

JS-6

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

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,
 vs.

LAMBERT VANDER TUIG et
al.,

Defendants.

Case No.:

SACV06-172 AHS (MLGx)

FINAL JUDGMENT OF PERMANENT
INJUNCTION AND OTHER RELIEF
AGAINST INDIVIDUAL DEFENDANTS
LAMBERT VANDER TUIG AND
JONATHAN CARMAN

The Securities and Exchange Commission (the
 "Commission") filed a Complaint (Docket # 1) against
 Lambert Vander Tuig ("Vander Tuig") and Jonathan Carman
 ("Carman") (collectively, the "Defendants") and others

1 on or about February 16, 2006. Vander Tuig, through
2 counsel, filed his answer to the Complaint on March 16,
3 2006 (Docket # 35). Carman, through counsel, filed
4 answers to the Complaint on March 8, 2006 and March 13,
5 2006 (Docket #s 23 and 33, respectively). The
6
7 Commission filed a Motion for Summary Judgment against
8 Vander Tuig on or about November 28, 2006 (Docket #
9 125). The Court granted the Commission's Motion for
10 Summary Judgment against Vander Tuig on February 22,
11 2007 (Docket # 175). On or about January 22, 2007, the
12 Commission filed a Motion for Summary Judgment against
13 Carman (Docket # 162). The Court granted the
14 Commission's Motion for Summary Judgment against Carman
15 on or about August 7, 2007 (Docket # 305). Defendant
16 filed a Notice of Appeal (Docket # 373) of the Court's
17 Order Granting Summary Judgment (Docket # 305) on or
18 about September 7, 2007. On or about December 19,
19 2007, Carman filed an Amended Ex Parte Notice of Motion
20 and Motion for Entry of Final Judgment against Jonathan
21 Carman (Docket # 443) in support of his appeal. The
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1 Commission requests this Court to enter a Final
2 Judgment against Vander Tuig and Carman. Based on the
3
4 foregoing, the Court rules as follows:

5 I.
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7 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that
8 Defendants and Defendants' agents, servants, employees,
9 attorneys, and all persons in active concert or
10 participation with them who receive actual notice of
11 this Final Judgment by personal service or otherwise
12 are permanently restrained and enjoined from violating,
13 directly or indirectly, Section 10(b) of the Securities
14 Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. §
15 78j(b)] and Rule 10b-5 promulgated thereunder
16 [17 C.F.R. § 240.10b-5], by using any means or
17 instrumentality of interstate commerce, or of the
18 mails, or of any facility of any national securities
19 exchange, in connection with the purchase or sale of
20 any security:
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26 (a) to employ any device, scheme, or artifice to
27 defraud;
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1 (b) to make any untrue statement of a material fact
2 or to omit to state a material fact necessary in
3 order to make the statements made, in the light of
4 the circumstances under which they were made, not
5 misleading; or
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8 (c) to engage in any act, practice, or course of
9 business which operates or would operate as a fraud
10 or deceit upon any person.
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12 II.

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14 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED
15 that Defendants and Defendants' agents, servants,
16 employees, attorneys, and all persons in active concert
17 or participation with them who receive actual notice of
18 this Final Judgment by personal service or otherwise
19 are permanently restrained and enjoined from violating
20 Section 17(a) of the Securities Act [15 U.S.C. §
21 77q(a)] in the offer or sale of any security by the use
22 of any means or instruments of transportation or
23 communication in interstate commerce or by use of the
24 mails, directly or indirectly:
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1 (a) to employ any device, scheme, or artifice to
2 defraud;

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4 (b) to obtain money or property by means of any
5 untrue statement of a material fact or any omission
6 of a material fact necessary in order to make the
7 statements made, in light of the circumstances
8 under which they were made, not misleading; or

9
10 (c) to engage in any transaction, practice, or
11 course of business which operates or would operate
12 as a fraud or deceit upon the purchaser.
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15 III.

