

LOGGED

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

2006 JAN 18 AM 11:14
CLERK, U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY *MMR*

FILED
CLERK, U.S. DISTRICT COURT
JAN 24 2006
CENTRAL DISTRICT OF CALIFORNIA
BY *[Signature]* DEPUTY

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

Priority
Send *X*
Enter *X*
Closed *X*
Scan Only *X*
No JS-2/JS-3

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

JB OXFORD HOLDINGS, INC.,
NATIONAL CLEARING
CORPORATION, JAMES G. LEWIS,
KRAIG L. KIBBLE, and JAMES Y.
LIN,

Defendants.

Case No. CV 04-7084 PA (VBK)
**[PROPOSED] FINAL JUDGMENT
OF PERMANENT INJUNCTION
AND OTHER RELIEF AGAINST
DEFENDANT JAMES G. LEWIS**

The Securities and Exchange Commission ("Commission"), having filed and served upon James G. Lewis ("Lewis") a Summons and Complaint ("Complaint") and Lewis having entered a general appearance; consented to the Court's jurisdiction over him and the subject matter of this action; consented to the entry of this Final Judgment Of Permanent Injunction And Other Relief Against James G. Lewis ("Final Judgment") without admitting or denying the allegations of the Complaint (except as to jurisdiction); waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

DOCKETED ON CM
JAN 25 2006
DW
BY *[Signature]* 026

144

FILED
U.S. COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Lewis and his agents, servants, employees, and attorneys, and all persons in active concert or participation with any of them, who receive actual notice of this Final Judgment by personal service or otherwise, and each of them, are permanently restrained and enjoined from, directly or indirectly, in connection with the purchase or sale of any security, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange:

- a. employing any device, scheme, or artifice to defraud;
- b. making any untrue statement of a material fact or omitting 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. engaging in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person; in violation of Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78j(b) and Rule 10b-5 promulgated thereunder, 17 C.F.R. § 240.10b-5.

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for disgorgement of \$1.00, representing profits gained as a result of the conduct alleged in the Complaint, and a civil penalty in the amount of \$200,000 pursuant to Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3). Defendant shall satisfy this obligation by paying \$200,001 on or before February 1, 2006 to the Clerk of this Court, together with a cover letter identifying Lewis as a defendant 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 Final Judgment. Defendant shall simultaneously transmit photocopies of such payment, confirmation from the Clerk of this Court

1 demonstrating receipt of the payment, and letter to the Commission's counsel in
2 this action. By making this payment, Defendant relinquishes all legal and
3 equitable right, title, and interest in such funds, and no part of the funds shall be
4 returned to Defendant. Defendant shall pay post-judgment interest on any
5 delinquent amounts pursuant to 28 U.S.C. § 1961.

6 The Clerk shall deposit the funds into the type of interest bearing account
7 that is utilized by the Court. These funds, together with any interest and income
8 earned thereon (collectively, the "Fund"), shall be held in the interest bearing
9 account until further order of the Court. In accordance with 28 U.S.C. § 1914 and
10 the guidelines set by the Director of the Administrative Office of the United States
11 Courts, the Clerk is directed, without further order of this Court, to deduct from the
12 income earned on the money in the Fund a fee equal to ten percent of the income
13 earned on the Fund. Such fee shall not exceed that authorized by the Judicial
14 Conference of the United States.

15 The Commission may by motion propose a plan to distribute the Fund
16 subject to the Court's approval. Such a plan may provide that the Fund shall be
17 distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-
18 Oxley Act of 2002. Regardless of whether any such Fair Fund distribution is
19 made, amounts ordered to be paid as civil penalties pursuant to this Judgment shall
20 be treated as penalties paid to the government for all purposes, including all tax
21 purposes. To preserve the deterrent effect of the civil penalty, Defendant shall not,
22 after offset or reduction of any award of compensatory damages in any Related
23 Investor Action based on Defendant's payment of disgorgement in this action,
24 argue that he is entitled to, nor shall he further benefit by, offset or reduction of
25 such compensatory damages award by the amount of any part of Defendant's
26 payment of a civil penalty in this action ("Penalty Offset"). If the court in any
27 Related Investor Action grants such a Penalty Offset, Defendant shall, within 30
28 days after entry of a final order granting the Penalty Offset, notify the

1 Commission's counsel in this action and pay the amount of the Penalty Offset to
2 the United States Treasury or to a Fair Fund, as the Commission directs. Such a
3 payment shall not be deemed an additional civil penalty and shall not be deemed to
4 change the amount of the civil penalty imposed in this Judgment. For purposes of
5 this paragraph, a "Related Investor Action" means a private damages action
6 brought against Defendant by or on behalf of one or more investors based on
7 substantially the same facts as alleged in the Complaint in this action.

