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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 OAKLAND DIVISION

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14 SECURITIES AND EXCHANGE COMMISSION,

15 Plaintiff,

16 vs.

17 ENRIQUE E. PERUSQUIA,

18 Defendant.

) Civil Action No.
) C-02-00540 CW (EDL)
)
) FINAL JUDGMENT OF
) PERMANENT INJUNCTION
) AND OTHER LEGAL AND
) EQUITABLE RELIEF AGAINST
) DEFENDANT ENRIQUE E.
) PERUSQUIA

1 On June 5, 2002, the Court entered default against defendant Enrique E. Perusquia. On June
2 11, 2002, the Court ordered plaintiff Securities and Exchange Commission (the "Commission") to file a
3 motion for default judgment on or before July 10, 2002. Following a hearing on September 24, 2002,
4 Magistrate Judge Elizabeth D. LaPorte issued a Report and Recommendation on Plaintiff's Motion for
5 Default Judgment dated September 24, 2002 (the "Magistrate's Recommendation"). The Magistrate's
6 Recommendation provided the parties with ten days to file objections. No objections were filed. By
7 Order dated October 16, 2002, the Court adopted the Magistrate's Recommendation and directed the
8 Commission to prepare and submit a form of judgment in accordance with the Magistrate's
9 Recommendation. The Order also directed that prejudgment interest should be calculated as of
10 November 1, 2002. The Court, having reviewed the well-plead allegations of the Complaint,
11 Perusquia's guilty plea, the Magistrate's Recommendation and other evidence relating to the relief to be
12 imposed against defaulting defendant, hereby ORDERS as follows:

13 I.

14 IT IS ORDERED, ADJUDGED, AND DECREED that defendant Perusquia, his agents,
15 servants, employees, attorneys, and all persons acting in concert or participation with him, who receive
16 actual notice of this Final Judgment of Permanent Injunction and Other Legal and Equitable Relief
17 ("Final Judgment"), by personal service or otherwise, and each of them, are permanently enjoined and
18 restrained from, directly or indirectly, singly or in concert:

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

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

1 exchange, in violation of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5
2 thereunder [17 C.F.R. § 240.10b-5].

3 II.

4 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED defendant Perusquia, his
5 agents, servants, employees, attorneys, and all persons acting in concert or participation with him, who
6 receive actual notice of this Final Judgment, by personal service or otherwise, and each of them, are
7 permanently enjoined and restrained from, directly or indirectly, singly or in concert:

- 8 A. employing any device, scheme, or artifice to defraud;
- 9 B. obtaining money or property by means of any untrue statement of material fact or
10 omitting to state a material fact necessary in order to make the statements made, in the
11 light of the circumstances under which they were made, not misleading; or
- 12 C. engaging in any transaction, practice, or course of business which operates or would
13 operate as a fraud or deceit upon a purchaser, in the offer or sale of any securities by
14 the use of any means or instruments of transportation or communication in interstate
15 commerce or by the use of the mails,

16 in violation of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

17 III.

18 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant Perusquia
19 disgorge the gains from his conduct in the amount of \$3,598,590.17, including prejudgment interest in
20 the amount of \$1,592,617.03, for a total payment of \$5,191,207.20. Such payment shall be
21 considered due and payable to this Court's registry within thirty (30) days of the entry of the Final
22 Judgment. Perusquia shall make any and all payments described herein by United States postal money
23 order, certified check, bank cashier's check, or bank money order payable to the "Clerk, United
24 States District Court, Northern District of California." Simultaneously with his payment, Perusquia shall
25 send a copy of the payment instrument to, Helane L. Morrison, District Administrator, Securities and
26 Exchange Commission, 44 Montgomery Street, Suite 1100, San Francisco, California 94104, under

1 cover of a letter identifying the paying defendant, the civil action number of this proceeding, the name of
2 the Court and the Commission's internal case number (LA-1918-A). Upon receipt of such payment,
3 the Clerk of this Court is hereby directed to deposit said payment into an interest bearing account
4 ("Account") with the Court Registry Investment System ("CRIS"). The Account shall be held by the
5 CRIS until further order of the Court, and distributed pursuant to a Court-approved plan to be
6 proposed by the Commission, but in no event shall the monies disgorged revert, directly or indirectly, to
7 Perusquia, or his heirs or assigns. Interest earned on the Account shall be credited to the Account and
8 shall thereafter be treated in the same manner as principal. The Clerk of the Court is directed to deduct
9 from the income on the Account a fee equal to ten (10) percent of the income earned, but not
10 exceeding the fee authorized by the Judicial Conference of the United States and set by the Director of
11 the Administrative Office.

12 IV.

13 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Perusquia pay a civil
14 penalty pursuant to Section 21(d)(3)(B)(iii) of the Securities Exchange Act of 1934 [15 U.S.C.
15 § 78u(d)(3)(B)(iii)], in the amount of \$3,598,590.17. Perusquia shall pay this penalty by United States
16 postal money order, certified check, bank cashier's check or bank money order payable to the United
17 States Securities and Exchange Commission within thirty (30) days of the entry of this Final Judgment.
18 Perusquia shall send such payment by certified mail to: Comptroller, Securities and Exchange
19 Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA 22312, with a
20 cover letter that identifies the paying defendant, the civil action number of this proceeding, the name of
21 the Court and the Commission's internal case number (LA-1918-A). Simultaneously with his payment,
22 Perusquia shall send a copy of the cover letter and the payment instrument to Helane L. Morrison,
23 District Administrator, San Francisco District Office, Securities and Exchange Commission, 44
24 Montgomery Street, Suite 1100, San Francisco, California 94104.

25 V.

26 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the disgorgement ordered
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1 in Paragraph III, above, shall be off-set and reduced by an amount equal to any amounts that Perusquia
2 pays pursuant to the \$68 million criminal restitution order entered by the Court as part of the criminal
3 judgment in United States v. Perusquia, CR-02-40013.

4 VI.

5 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Final Judgment is
6 binding on defendant Perusquia, his agents, servants, employees and attorneys, and upon those persons
7 in active concert or participation with Perusquia who receive actual notice of this Final Judgment by
8 personal service or otherwise pursuant to Federal Rule of Civil Procedure 65(d).

9 VII.

10 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain
11 jurisdiction over this action for the purpose of implementing and carrying out the terms of all orders and
12 decrees which may be entered herein and to entertain any suitable application or motion for additional
13 relief within the jurisdiction of this Court.

14 There being no just reason for delay, the Clerk of the Court is hereby directed, pursuant to Rule
15 54(b) of the Federal Rules of Civil Procedure, to enter this Final Judgment forthwith.

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19 DATED: October 31, 2002

/s/ CLAUDIA WILKEN
Honorable Claudia Wilken
United States District Judge