

1 JOHN HUNTER
2 Email: HunterJ@sec.gov
3 Securities and Exchange Commission
4 Division of Enforcement
5 450 Fifth Street, N.W.
6 Washington, D.C. 20549-0911
7 Telephone: (202) 924-4825
8 Facsimile: (202) 942-9569

*Sent (p) to
cc Fiscal
found on report*

CANNED

6 LOCAL COUNSEL
7 MICHAEL A. PIAZZA, Cal. Bar No. 235881
8 Email: PiazzaM@sec.gov
9 JOHN B. BULGOZDY, Cal. Bar No. 219897
10 Email: BulgozdyJ@sec.gov
11 Securities and Exchange Commission
12 5670 Wilshire Boulevard, 11th Floor
13 Los Angeles, California 90036
14 Telephone: (323) 965-3998
15 Facsimile: (323) 965-3908

FILED
CLERK, U.S. DISTRICT COURT
JAN 9 2006
CENTRAL DISTRICT OF CALIFORNIA
DEPUTY

11 Attorneys for Plaintiff
12 Securities and Exchange Commission

13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**

16 **U.S. SECURITIES AND**
17 **EXCHANGE COMMISSION,**

18 Plaintiff,

19 v.

20 **ERNESTO V. SIBAL, DOSEPH J.**
21 **SHIN, ROBERT Y. JOO, CHAE**
22 **HYON CHIN, BENJAMIN Y. CHIU**
23 **AND PEJMAN SABET,**

24 Defendants.

25 Case No. *05-3133* (GPS) (AJWx)

26 **[PROPOSED] FINAL JUDGMENT**
27 **AS TO DEFENDANT ROBERT Y.**
28 **JOO**

24 The Securities and Exchange Commission having filed a Complaint
25 and Defendant Robert Y. Joo having entered a general appearance;
26 consented to the Court's jurisdiction over Defendant and the subject matter

17
DOCKETED ON CM
JAN 11 2006
BY *IK*

LOGGED

2006 JAN 05 PM 1:56
CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
BY

SCANNED

1 of this action; consented to entry of this Final Judgment without admitting or
2 denying the allegations of the Complaint (except as to jurisdiction); waived
3 findings of fact and conclusions of law; and waived any right to appeal from
4 this Final Judgment:
5

6 I.

7 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED
8 that Defendant and Defendant's agents, servants, employees, attorneys, and
9 all persons in active concert or participation with them who receive actual
10 notice of this Final Judgment by personal service or otherwise are
11 permanently restrained and enjoined from violating, directly or indirectly,
12 Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act")
13 [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. §
14 240.10b-5], by using any means or instrumentality of interstate commerce,
15 or of the mails, or of any facility of any national securities exchange, in
16 connection with the purchase or sale of any security:
17
18
19
20

21 (a) to employ any device, scheme, or artifice to defraud;

22 (b) to make any untrue statement of a material fact or to omit to
23 state a material fact necessary in order to make the statements made, in the
24 light of the circumstances under which they were made, not misleading; or
25
26
27
28

SCANNED

1 (c) to engage in any act, practice, or course of business which
2 operates or would operate as a fraud or deceit upon any person.

3 II.

4 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND
5 DECREED that Defendant and Defendant's agents, servants, employees,
6 attorneys, and all persons in active concert or participation with them who
7 receive actual notice of this Final Judgment by personal service or otherwise
8 are permanently restrained and enjoined from violating Section 14(e) of the
9 Exchange Act [15 U.S.C. § 78n(e)] and Rule 14e-3 [17 C.F.R. § 240.14e-3]
10 promulgated thereunder, in connection with any tender offer or request or
11 invitation for tenders, from engaging in any fraudulent, deceptive, or
12 manipulative act or practice, by:
13

14 (a) purchasing or selling or causing to be purchased or
15 sold the securities sought or to be sought in such tender offer, securities
16 convertible into or exchangeable for any such securities or any option or
17 right to obtain or dispose of any of the foregoing securities while in
18 possession of material information relating to such tender offer that
19 Defendant knows or has reason to know is nonpublic and knows or has
20 reason to know has been acquired directly or indirectly from the offering
21 person; the issuer of the securities sought or to be sought by such tender
22
23
24
25
26
27
28

