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FILED - WESTERN DIVISION
CLERK, U.S. DISTRICT COURT
FEB 21 2006
CENTRAL DISTRICT OF CALIFORNIA
DEPUTY

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14 **UNITED STATES DISTRICT COURT**
15 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
16 **WESTERN DIVISION**

17 SECURITIES AND EXCHANGE
18 COMMISSION,

19 Plaintiff,

20 vs.

21 HENRY C. YUEN, ELSIE M. LEUNG,
22 JONATHAN B. ORLICK, and CRAIG M.
23 WAGGY,

24 Defendants.

Case No. CV 03-4376 MRP (PLAx)

~~(PROPOSED)~~ FINAL JUDGMENT
OF PERMANENT INJUNCTION
AND OTHER RELIEF AS TO
DEFENDANT ELSIE M. LEUNG

ENTERED
CLERK, U.S. DISTRICT COURT
FEB 23 2006
CENTRAL DISTRICT OF CALIFORNIA
DEPUTY

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CENTRAL DISTRICT OF CALIFORNIA
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1 The Securities and Exchange Commission having filed a Third Amended
2 Complaint (“Complaint”) and Defendant Elsie M. Leung (“Leung”) having entered
3 a general appearance; consented to the Court’s jurisdiction over Leung and the
4 subject matter of this action; consented to entry of this Final Judgment without
5 admitting or denying the allegations of the Complaint (except as to jurisdiction);
6 waived findings of fact and conclusions of law; and waived any right to appeal
7 from this Final Judgment:

8 **I.**

9 IT IS ORDERED, ADJUDGED AND DECREED that Leung and her
10 officers, agents, servants, employees, attorneys, and all persons in active concert or
11 participation with any of them, who receive actual notice of this Judgment by
12 personal service or otherwise, and each of them, are permanently restrained and
13 enjoined from, directly or indirectly, in the offer or sale of the securities of any
14 issuer, by the use of any means or instruments of transportation or communication
15 in interstate commerce or by the use of the mails:

- 16 A. employing any device, scheme or artifice to defraud;
17 B. obtaining money or property by means of any untrue statement of a
18 material fact or any omission to state a material fact necessary in order
19 to make the statements made, in the light of the circumstances under
20 which they were made, not misleading; or
21 C. engaging in any transaction, practice, or course of business which
22 operates or would operate as a fraud or deceit upon the purchaser;
23 in violation of Section 17(a) of the Securities Act of 1933, 15 U.S.C. § 77q(a).

24 **II.**

25 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Leung
26 and her officers, agents, servants, employees, attorneys, and all persons in active
27 concert or participation with any of them, who receive actual notice of this
28 Judgment by personal service or otherwise, and each of them, are permanently

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1 restrained and enjoined from, directly or indirectly, in connection with the
2 purchase or sale of any security, by the use of any means or instrumentality of
3 interstate commerce, or of the mails, or of any facility of any national securities
4 exchange:

- 5 A. employing any device, scheme, or artifice to defraud;
- 6 B. making any untrue statement of a material fact or omitting 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. engaging in any act, practice, or course of business which operates or
11 would operate as a fraud or deceit upon any person;

12 in violation of Section 10(b) of the Securities Exchange Act of 1934, 15 U.S.C. §
13 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5.

14 **III.**

15 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Leung
16 and her officers, agents, servants, employees, attorneys, and all persons in active
17 concert or participation with any of them, who receive actual notice of this Final
18 Judgment, by personal service or otherwise, and each of them, are permanently
19 restrained and enjoined from aiding and abetting any violation of Section 13(a) of
20 the Exchange Act, 15 U.S.C. § 78m(a), and Rules 12b-20, 13a-1, 13a-11, and
21 13a-13 thereunder, 17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-11, and
22 240.13a-13, by knowingly providing substantial assistance to an issuer that
23 violates Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, and
24 13a-13 thereunder, by filing with the Commission materially false and misleading
25 quarterly reports on Form 10-Q, annual reports on Form 10-K, or current reports
26 on Form 8-K.

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1 IV.

2 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Leung
3 and her officers, agents, servants, employees, attorneys, and all persons in active
4 concert or participation with any of them, who receive actual notice of this Final
5 Judgment, by personal service or otherwise, and each of them, are permanently
6 restrained and enjoined from:

- 7 A. aiding and abetting any violation of Section 13(b)(2)(A) of the
8 Exchange Act, 15 U.S.C. § 78m(b)(2)(A), by knowingly providing
9 substantial assistance to an issuer that violates Section 13(b)(2)(A) of
10 the Exchange Act by failing to make or keep books, records and
11 accounts that in reasonable detail accurately and fairly reflected its
12 transactions and disposition of its assets;
- 13 B. violating Exchange Act Rule 13b2-1 by, directly or indirectly,
14 falsifying or causing to be falsified any books, records, and accounts
15 subject to Section 13(b)(2)(A) of the Exchange Act.

