

Scan Extra No. 86

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

FILED  
CLERK, U.S. DISTRICT COURT  
JUL 21 2005  
CENTRAL DISTRICT OF CALIFORNIA  
DEPUTY

U.S. SECURITIES AND  
EXCHANGE COMMISSION,

Plaintiff,

v.

ERNESTO V. SIBAL, DOSEPH J.  
SHIN, ROBERT Y. JOO, CHAE  
HYON CHIN, BENJAMIN Y. CHIU  
AND PEJMAN SABET,

Defendants.

Case No. CV 05-3133 GPS(AJW)FINAL JUDGMENT AS TO  
DEFENDANT PEJMAN SABET

ENTERED  
CLERK, U.S. DISTRICT COURT  
JUL 22 2005  
CENTRAL DISTRICT OF CALIFORNIA  
DEPUTY

2005 APR 28 PM 12:55  
COURT  
CLERK, U.S. DISTRICT COURT  
LOS ANGELES  
BY  
The Securities and Exchange Commission having filed a Complaint  
and Defendant Pejman Sabet having entered a general appearance;  
consented to the Court's jurisdiction over Defendant and the subject matter  
of this action; consented to entry of this 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:

I. THIS CONSTITUTES NOTICE OF ENTRY  
AS REQUIRED BY FRCP, RULE 77(d).

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED  
that Defendant and Defendant's 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

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LODGED

permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
  - (b) to make any untrue statement of a material fact or to omit 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) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

II

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND  
DECREED that Defendant and Defendant's 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 14(e) of the  
Exchange Act [15 U.S.C. § 78n(e)] and Rule 14e-3 [17 C.F.R. § 240.14e-3]  
promulgated thereunder, in connection with any tender offer or request or

1 invitation for tenders, from engaging in any fraudulent, deceptive, or  
2 manipulative act or practice, by:

3 (a) purchasing or selling or causing to be purchased or  
4 sold the securities sought or to be sought in such tender offer, securities  
5 convertible into or exchangeable for any such securities or any option or  
6 right to obtain or dispose of any of the foregoing securities while in  
7 possession of material information relating to such tender offer that  
8 Defendant knows or has reason to know is nonpublic and knows or has  
9 reason to know has been acquired directly or indirectly from the offering  
10 person; the issuer of the securities sought or to be sought by such tender  
11 offer; or any officer, director, partner, employee or other person acting on  
12 behalf of the offering person of such issuer, unless within a reasonable time  
13 prior to any such purchase or sale such information and its source are  
14 publicly disclosed by press release or otherwise; or  
15

16 (b) communicating material, nonpublic information  
17 relating to a tender offer, which Defendant knows or has reason to know is  
18 nonpublic and knows or has reason to know has been acquired directly or  
19 indirectly from the offering person; the issuer of the securities sought or to  
20 be sought by such tender offer; or any officer, director, partner, employee,  
21 advisor, or other person acting on behalf of the offering person of such  
22

1 issuer, to any person under circumstances in which it is reasonably  
2 foreseeable that such communication is likely to result in the purchase or  
3 sale of securities in the manner described in subparagraph (a) above, except  
4 that this paragraph shall not apply to a communication made in good faith  
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6 (i) to the officers, directors, partners or employees of  
7 the offering person, to its advisors or to other persons, involved in the  
8 planning, financing, preparation or execution of such tender offer;

9 (ii) to the issuer whose securities are sought or to be  
10 sought by such tender offer, to its officers, directors, partners, employees or  
11 advisors or to other persons involved in the planning, financing, preparation  
12 or execution of the activities of the issuer with respect to such tender offer;

13 or  
14

15 (iii) to any person pursuant to a requirement of any  
16 statute or rule or regulation promulgated thereunder.

17 III.  
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19 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND  
20  
21 DECREED that Defendant is liable for disgorgement of \$4,805, representing  
22 profits gained as a result of the conduct alleged in the Complaint, together  
23 with prejudgment interest thereon in the amount of \$590.99 and a civil  
24 penalty in the amount of \$4,805 pursuant to Section 21A of the Exchange  
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1 Act [15 U.S.C. § 78u-1]. Defendant shall satisfy this obligation by paying  
2 \$10,200.99 within ten business days to the Clerk of this Court, together with  
3 a cover letter identifying Pejman Sabet as a defendant in this action; setting  
4 forth the title and civil action number of this action and the name of this  
5 Court; and specifying that payment is made pursuant to this Final Judgment.  
6 Defendant shall simultaneously transmit photocopies of such payment and  
7 letter to the Commission's counsel in this action. By making this payment,  
8 Defendant relinquishes all legal and equitable right, title, and interest in such  
9 funds, and no part of the funds shall be returned to Defendant. Defendant  
10 shall pay post-judgment interest on any delinquent amounts pursuant to 28  
11 U.S.C. § 1961.

15 The Clerk shall deposit the funds into an interest bearing account.  
16 These funds, together with any interest and income earned thereon  
17 (collectively, the "Fund"), shall be held by in such account until further  
18 order of the Court. In accordance with 28 U.S.C. § 1914 and the guidelines  
19 set by the Director of the Administrative Office of the United States Courts,  
20 the Clerk is directed, without further order of this Court, to deduct from the  
21 income earned on the money in the Fund a fee equal to ten percent of the  
22 income earned on the Fund. Such fee shall not exceed that authorized by the  
23 Judicial Conference of the United States.  
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DRAFT

1           The Commission may by motion propose a plan to distribute the Fund  
2           subject to the Court's approval. Such a plan may provide that Fund shall be  
3           distributed pursuant to the Fair Fund provisions of Section 308(a) of the  
4           Sarbanes-Oxley Act of 2002. Regardless of whether any such Fair Fund  
5           distribution is made, amounts ordered to be paid as civil penalties pursuant  
6           to this Judgment shall be treated as penalties paid to the government for all  
7           purposes, including all tax purposes. To preserve the deterrent effect of the  
8           civil penalty, Defendant shall not, after offset or reduction of any award of  
9           compensatory damages in any Related Investor Action based on Defendant's  
10           payment of disgorgement in this action, argue that he is entitled to, nor shall  
11           he further benefit by, offset or reduction of such compensatory damages  
12           award by the amount of any part of Defendant's payment of a civil penalty  
13           in this action ("Penalty Offset"). If the court in any Related Investor Action  
14           grants such a Penalty Offset, Defendant shall, within 30 days after entry of a  
15           final order granting the Penalty Offset, notify the Commission's counsel in  
16           this action and pay the amount of the Penalty Offset to the United States  
17           Treasury or to a Fair Fund, as the Commission directs. Such a payment shall  
18           not be deemed an additional civil penalty and shall not be deemed to change  
19           the amount of the civil penalty imposed in this Judgment. For purposes of  
20           this paragraph, a "Related Investor Action" means a private damages action  
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1 brought against Defendant by or on behalf of one or more investors based on  
2 substantially the same facts as alleged in the Complaint in this action.

3 IV.  
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5 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED  
6 that the Consent is incorporated herein with the same force and effect as if  
7 fully set forth herein, and that Defendant shall comply with all of the  
8 undertakings and agreements set forth therein.  
9

10 V.  
11

12 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED  
13 that this Court shall retain jurisdiction of this matter for the purposes of  
14 enforcing the terms of this Final Judgment.  
15

16 VI.  
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18 There being no just reason for delay, pursuant to Rule 54(b) of the  
19 Federal Rules of Civil Procedure, the Clerk is ordered to enter this Final  
20 Judgment forthwith and without further notice.  
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22 Dated: 7/21, 2005  
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26 UNITED STATES DISTRICT JUDGE  
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