16 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
17 Defendants, and Defendants' agents, servants,
18 employees, attorneys and all persons in active concert
19 or participation with them who receive actual notice of
20 this Final Judgment by personal service or otherwise
21 are permanently restrained and enjoined from violating
22 Sections 5(a) and 5(c) of the Securities Act [15 U.S.C.
23 § 77e (a) and (c)] by, directly or indirectly, in the
24 absence of any applicable exemption:
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1 (a) Unless a registration statement is in
2 effect as to a security, making use of the means
3 or instruments of transportation or communication
4 in interstate commerce or of the mails to sell
5 such security through the use or medium of any
6 prospectus or otherwise;
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9 (b) Unless a registration statement is in
10 effect as to a security, carrying or causing to be
11 carried through the mails or in interstate
12 commerce, by any means or instruments of
13 transportation, any such security for the purpose
14 of sale or for delivery after sale; or
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18 (c) Making use of any means or instruments of
19 transportation or communication in interstate
20 commerce or of the mails to offer to sell or offer
21 to buy through the use or medium of any prospectus
22 or otherwise any security, unless a registration
23 statement has been filed with the Commission as to
24 such security, or while the registration statement
25 is the subject of a refusal order or stop order or
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1 (prior to the effective date of the registration
2 statement) any public proceeding or examination
3 under Section 8 of the Securities Act [15 U.S.C. §
4 77h).
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7 IV.

8 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
9 the Defendants and Defendants' officers, agents,
10 servants, employees, attorneys, and accountants, and
11 those persons in active concert or participation with
12 any of them, who receive actual notice of the order by
13 personal service or otherwise, and each of them, are
14 permanently enjoined from engaging in the transactions,
15 acts, practices and courses of business described in
16 the complaint and, from engaging in conduct of similar
17 purport and object in violation of Section 15(a) of the
18 Exchange Act [15 U.S.C. § 78o(d)].
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23 V.
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25 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
26 Defendants are permanently barred from participating in
27 any offering of penny stock pursuant to Section 20(g)
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1 of the Securities Act [15 U.S.C. § 77t(g)] and Section
2 21(d)(6) of the Exchange Act [15 U.S.C. § 78u(d)(6)].
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4 VI.

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

19 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED
20 that Vander Tuig and Carman are liable for
21 disgorgement. Vander Tuig is liable for disgorgement
22 of \$29,252,000, representing profits gained as a result
23 of the conduct alleged in the Complaint, together with
24 prejudgment interest thereon in the amount of
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1 \$2,102,655.87¹, for a total of \$31,354,655.87. Vander
2 Tuig shall also pay a third-tier civil monetary penalty
3 in the amount of \$100,000 pursuant to Section 20(d) of
4 the Securities Act [15 U.S.C. § 77t(d)] and Section
5 21(d)(3) of the Exchange Act [15 U.S.C. § 78(u)(d)(3)].
6
7 All payments shall be made to Thomas A. Seaman, in his
8 capacity as Court-appointed Receiver in this case, by
9 certified check, bank cashier's check or United States
10 postal money order within 30 days of the date of the
11 entry of this Final Judgment. The payment shall be
12 delivered or mailed to Thomas A. Seaman, The Thomas
13 Seaman Company, Two Park Plaza, Suite 480, Irvine,
14 California 92614 and shall be accompanied by a cover
15 letter identifying Vander Tuig as a defendant in this
16 action; setting forth the title and civil action number
17 of this action and the name of this Court; and
18 specifying that payment is made pursuant to this Final
19 Judgment. Thomas A. Seaman shall deposit the funds
20 into a separate, interest bearing account. The funds,
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¹ Represents interest as of February 22, 2007, the date the Court granted the Commission's Motion for Summary Judgment against Vander Tuig.

1 together with any interest and income earned thereon,
2 shall remain in the account until further order of this
3 Court. Vander Tuig shall simultaneously transmit
4 photocopies of said payment and letter to the
5 Commission's counsel in this action. By making
6 payment, Vander Tuig relinquishes all legal and
7 equitable right, title, and interest in such funds and
8 no part of the funds shall be returned to Vander Tuig.
9 The Commission may enforce the Court's judgment for
10 disgorgement and prejudgment interest by moving for
11 civil contempt and/or through other collection
12 procedures authorized by law. In response to any such
13 civil contempt motion by the Commission, Vander Tuig
14 may assert any legally permissible defense. Vander
15 Tuig shall also pay post-judgment interest pursuant to
16 28 U.S.C. § 1961 once payment becomes delinquent.

