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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

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12 SECURITIES AND EXCHANGE COMMISSION,
13 Plaintiff,
14 v.
15 YERVANT DAVID LEPEJIAN,
16 Defendant.

Case No. C 02-4308 JF (PVT)

~~PROPOSED~~ AMENDED JUDGMENT OF
PERMANENT INJUNCTION AND OTHER
RELIEF

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18 On October 17, 2002, the Court entered judgment in this action in favor of plaintiff Securities and
19 Exchange Commission (“Commission”) and against defendant Yervant David Lepejian (“Lepejian”)
20 pursuant to the Consent of Yervant David Lepejian to Entry of Final Judgment of Permanent Injunction
21 and Other Relief (“Consent”). The Commission and Lepejian have submitted a stipulation to amend that
22 judgment to remove terms requiring Lepejian to pay disgorgement and a civil penalty. The Court having
23 reviewed the stipulation of the parties and finding good cause therefor, amends the judgment as follows:

24 I.

25 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Lepejian and his agents,
26 servants, employees and attorneys-in-fact, and all persons in active concert or participation with any
27 of them, who receive actual notice of this Final Judgment, by personal service or otherwise, and each
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1 of them, are permanently enjoined and refrained from, directly or indirectly, violating Section 17(a)
2 of the Securities Act of 1933 [15 U.S.C. § 77q(a)] (“Securities Act”) by:

- 3 1. employing any device, scheme or artifice to defraud;
- 4 2. obtaining money or property by means of any untrue statement of a material fact or
5 any omission to state a material fact necessary in order to make the statements made,
6 in the light of the circumstances under which they were made, not misleading; or
- 7 3. engaging in any transaction, practice, or course of business which operates or would
8 operate as a fraud or deceit upon the purchaser,

9 in the offer or sale of the securities of any issuer, by the use of any means or instruments of
10 transportation or communication in interstate commerce or by the use of the mails.

11 II.

12 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Lepejian and his agents,
13 servants, employees, attorneys-in-fact, and all persons in active concert or participation with any of
14 them, who receive actual notice of this Final Judgment, by personal service or otherwise, and each of
15 them, are permanently enjoined and restrained from, directly or indirectly, violating Section 10(b) of
16 the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 [17
17 C.F.R. § 240.10b-5] thereunder by:

- 18 1. employing any device, scheme, or artifice to defraud;
- 19 2. making any untrue statement of a material fact or omitting to state a material fact
20 necessary in order to make the statements made, in the light of the circumstances
21 under which they were made, not misleading; or
- 22 3. engaging in any act, practice, or course of business which operates or would operate
23 as a fraud or deceit upon any person,

24 in connection with the purchase or sale of the securities of any issuer, by the use of any means or
25 instrumentality of interstate commerce, or of the mails, or of any facility of any national securities
26 exchange.

III.

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2 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Lepejian and his agents,
3 servants, employees and attorneys-in-fact, and all persons in active concert or participation with any
4 of them, who receive actual notice of this Final Judgment, by personal service or otherwise, and each
5 of them, are permanently enjoined and restrained from violating Section 13(a) of the Exchange Act
6 [15 U.S.C. § 78m(a)] and Rules 12b-20, 13a-1 and 13a-13 promulgated thereunder [17 C.F.R. §§
7 240.12b-20, 240.13a-1 and 240.13a-13] by causing any issuer which has a class of securities
8 registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or Section 15(d) of the
9 Exchange Act [15 U.S.C. § 78o] to fail to file with the Commission, such accurate and complete
10 information, reports, and documents as are required to be filed with the Commission pursuant to
11 Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and the Commission's Rules thereunder,
12 including but not limited to, annual reports on Form 10-K [17 C.F.R. § 249.310] as prescribed by
13 Commission Rule 13a-1 [17 C.F.R. § 240.13a-1] and quarterly reports on Form 10-Q [17 C.F.R. §
14 249.308a] as prescribed by Commission Rule 13a-13 [17 C.F.R. § 240.13a-13], such information and
15 documents to contain, in addition to such information as is expressly required to be included in a
16 statement or report to the Commission, such further material information, if any, as may be necessary
17 to make the required statements, in the light of the circumstances under which they are made, not
18 misleading, as prescribed by Commission Rule 12b-20 [17 C.F.R. § 240.12b-20].

IV.