16 V.

17 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Leung
18 and her officers, agents, servants, employees, attorneys, and all persons in active
19 concert or participation with any of them, who receive actual notice of this Final
20 Judgment, by personal service or otherwise, and each of them, are permanently
21 restrained and enjoined from aiding and abetting any violation of Section
22 13(b)(2)(B) of the Exchange Act, 15 U.S.C. § 78m(b)(2)(B), by knowingly
23 providing substantial assistance to an issuer that violates Section 13(b)(2)(B) of the
24 Exchange Act by failing to devise and maintain a system of internal accounting
25 controls sufficient to provide reasonable assurances that:

- 26 A. transactions are executed in accordance with management's general or
27 specific authorization;
- 28 B. transactions were recorded as necessary (i) to permit preparation of

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1 financial statements in conformity with Generally Accepted
2 Accounting Principles or other criteria applicable to such statements,
3 and (ii) to maintain accountability for assets;

4 C. access to assets was permitted only in accordance with management's
5 general or specific authorization; and

6 D. the recorded accountability for assets was compared with the existing
7 assets at reasonable intervals and appropriate action was taken with
8 respect to any differences.

9 **VI.**

10 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Leung
11 and her officers, agents, servants, employees, attorneys, and all persons in active
12 concert or participation with any of them, who receive actual notice of this Final
13 Judgment, by personal service or otherwise, and each of them, are permanently
14 restrained and enjoined from violating Section 13(b)(5) of the Exchange Act, 15
15 U.S.C. § 78m(b)(5), by circumventing or failing to implement a system of internal
16 accounting controls, or by knowingly falsifying any book, record or account
17 described in Section 13(b)(2) of the Exchange Act.

18 **VII.**

19 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Leung
20 and her officers, agents, servants, employees, attorneys, and all persons in active
21 concert or participation with any of them, who receive actual notice of this Final
22 Judgment, by personal service or otherwise, and each of them, are permanently
23 restrained and enjoined from, in connection with audits or examinations of
24 financial statements and the preparation and filing of statements and reports
25 required to be filed with the Commission, directly or indirectly, making or causing
26 to be made materially false or misleading statements to accountants and omitting to
27 state, or causing another person to omit to state to accountants, material facts
28 necessary in order to make statements made to the accountants, in light of the

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1 circumstances under which such statements were made, not misleading in violation
2 of Exchange Act Rule 13b2-2, 17 C.F.R. § 240.13b2-2.

3 **VIII.**

4 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that,
5 pursuant to Section 20(e) of the Securities Act, 15 U.S.C. § 77t(e), and Section
6 21(d)(2) of the Exchange Act, 15 U.S.C. § 78u(d)(2), Leung is prohibited from
7 acting as an officer or director of any issuer that has a class of securities registered
8 pursuant to Section 12 of the Exchange Act, 15 U.S.C. § 78l, or that is required to
9 file reports pursuant to Section 15(d) of the Exchange Act, 15 U.S.C. § 78o(d).

10 **IX.**

11 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Leung is
12 liable for disgorgement of \$600,000.00, representing profits gained as a result of
13 the conduct alleged in the Complaint, together with prejudgment interest thereon in
14 the amount of \$14,866.38, and a civil penalty in the amount of \$750,000.00
15 pursuant to Section 20(d)(e) of the Securities Act, 15 U.S.C. § 77t(d), and Section
16 21(d)(3) of the Exchange Act, 15 U.S.C. § 78(u)(d)(3). Leung shall satisfy this
17 obligation by paying the combined disgorgement, prejudgment interest, and civil
18 penalties within 30 days of the date of this Final Judgment. The payment shall be
19 submitted to the Clerk of this Court together with a cover letter identifying Leung
20 as a defendant in this action; setting forth the title and civil action number of this
21 action and the name of this Court; and specifying that payment is made pursuant to
22 this Final Judgment. Leung shall simultaneously transmit photocopies of such
23 payment and letter to the Commission's counsel in this action. By making these
24 payments, Leung relinquishes all legal and equitable right, title, and interest in
25 such funds, and no part of the funds shall be returned to Leung. Leung shall pay
26 post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

27 The Clerk shall deposit the funds into an interest bearing account. These
28 funds, together with any interest and income earned thereon (collectively, the

1 “Fund”), shall be held in such account until further order of the Court. In
2 accordance with 28 U.S.C. § 1914 and the guidelines set by the Director of the
3 Administrative Office of the United States Courts, the Clerk is directed, without
4 further order of this Court, to deduct from the income earned on the money in the
5 Fund a fee equal to ten percent of the income earned on the Fund. Such fee shall
6 not exceed that authorized by the Judicial Conference of the United States.