23 Carman is liable for disgorgement of \$2,191,188.15,
24 representing profits gained as a result of the conduct
25 alleged in the Complaint, together with prejudgment
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1 interest thereon in the amount of \$252,391.44², for a
2 total of \$2,443,579.59. Carman shall also pay a third-
3 tier civil monetary penalty in the amount of \$100,000
4 pursuant to Section 20(d) of the Securities Act [15
5 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange
6 Act [15 U.S.C. § 78(u)(d)(3)]. All payments shall be
7 made to Thomas A. Seaman, in his capacity as Court-
8 appointed Receiver in this case, by certified check,
9 bank cashier's check or United States postal money
10 order within 30 days of the date of entry of this Final
11 Judgment. The payment shall be delivered or mailed to
12 Thomas A. Seaman, The Thomas Seaman Company, Two Park
13 Plaza, Suite 480, Irvine, California 92614 and shall be
14 accompanied by a cover letter identifying Carman as a
15 defendant in this action; setting forth the title and
16 civil action number of this action and the name of this
17 Court; and specifying that payment is made pursuant to
18 this Final Judgment. Thomas A. Seaman shall deposit
19 the funds into a separate, interest bearing account.
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² Represents interest as of August 7, 2007, the date the Court granted the Commission's Motion for Summary Judgment against Carman.

1 The funds, together with any interest and income earned
2 thereon, shall remain in the account until further
3 order of this Court. Carman shall simultaneously
4 transmit photocopies of said payment and letter to the
5 Commission's counsel in this action. By making
6 payment, Carman relinquishes all legal and equitable
7 right, title, and interest in such funds and no part of
8 the funds shall be returned to Carman. The Commission
9 may enforce the Court's judgment for disgorgement and
10 prejudgment interest by moving for civil contempt
11 and/or through other collection procedures authorized
12 by law. In response to any such civil contempt motion
13 by the Commission, Carman may assert any legally
14 permissible defense. Carman shall also pay post-
15 judgment interest pursuant to 28 U.S.C. § 1961 once
16 payment becomes delinquent.

23 VIII.

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

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22 IX.

23 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that
24 this Court shall retain jurisdiction of this matter for
25 the purposes of enforcing the terms of this Final
26 Judgment.
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1 X.

2 There being no just reason for delay, pursuant to
3 Rule 54(b) of the Federal Rules of Civil Procedure, the
4 Clerk is ordered to enter this Final Judgment forthwith
5 and without further notice.
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9 Dated: April 14, 2008

10 ALICEMARIE H. STOTLER

11
12 Honorable Alicemarie H. Stotler
13 United States District Judge

14 Presented by:

15 /s/ Thomas M. Melton
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17
18 Thomas M. Melton
19 Karen L. Martinez
20 Cheryl M. Mori
21 Attorneys for Plaintiff
22 Securities and Exchange Commission
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NOTICE PARTY SERVICE LIST

Case No. _____ **Case Title** _____

Title of Document _____

	Atty Sttlmnt Officer Panel Coordinator
	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
	Federal Public Defender
	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
	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

	<i>ADD NEW NOTICE PARTY</i> (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

	<i>JUDGE / MAGISTRATE JUDGE (list below):</i>

Initials of Deputy Clerk _____

NFPV

WHEN RECORDED MAIL TO:

FOR OFFICE USE ONLY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Securities and Exchange Commission

PLAINTIFF(S),

v.

Lambert Vander Tuig et al

DEFENDANT(S).