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20 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Lepejian and his agents,
21 servants, employees, attorneys-in-fact, and all persons in active concert or participation with any of
22 them, who receive actual notice of this Final Judgment by personal service or otherwise, and each of
23 them, are permanently enjoined and restrained from violating Section 13(b)(2)(A) of the Exchange
24 Act [15 U.S.C. § 78m(b)(2)(A)] by causing any issuer which has a class of securities registered
25 pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or Section 15(d) of the Exchange Act
26 [15 U.S.C. § 78o] to fail to make or keep books, records or accounts, which, in reasonable detail,
27 accurately and fairly reflect the transactions and dispositions of the assets of the issuer.
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V.

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2 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Lepejian and his agents,
3 servants, employees, attorneys-in-fact, and all persons in active concert or participation with any of
4 them, who receive actual notice of this Final Judgment by personal service or otherwise, and each of
5 them, are permanently enjoined and restrained from violating Section 13(b)(2)(B) of the Exchange
6 Act [15 U.S.C. § 78m(b)(2)(B)] by causing any issuer which has a class of securities registered
7 pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or Section 15(d) of the Exchange Act
8 [15 U.S.C. § 78o] to fail to devise and maintain a system of internal accounting controls sufficient to
9 provide reasonable assurances that:

- 10 1. transactions are executed in accordance with management's general or specific
11 authorization;
- 12 2. transactions are recorded as necessary (i) to permit preparation of financial
13 statements in conformity with generally accepted accounting principles or any
14 other criteria applicable to such statements, and (ii) to maintain accountability
15 for assets;
- 16 3. access to assets is permitted only in accordance with management's general or
17 specific authorization; and
- 18 4. the recorded accountability for assets is compared with the existing assets at
19 reasonable intervals and appropriate action is taken with respect to any
20 differences.

VI.

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22 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Lepejian and his agents,
23 servants, employees and attorneys-in-fact, and all persons in active concert or participation with any
24 of them, who receive actual notice of this Final Judgment, by personal service or otherwise, and each
25 of them, are permanently enjoined and restrained from, directly or indirectly, violating Section
26 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] by knowingly circumventing or failing to
27 implement a system of internal accounting controls or knowingly falsifying any book, record, or
28 account described in Section 13(b)(2) of the Exchange Act [15 U.S.C. § 78m(b)(2)].

VII.

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2 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Lepejian and his agents,
3 servants, employees and attorneys-in-fact, and all persons acting in concert or participation with any
4 of them, who receive actual notice of this Final Judgment by personal service or otherwise, and each
5 of them, are permanently enjoined and restrained from, directly or indirectly, violating Rule 13b2-1
6 under the Exchange Act [17 C.F.R. § 240.13b2-1] by falsifying or causing to be falsified any book,
7 record or account subject to Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)].

VIII.

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9 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Lepejian and his agents,
10 servants, employees, attorneys-in-fact, and all persons in active concert or participation with any of
11 them, who receive actual notice of this Final Judgment, by personal service or otherwise, and each of
12 them, are permanently enjoined and restrained from violating Rule 13b2-2 of the Exchange Act [17
13 C.F.R. §240.13b2-2] by making or causing to be made a materially false or misleading statement, or
14 by omitting to state or causing another person to omit to state, any material fact necessary in order to
15 make statements made, in light of the circumstances under which such statements were made, not
16 misleading, to an accountant in connection with (A) any audit or examination of the financial
17 statements of an issuer required to be made pursuant to the federal securities laws or (B) the
18 preparation or filing of any document or report required to be filed with the Commission pursuant to
19 the federal securities laws or otherwise.

IX.

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21 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Lepejian is hereby
22 prohibited from serving as an officer or director of any issuer of a security registered pursuant to
23 Section 12 or 15(d) of the Exchange Act.
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X.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the provisions of Lepejian’s Consent are incorporated by this reference, that Lepejian shall comply with the Consent and that a breach of the terms of the Consent therefore shall constitute a failure to adhere to the terms of this Judgment.

XI.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain jurisdiction over this action for all purposes, including to implement and enforce the terms of this Judgment and other orders and decrees, which may be entered, and to grant such other relief as this Court may deem necessary and just.

Dated: 3/20/2006, 2002


United States District Court Judge
JEREMY FOGEL

APPROVED AS TO FORM:

Michael Tubach, Esq.
O’Melveny & Myers LLP
Counsel from Defendant Yervant David Lepejian