7 The Commission may by motion propose a plan to distribute the Fund
8 subject to the Court’s approval. Such a plan may provide that Fund shall be
9 distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-
10 Oxley Act of 2002. Regardless of whether any such Fair Fund distribution is
11 made, amounts ordered to be paid as civil penalties pursuant to this Judgment shall
12 be treated as penalties paid to the government for all purposes, including all tax
13 purposes. To preserve the deterrent effect of the civil penalty, Leung shall not,
14 after offset or reduction of any award of compensatory damages in any Related
15 Investor Action based on Leung’s payment of disgorgement in this action, further
16 benefit by offset or reduction of such compensatory damages award by the amount
17 of any part of Leung’s payment of a civil penalty in this action (“Penalty Offset”).
18 If the court in any Related Investor Action grants such a Penalty Offset, Leung
19 shall, within 30 days after entry of a final order granting the Penalty Offset, notify
20 the Commission’s counsel in this action and pay the amount of the Penalty Offset
21 to the United States Treasury or to a Fair Fund, as the Commission directs. Such a
22 payment shall not be deemed an additional civil penalty and shall not be deemed to
23 change the amount of the civil penalty imposed in this Judgment. For purposes of
24 this paragraph, a “Related Investor Action” means a private damages action
25 brought against Leung by or on behalf of one or more investors based on
26 substantially the same facts as alleged in the Complaint in this action.

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X.

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 Leung shall comply with all of the undertakings and agreements set forth therein.

XI.

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 Final Judgment.

XII.

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

DATED: *February 16, 2006*

Mariana R. Pfaelzer
HONORABLE MARIANA R. PFAELZER
UNITED STATES DISTRICT JUDGE

PROOF OF SERVICE

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I am over the age of 18 years and not a party to this action. My business address is:

U.S. SECURITIES AND EXCHANGE COMMISSION, 5670 Wilshire Boulevard, 11th Floor, Los Angeles, California 90036-3648

Telephone No. (323) 965-3998; Facsimile No. (323) 965-3908.

On February 7, 2006, I caused to be delivered the document entitled **PROPOSED FINAL JUDGMENT OF PERMANENT INJUNCTION AND OTHER RELIEF AS TO DEFENDANT ELSIE M. LEUNG** upon the party to this action addressed as stated on the attached service list:

OFFICE MAIL: By placing in sealed envelope(s), which I placed for collection and mailing today following ordinary business practices. I am readily familiar with this agency's practice for collection and processing of correspondence for mailing; such correspondence would be deposited with the U.S. Postal Service on the same day in the ordinary course of business.

PERSONAL DEPOSIT IN MAIL: By placing in sealed envelope(s), which I personally deposited with the U.S. Postal Service. Each such envelope was deposited with the U.S. Postal Service at Los Angeles, California, with first class postage thereon fully prepaid.

EXPRESS U.S. MAIL: Each such envelope was deposited in a facility regularly maintained at the U.S. Postal Service for receipt of Express Mail at Los Angeles, California, with Express Mail postage paid.

HAND DELIVERY: I caused to be hand delivered each such envelope to the office of the addressee.

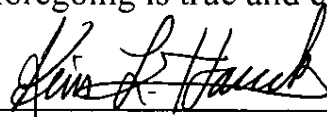
FEDERAL EXPRESS :By placing in sealed envelope(s) designated by Federal Express with delivery fees paid or provided for, which I deposited in a facility regularly maintained by Federal Express or delivered to a Federal Express courier, at Los Angeles, California.

ELECTRONIC MAIL: By transmitting the document by electronic mail to the electronic mail address as stated on the attached service list.

FAX (BY AGREEMENT ONLY): By transmitting the document by facsimile transmission. The transmission was reported as complete and without error.

(Federal) I declare that I am employed in the office of a member of the bar of this Court, at whose direction the service was made. I declare under penalty of perjury that the foregoing is true and correct.

Date: February 7, 2006


KIM HAACK

SEC v. HENRY C. YUEN and ELSIE M. LEUNG
United States District Court - Central District of California
Case No. CV 03-4376 MRP (PLAx)
(LA-2590)

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