CASE NUMBER:

CV SACV06-172 AHS (MLGx)

ABSTRACT OF JUDGMENT/ORDER

I certify that in the above-entitled action and Court, Judgment/Order was entered on 04/16/2008

in favor of Securities and Exchange Commission

whose address is 100 F Street NE Washington, DC 20549

and against Jonathan Charles Carman

whose last known address is 22335 Caminito Arroyo Seco Laguna Hills, CA 92653

for \$ 100,000.00 Principal, \$ 0.00 Interest, \$ 0.00 Costs,

and \$ 0.00 Attorney Fees.

ATTESTED this 5th day of December, 2008.

Judgment debtor's driver's license no. and state; _____ ☒ Unknown.

Judgment debtor's Social Security number; 492-76-4087 ☐ Unknown.

☒ No stay of enforcement ordered by Court.

☐ Stay of enforcement ordered by Court, stay date is _____

Judgment debtor's attorney's name and address and/or address at which summons was served:

22335 Caminito Arroyo Seco, Laguna Hills CA

92653

CLERK, U. S. DISTRICT COURT

By ADRIAN DELGADO
Deputy Clerk

NOTE: JUDGMENTS REGISTERED UNDER 28 U.S.C. §1963 BEAR THE RATE OF INTEREST OF THE DISTRICT OF ORIGIN
AND CALCULATED AS OF THE DATE OF ENTRY IN THAT DISTRICT.

G-18 (06/01)

ABSTRACT OF JUDGMENT/ORDER

NFPV

WHEN RECORDED MAIL TO:

FOR OFFICE USE ONLY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Securities and Exchange Commission

PLAINTIFF(S),

v.

Lambert Vander Tuig et al

DEFENDANT(S).

CASE NUMBER:

CV SACV06-172 AHS (MLGx)

ABSTRACT OF JUDGMENT/ORDER

I certify that in the above-entitled action and Court, Judgment/Order was entered on 04/16/2008

in favor of Securities and Exchange Commission

whose address is 100 F Street NE Washington, DC 20549

and against Jonathan Charles Carman

whose last known address is 22335 Caminito Arroyo Seco Laguna Hills, CA 92653

for \$ 2,191,188.15 Principal, \$ 252,391.44 Interest, \$ 0.00 Costs

and \$ 0.00 Attorney Fees.

ATTESTED this 5th day of December, 2008.

Judgment debtor's driver's license no. and state; _____ ☒ Unknown.

Judgment debtor's Social Security number; 492-76-4087 ☐ Unknown.

☒ No stay of enforcement ordered by Court

☐ Stay of enforcement ordered by Court, stay date entry

FOR OFFICE USE ONLY

FOR OFFICE USE ONLY

Judgment debtor's attorney's name and address and/or address at which summons was served:

22335 Caminito Arroyo Seco

Laguna Hills, CA 92653

CLERK, U. S. DISTRICT COURT

By

ADRIAN DELGADO
SEAL
Deputy Clerk

NOTE: JUDGMENTS REGISTERED UNDER 28 U.S.C. §1963 BEAR THE RATE OF INTEREST OF THE DISTRICT OF ORIGIN AND CALCULATED AS OF THE DATE OF ENTRY IN THAT DISTRICT.

G-18 (06/01)

FOR OFFICE USE ONLY ABSTRACT OF JUDGMENT/ORDER

UNITED STATES DISTRICT COURT

for the

Central District of California

FOR OFFICE USE ONLY

Securities and Exchange Commission,

Plaintiff

v.

Lambert Vander Tuig (a/k/a/ Lambert Vander Tag a/k/a Dean I.
Vander Tag), The Carolina Development Company, Inc.,

Defendant

Civil Action No. SACV06-172AHS (MLGx)

(If the action is pending in another district, state where:

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To:

Production: **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

FOR OFFICE USE ONLY

Place:

Date and Time:

Inspection of Premises: **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date:

NOV - 1 2011

CLERK OF COURT

ROLLS ROYCE PASCHAE

Signature of Clerk or Deputy Clerk



Attorney's signature

1146

The name, address, e-mail, and telephone number of the attorney representing (name of party)

, who issues or requests this subpoena, are:

FOR OFFICE USE ONLY