SCANNED

1 offer; or any officer, director, partner, employee or other person acting on
2 behalf of the offering person of such issuer, unless within a reasonable time
3 prior to any such purchase or sale such information and its source are
4 publicly disclosed by press release or otherwise; or
5

6 (b) communicating material, nonpublic information
7 relating to a tender offer, which Defendant knows or has reason to know is
8 nonpublic and knows or has reason to know has been acquired directly or
9 indirectly from the offering person; the issuer of the securities sought or to
10 be sought by such tender offer; or any officer, director, partner, employee,
11 advisor, or other person acting on behalf of the offering person of such
12 issuer, to any person under circumstances in which it is reasonably
13 foreseeable that such communication is likely to result in the purchase or
14 sale of securities in the manner described in subparagraph (a) above, except
15 that this paragraph shall not apply to a communication made in good faith
16
17
18

19 (i) to the officers, directors, partners or employees of
20 the offering person, to its advisors or to other persons, involved in the
21 planning, financing, preparation or execution of such tender offer;
22

23 (ii) to the issuer whose securities are sought or to be
24 sought by such tender offer, to its officers, directors, partners, employees or
25 advisors or to other persons involved in the planning, financing, preparation
26
27
28

SCANNED

1 or execution of the activities of the issuer with respect to such tender offer;

2 or

3 (iii) to any person pursuant to a requirement of any
4 statute or rule or regulation promulgated thereunder.
5

6 III.

7 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND

8
9 DECREED that Defendant is jointly and severally liable for disgorgement of
10 \$969,894.10, representing profits gained as a result of the conduct alleged in
11 the Complaint, together with prejudgment interest thereon. Defendant's
12 liability is coextensive with that of his joint tortfeasors in this matter, against
13 whom judgment has been entered, and who have paid or forfeited a total of
14 \$931,287.10 in payment of disgorgement. Accordingly, Defendant's
15 remaining liability is for disgorgement of \$38,607, together with
16
17 prejudgment interest in the amount of \$4,385.68, for a total of \$42,992.68.
18 Based on Defendant's sworn representations in his Statement of Financial
19 Condition dated July 14, 2005, and other documents and information
20 submitted to the Commission, however, the Court is not ordering Defendant
21 to pay a civil penalty, and payment of disgorgement and prejudgment
22 interest thereon is waived. The determination not to impose a civil penalty
23 and to waive payment of the disgorgement and pre-judgment interest is
24
25
26
27
28

SCANNED

1 contingent upon the accuracy and completeness of Defendant's Statement of
2 Financial Condition. If at any time following the entry of this Final
3 Judgment the Commission obtains information indicating that Defendant's
4 representations to the Commission concerning his assets, income, liabilities,
5 or net worth were fraudulent, misleading, inaccurate, or incomplete in any
6 material respect as of the time such representations were made, the
7 Commission may, at its sole discretion and without prior notice to
8 Defendant, petition the Court for an order requiring Defendant to pay the
9 unpaid portion of the disgorgement, pre-judgment and post-judgment
10 interest thereon, and the maximum civil penalty allowable under the law. In
11 connection with any such petition, the only issue shall be whether the
12 financial information provided by Defendant was fraudulent, misleading,
13 inaccurate, or incomplete in any material respect as of the time such
14 representations were made. In its petition, the Commission may move this
15 Court to consider all available remedies, including, but not limited to,
16 ordering Defendant to pay funds or assets, directing the forfeiture of any
17 assets, or sanctions for contempt of this Final Judgment. The Commission
18 may also request additional discovery. Defendant may not, by way of
19 defense to such petition: (1) challenge the validity of the Consent or this
20 Final Judgment; (2) contest the allegations in the Complaint filed by the
21
22
23
24
25
26
27
28

SCANNED

1 Commission; (3) assert that payment of disgorgement, pre-judgment and
2 post-judgment interest or a civil penalty should not be ordered; (4) contest
3 the amount of disgorgement and pre-judgment and post-judgment interest;
4
5 (5) contest the imposition of the maximum civil penalty allowable under the
6 law; or (6) assert any defense to liability or remedy, including, but not
7 limited to, any statute of limitations defense.
8

9 IV.

10 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED
11 that the Consent is incorporated herein with the same force and effect as if
12 fully set forth herein, and that Defendant shall comply with all of the
13 undertakings and agreements set forth therein.
14

15 V.


16
17 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED
18 that this Court shall retain jurisdiction of this matter for the purposes of
19 enforcing the terms of this Final Judgment.
20
21
22
23
24
25
26
27
28

SCANNED

VI.

