

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DOCKETED ON CM
JUL 14 2005
BY MG 009

FILED
CLERK, U.S. DISTRICT COURT
JUL 13 2005
CENTRAL DISTRICT OF CALIFORNIA
BY [Signature] DEPUTY

- Priority
- Send
- Clsd
- Enter
- JS-5/JS-6
- JS-2/JS-3

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

OHANA INTERNATIONAL, INC.,
FINANCIAL SOLUTIONS, and
CHRISTIANO HASHIMOTO,

Defendants.

Case No. EDCV 04-1386 SVW (SGLx)

[Signature]
**[PROPOSED] FINAL JUDGMENT OF
PERMANENT INJUNCTION AND
OTHER RELIEF AGAINST
DEFENDANT CHRISTIANO
HASHIMOTO, INDIVIDUALLY AND
DOING BUSINESS AS FINANCIAL
SOLUTIONS**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, the Plaintiff Securities and Exchange Commission's ("Commission") Motion for Summary Judgment Against Defendants Christiano Hashimoto and Financial Solutions ("Motion") came before the Court for hearing on July 11, 2005. The Court, having considered the Commission's Motion, the Memorandum of Points and Authorities in support thereof, the declarations and exhibits relating thereto, the Statement of Uncontroverted Facts and Conclusions of Law, other documents filed in support of the Motion, and all other evidence and argument presented regarding the Motion, finds that:

///

///

107

SCANNED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Commission’s Motion for Summary Judgment against Christiano Hashimoto, individually and doing business as Financial Solutions (“Hashimoto”), is GRANTED.

II.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Hashimoto and his agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment, by personal service or otherwise, are permanently restrained and enjoined from violating Section 5 of the Securities Act of 1933 (the “Securities Act”), 15 U.S.C. § 77e, 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 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

SCANNED

1 or (prior to the effective date of the registration statement) any
2 public proceeding on examination under Section 8 of the
3 Securities Act, 15 U.S.C. § 77h.

4 **III.**

5 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that
6 Hashimoto and his agents, servants, employees, attorneys, all persons in active
7 concert or participation with them, who receive actual notice of this Final
8 Judgment by personal service or otherwise, are permanently restrained and
9 enjoined from, directly or indirectly, violating Section 17(a) of the Securities
10 Act, 15 U.S.C. § 77q(a), in the offer or sale of any security by the use of any
11 means or instruments of transportation or communication in interstate
12 commerce or by use of the mails:

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

20 **IV.**

21 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that
22 Hashimoto and his agents, servants, employees, attorneys, and all persons in
23 active concert or participation with them who receive actual notice of this Final
24 Judgment by personal service or otherwise are permanently restrained and
25 enjoined from violating, directly or indirectly, Section 10(b) of the Securities
26 Exchange Act of 1934 (the "Exchange Act"), 15 U.S.C. § 78j(b), and Rule 10b-
27 5 promulgated thereunder, 17 C.F.R. § 240.10b-5, by using any means or
28 instrumentality of interstate commerce, or of the mails, or of any facility of any

SCANNED

1 national securities exchange, in connection with the purchase or sale of any
2 security:

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

10 V.

11 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that
12 Hashimoto and his agents, servants, employees, attorneys, and all persons in
13 active concert or participation with them who receive actual notice of this Final
14 Judgment by personal service or otherwise are permanently restrained and
15 enjoined from making use of the mails or any means or instrumentality of
16 interstate commerce to effect any transaction in, or to induce or attempt to
17 induce the purchase or sale of, any security, without being registered as a
18 broker and/or dealer pursuant to Section 15(b) of the Exchange Act, 15 U.S.C.
19 § 78o(b), in violation of Section 15(a) of the Exchange Act, 15 U.S.C. § 78o(a).

