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~~FILED~~ ~~U.S. DISTRICT COURT~~ ~~SAN JOSE, CALIFORNIA~~

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN JOSE DIVISION

15 SECURITIES AND EXCHANGE
16 COMMISSION,

17 Plaintiff,

18 vs.

19 MARK LESLIE,

20 Defendants.

Case No. 5:07-cv-03444-JF

~~PROPOSED~~ FINAL JUDGMENT AS
TO DEFENDANT PAUL A.
SALLABERRY

Hon. Jeremy Fogel

21 The Securities and Exchange Commission having filed an amended complaint and
22 Defendant PAUL A. SALLABERRY, having entered a general appearance; consented to the
23 Court's jurisdiction over Defendant and the subject matter of this action; consented to entry of
24 this Final Judgment without admitting or denying the allegations of the amended complaint
25 (except as to jurisdiction); waived findings of fact and conclusions of law; and waived any right
26 to appeal from this Final Judgment:
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I.

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2 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and
3 Defendant's agents, servants, employees, attorneys, and all persons in active concert or
4 participation with them who receive actual notice of this Final Judgment by personal service or
5 otherwise are permanently restrained and enjoined from violating Rule 13b2-1 of the Securities
6 Exchange Act (the "Exchange Act") [17 C.F.R. § 240.13b2-1] by, directly or indirectly, falsifying
7 or causing to be falsified, any book, record or account subject to Section 13(b)(2)(A) of the
8 Exchange Act [15 U.S.C. § 78m(b)(2)(A)].
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11 II.

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13 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant
14 is liable for disgorgement and prejudgment interest of \$75,000.00, representing profits gained as a
15 result of the conduct alleged in the amended complaint and prejudgment interest thereon, and a
16 civil penalty in the amount of \$25,000.00 pursuant to Section 21(d) of the Exchange Act.
17 Defendant shall satisfy this obligation by paying \$100,000.00 within 14 days after entry of this
18 Final Judgment to the Clerk of this Court, together with a cover letter identifying Defendant's
19 name as a defendant in this action; setting forth the title and civil action number of this action and
20 the name of this Court; and specifying that payment is made pursuant to this Final Judgment.
21 Defendant shall simultaneously transmit photocopies of such payment and letter to the
22 Commission's counsel in this action. By making the foregoing payments, Defendant relinquishes
23 all legal and equitable right, title, and interest in such funds, and no part of the funds shall be
24 returned to Defendant. Defendant shall pay post-judgment interest on any delinquent amounts
25 pursuant to 28 U.S.C. § 1961.
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1 The Clerk shall deposit the funds into an interest bearing account with the Court Registry
2 Investment System ("CRIS") or any other type of interest bearing account that is utilized by the
3 Court. These funds, together with any interest and income earned thereon (collectively, the
4 "Fund"), shall be held in the interest bearing account until further order of the Court. In
5 accordance with 28 U.S.C. § 1914 and the guidelines set by the Director of the Administrative
6 Office of the United States Courts, the Clerk is directed, without further order of this Court, to
7 deduct from the income earned on the money in the Fund a fee equal to ten percent of the income
8 earned on the Fund. Such fee shall not exceed that authorized by the Judicial Conference of the
9 United States.
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11 The Commission may by motion propose a plan to distribute the Fund subject to the
12 Court's approval. Such a plan may provide that the Fund shall be distributed pursuant to the Fair
13 Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. Regardless of whether any
14 such Fair Fund distribution is made, amounts ordered to be paid as civil penalties pursuant to this
15 Judgment shall be treated as penalties paid to the government for all purposes, including all tax
16 purposes. To preserve the deterrent effect of the civil penalty, Defendant shall not, after offset or
17 reduction of any award of compensatory damages in any Related Investor Action based on
18 Defendant's payment of disgorgement in this action, argue that he is entitled to, nor shall he
19 further benefit by, offset or reduction of such compensatory damages award by the amount of any
20 part of Defendant's payment of a civil penalty in this action ("Penalty Offset"). If the court in any
21 Related Investor Action grants such a Penalty Offset, Defendant shall, within 30 days after entry
22 of a final order granting the Penalty Offset, notify the Commission's counsel in this action and
23 pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the
24 Commission directs. Such a payment shall not be deemed an additional civil penalty and shall
25 not be deemed to change the amount of the civil penalty imposed in this Judgment. For purposes
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1 of this paragraph, a "Related Investor Action" means a private damages action brought against
2 Defendant by or on behalf of one or more investors based on substantially the same facts as
3 alleged in the amended complaint in this action.
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6 III.

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

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

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

Dated: ~~T 28 @ FJ~~ _____, 2012



HON. JEREMY FOCIEL
UNITED STATES DISTRICT JUDGE