8 III.

9 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED
10 that, pursuant to Section 21(d)(2) of the Exchange Act 15 U.S.C. § 78u(d)(2),
11 Lewis is prohibited for five (5) years from acting as an officer or director of any
12 issuer that has a class of securities registered pursuant to Section 12 of the
13 Exchange Act, 15 U.S.C. § 781 or that is required to file reports pursuant to
14 Section 15(d) of the Exchange Act, 15 U.S.C. § 78o(d).

15 IV.

16 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Lewis's
17 Consent is incorporated herein with the same force and effect as if fully set forth
18 herein, and that Lewis shall comply with all the undertakings and agreements set
19 forth therein.

20 V.

21 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that during
22 the pendency of this action against any defendant, Lewis shall remain subject to
23 the discovery provisions of the Federal Rules of Civil Procedure which apply to
24 parties, and, in addition, that Lewis shall appear, without service of a subpoena, for
25 his deposition or to testify as a witness at any trial of this action or at any other
26 related proceeding. Failure to comply with the foregoing will subject Lewis to the
27
28

U.S. DISTRICT COURT

1 remedies and sanctions set forth in Rule 37 of the Federal Rules of Civil Procedure
2 and all other available remedies.


3 VI.

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

7 VII.

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

11
12 DATED: January 20, 2006

13 
14 _____
15 UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I, Magnolia M. Marcelo, am over the age of eighteen years, am not a party to this action, and am a citizen of the United States. My business address is 5670 Wilshire Boulevard, 11th Floor, Los Angeles, California 90036. On January 18, 2006, I caused to be served the **[PROPOSED] FINAL JUDGMENT OF PERMANENT INJUNCTION AND OTHER RELIEF AGAINST DEFENDANT JAMES G. LEWIS** by causing to be mailed true and correct copies thereof in sealed envelopes, postage prepaid, addressed to:

James L. Sanders, Esq.
McDermott, Will & Emery
2049 Century Park East, Suite 3400
Los Angeles, CA 90067-3208
Attorney for Defendants JB Oxford Holdings, Inc. and National Clearing Corporation

Jason D. Kogan, Esq.
Bird, Marella, Boxer, Wolpert, Nesim, Dooks & Lincenberg, PC
1875 Century Park East, 23rd Floor
Los Angeles, California 90067-2561
Attorney for Defendant James G. Lewis

Thad Davis, Esq.
Quinn Emanuel Urquhart Oliver & Hedges LLP
865 S. Figueroa Street, 10th Floor
Los Angeles, CA 90017
Attorney for Defendant Kraig L. Kibble

Joel A. Thvedt, Esq.
Knott & Glazier
601 S. Figueroa Street, Suite 1950
Los Angeles, CA 90017
Attorney for Defendant Kraig L. Kibble

Jeffrey H. Rutherford, Esq.
Lightfoot, Vandavelde, Sadowsky, Medvene & Levine
655 S. Hope Street, 13th Floor
Los Angeles, CA 90017
Attorney for Defendant James Y. Lin

Matthew Dontzin, Esq.
The Dontzin Law Firm
6 E. 81st Street
New York, NY 10028
Attorney for Defendant James G. Lewis

01/24/06

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

Susan E. Brune, Esq.
Theresa Trzaskoma, Esq.
Brune & Richard LLP
80 Broad Street, 30th Floor
New York, NY 10004
Attorney for Defendant James Y. Lin

C. Phillip Campbell, Jr., Esq.
Shumaker Loop & Kendrick, LLP
101 East Kennedy Boulevard, Suite 2800
Tampa, FL 33672-0609
Attorney for Defendant James G. Lewis

I declare under penalty of perjury that the foregoing is true and correct.

DATED: January 18, 2006

Magnolia M. Marcelo

MAGNOLIA M. MARCELO