1
2 There being no just reason for delay, pursuant to Rule 54(b) of the
3 Federal Rules of Civil Procedure, the Clerk is ordered to enter this Final
4 Judgment forthwith and without further notice.
5

6
7 Dated: Jan 6, 2006
8

9
10 
11 _____
12 GEORGE P. SCHIAVELLI
13 UNITED STATES DISTRICT JUDGE
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

1
2 I am over the age of 18 years and not a party to this action. My
3 business address is:

4 [X] United States Securities and Exchange Commission, Pacific
5 Regional Office, 11th Floor, 5670 Wilshire Boulevard,
6 Los Angeles, California 90036-3648, Fax: (323) 965-3908.

7 On January 5, 2006, I served the foregoing document entitled
8 [PROPOSED] FINAL JUDGMENT AS TO DEFENDANT ROBERT Y. JOO on all
9 parties to this action addressed as stated on the attached service
10 list:

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

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

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

26 [] **PERSONAL SERVICE:** I personally delivered each such envelope by
27 hand to the office of the addressee.

28 [] **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.

[] **FAX (BY AGREEMENT ONLY):** By transmitting the document by
facsimile transmission at the time shown on the attached
transmission report. The transmission was reported as complete
and without error, and the attached transmission report was
properly issued by the transmitting fax machine.

[X] **(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.

26 Date: January 5, 2006

Brigitte Matthews
Brigitte Matthews

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

SEC v. Ernesto V. Sibal, Doseph J. Shin, Robert Y. Joo,
Chae Hyon Chin, Benjamin Y. Chiu and Pejman Sabet
United States District Court - Central District of California
Case No. 05-3133 (GPS) (AJWx)

SERVICE LIST

Leonard Sharenow, Esq.
Offices of Leonard Sharenow
10100 Santa Monica Blvd. Ste. #800
Los Angeles, CA 90067
(310) 203-8100 (phone)
(310) 772.2299 (facsimile)

SCANNED

NOTICE PARTY SERVICE LIST

Case No. C05-3133 GPS Case Title SEC v Sibal

Title of Document Final Judgment

Atty Stlmnt Officer
BAP (Bankruptcy Appellate Panel)
Beck, Michael J (Clerk, MDL Panel)
BOP (Bureau of Prisons)
CA St Pub Defender (Calif. State PD)
CAAG (California Attorney General's Office - Keith H. Borjon, L.A. Death Penalty Coordinator)
Case Asgmt Admin (Case Assignment Administrator)
Catterson, Cathy (9 th Circuit Court of Appeal)
Chief Deputy Admin
Chief Deputy Ops
Clerk of Court
Death Penalty H/C (Law Clerks)
Dep In Chg E Div
Dep In Chg So Div
<input checked="" type="checkbox"/> Fiscal Section
Intake Section, Criminal LA
Intake Section, Criminal SA
Intake Supervisor, Civil
Interpreter Section
PIA Clerk - Los Angeles (PIALA)
PIA Clerk - Riverside (PIAED)
PIA Clerk - Santa Ana (PIASA)
PSA - Los Angeles (PSALA)
PSA - Riverside (PSAED)
PSA - Santa Ana (PSASA)
Schnack, Randall (CJA Supervising Attorney)
Statistics Clerk

Stratton, Maria - Féderal Public Defender
US Attorneys Office - Civil Division -L.A.
US Attorneys Office - Civil Division - S.A.
US Attorneys Office - Criminal Division -L.A.
US Attorneys Office - Criminal Division -S.A.
US Bankruptcy Court
US Marshal Service - Los Angeles (USMLA)
US Marshal Service - Riverside (USMED)
US Marshal Service -Santa Ana (USMSA)
US Probation Office (USPO)
US Trustee's Office
Warden, San Quentin State Prison, CA

ADD NEW NOTICE PARTY (if sending by fax, mailing address must also be provided)
Name:
Firm:
Address (include suite or floor):
*E-mail:
*Fax No.:

* For CIVIL cases only

JUDGE / MAGISTRATE JUDGE (list below):

Initials of Deputy Clerk KB