20 VI.

21 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that
22 Hashimoto, within 30 days of this Final Judgment, shall disgorge to Robb
23 Evans, the Court-appointed Receiver for Ohana International, Inc. and
24 Financial Solutions, the sum of \$18,161,156.39, the amount received by
25 Hashimoto as a consequence of the conduct alleged in the Complaint, plus the
26 sum of \$281,239.19, representing the prejudgment interest thereon from
27 November 3, 2004 through July 11, 2005, as calculated pursuant to 28 U.S.C. §
28 1961. This disgorgement and prejudgment interest payment shall be

1 transmitted by certified check, bank cashier's check, or United States postal
2 money order made payable to the Receiver to Robb Evans & Associates, 11450
3 Sheldon Street, Sun Valley, California 91352-1121, under cover of a letter that
4 identifies the defendant, the name and case number of this litigation, and the
5 court. Copies of this cover letter and the means of payment shall be
6 simultaneously transmitted to counsel for the Commission in this action at its
7 Pacific Regional Office.

5/13/05

8 **VII.**

9 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that
10 Hashimoto shall pay a third-tier civil penalty in the amount of \$120,000
11 pursuant to Section 20(d) of the Securities Act and Section 21(d)(3) of the
12 Exchange Act. Pursuant to Section 308 of the Sarbanes-Oxley Act of 2002 and
13 upon application of the Commission and approval of the Court, Hashimoto
14 shall make this payment within ten (10) business days after entry of this Final
15 Judgment by transmission of a certified check, bank cashier's check, or United
16 States postal money order made payable to the Receiver to Robb Evans &
17 Associates, 11450 Sheldon Street, Sun Valley, California 91352-1121, under
18 cover of a letter that identifies the defendant, the name and case number of this
19 litigation, and the court. Copies of this cover letter and the means of payment
20 shall be simultaneously transmitted to counsel for the Commission in this
21 action at its Pacific Regional Office.

22 **VIII.**

23 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that
24 Hashimoto, within 30 days of this Final Judgment, shall pay to the Robb Evans,
25 the Court-appointed Receiver for Ohana and Financial Solutions, the sum of
26 \$_____ for the costs, fees, and expenses incurred by Robb Evans and his
27 professionals in this case. Hashimoto shall make this payment by certified
28 check, bank cashier's check, or United States postal money order payable to the

FILED
CLERK
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1 Receiver, and shall be transmitted to Robb Evans & Associates, 11450 Sheldon
2 Street, Sun Valley, California 91352-1121, under cover of a letter that
3 identifies the defendant, the name and case number of this litigation, and the
4 court. Copies of this cover letter and the means of payment shall be
5 simultaneously transmitted to counsel for the Commission in this action at its
6 Pacific Regional Office.

7 **IX.**

8 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
9 Hashimoto shall provide all documents in his possession, custody or control to
10 the Commission and disclose under oath all information with respect to his
11 activities and the activities of others about which the Commission or its staff
12 may inquire or request. Such production of documents and disclosure of
13 information by Hashimoto shall be made upon reasonable notice in writing and
14 without service of a subpoena and subject only to the good faith assertion of
15 any privileges recognizable pursuant to the provisions of Rule 501 of the
16 Federal Rules of Evidence or the United States Constitution and amendments
17 thereto. Failure to comply with the foregoing will subject these defendants to
18 the sanctions set forth in Rule 37 of the Federal Rules of Civil Procedure and
19 all other available remedies.

20 **X.**

21 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the
22 asset freeze, the appointment of Robb Evans as Permanent Receiver, and the
23 orders prohibiting the destruction of documents and requiring accountings,
24 provided for in paragraphs VI, VII, VIII, XVI and XVII of the December 7,
25 2004 Preliminary Injunction and Orders (1) Freezing Assets; (2) Requiring
26 Accountings; (3) Prohibiting the Destruction of Documents; and (4)
27 Appointing Robb Evans as Permanent Receiver, shall remain in full force and
28 effect, until further order of this Court.

SCANNED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

XI.


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

XII.

There being no just 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.

IT IS SO ORDERED.

DATED: 7/11/05


HONORABLE STEPHEN V. WILSON
UNITED STATES DISTRICT JUDGE

Presented by:

Molly M. White
Peter F. Del Greco
Attorneys for Plaintiff
Securities and Exchange Commission