeal from this Amended Judgment (“Consent”):

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Defendants and Defendants’ agents, servants, employees, attorneys and all persons in active concert or participation with them who receive actual notice of this Amended Judgment by personal service or otherwise are permanently restrained and enjoined from violating Sections 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) 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 or to offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed with the Commission as to such security, or while the registration statement is the subject of a refusal

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

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants and Defendants' officers, agents, servants, employees, attorneys and all persons in active concert or participation with them who receive notice of this Amended Judgment by personal service or otherwise, are permanently enjoined and restrained 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 [15 U.S.C. § 78l], 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 [15 U.S.C. § 78l(g)(2)(G)], 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]; and are further permanently restrained and enjoined from violating Section 13(d) of the Exchange Act [15 U.S.C. § 78m(d)] and Rule 13d-2 promulgated thereunder [17 C.F.R. § 240.13d-2] by failing or aiding and abetting a failure, if any

material change occurs in the facts set forth in such statements, promptly 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 amendments to such statements required by Section 13(d) of the Exchange Act [15 U.S.C. § 78m(d)] and Rule 13d-2 promulgated thereunder [17 C.F.R. § 240.13d-2] and Schedule 13D (17 C.F.R. § 240.13d-101).

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants and Defendants' officers, agents, servants, employees, attorneys and all persons in active concert or participation with them who receive notice of this Amended Judgment by personal service or otherwise, are permanently enjoined and restrained from violating Section 16(a) of the Exchange Act [15 U.S.C. § 78p(a)] and Rule 16a-3 [17 C.F.R. § 240.16a-3] promulgated thereunder by, directly or indirectly, failing to file, by improperly filing, or by filing inaccurate information in statements with the Commission regarding ownership of an issuer's securities, registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l], as well as any changes in ownership of such securities.

IV.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants and Defendants' agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Amended Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)] in the offer or sale of any security by the use of any means or

instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of a material fact or any omission of 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 transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

V.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Amended Judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Exchange Act[15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (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 the 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.

VI.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants are liable, jointly and severally, for disgorgement of \$1,195,228.00, representing profits gained as a result of the violations found by the Court, together with prejudgment interest thereon in the amount of \$455,488.00, for a total of \$1,650,716.00. Defendants shall satisfy this obligation by paying \$1,650,716.00 within ten (10) business days after entry of this Amended Judgment by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission. The payment shall be delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312, and shall be accompanied by a letter identifying Yang and K&J as defendants in this action; setting forth the title and civil action number of this action and the name of this Court; and specifying that payment is made pursuant to this Amended Judgment. Defendants shall simultaneously transmit photocopies of such payment and letter to the Commission's counsel in this action. Defendants shall pay post-judgment interest on any delinquent amounts pursuant to 28 USC § 1961. The Commission shall remit the funds paid pursuant to this paragraph to the United States Treasury.

VII.

Upon motion of the Commission, the Court shall determine whether it is appropriate to order 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)] and, if so, the amount of the civil penalty. In connection with the Commission's motion for civil penalties, and at any hearing held

on such a motion: (a) Defendant will be precluded from arguing that he did not violate the federal securities laws as alleged in the Complaint; (b) Defendant may not challenge the validity of the Consent or this Amended Judgment; (c) solely for the purposes of such motion, the allegations of the Complaint shall be accepted as and deemed true by the Court; and (d) the Court may determine the issues raised in the motion on the basis of affidavits, declarations, excerpts of sworn deposition or investigative testimony, and documentary evidence, without regard to the standards for summary judgment contained in Rule 56(c) of the Federal Rules of Civil Procedure. In connection with the Commission's motion for civil penalties, the parties may take discovery, including discovery from appropriate non-parties.

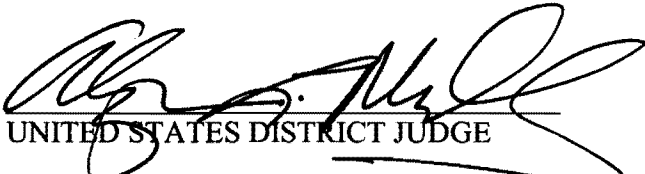
VIII.

IT IS FURTHER ORDERED ADJUDGED, AND DECREED that the Consent is incorporated herein with the same force and effect as if fully set forth herein, and that Defendants shall comply with all of the undertakings and agreements set forth herein.

IX.

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

Dated: April 30, 2010


UNITED STATES DISTRICT JUDGE