

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO.: 08-60064-CIV-DIMITROULEAS**

**SECURITIES AND EXCHANGE COMMISSION,**

**Plaintiff,**

**v.**

**ERNESTO TAPANES,**

**Defendant.**

**FINAL JUDGMENT AGAINST DEFENDANT ERNESTO TAPANES AND  
FINAL ORDER CLOSING CASE**

THIS CAUSE is before the Court upon the Consent of Ernesto Tapanes to the entry of Final Judgment [DE 2] in the form entered below. The Court has carefully considered the Defendant's Consent, the attached Final Judgment and is otherwise fully advised in the premises.

The Securities and Exchange Commission having filed a Complaint, and Defendant Ernesto Tapanes having: entered a general appearance; consented to the Court's jurisdiction over him 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 subject matter and personal jurisdiction); waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

**I.**

**PERMANENT INJUNCTION**

**IT IS ORDERED AND ADJUDGED** that Tapanes and his agents, servants, employees, attorneys, and representatives, 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, 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.**

**DISGORGEMENT, PREJUDGMENT INTEREST, AND CIVIL PENALTY**

**IT IS FURTHER ORDERED AND ADJUDGED** that Tapanes is liable for disgorgement of \$107,101.92, representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest in the amount of \$2,151.56, and a civil penalty in the amount of \$107,101.92 pursuant to Section 21A of the Exchange Act. Tapanes shall satisfy this obligation by paying \$216,355.40 pursuant to the terms of the payment schedule set forth in Section III below by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission. Each payment shall be delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312, and shall be accompanied by a letter identifying Tapanes 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. Tapanes shall send a copy of the letter and payment form for each payment schedule to: Teresa J. Verges, Assistant Regional Director, U.S. Securities and Exchange Commission, Miami Regional Office, 801 Brickell Avenue, Suite 1800, Miami, Florida 33131. Tapanes shall pay post-judgment interest on any delinquent amounts pursuant to 28 USC § 1961. The Commission shall remit the funds paid pursuant to this paragraph to the United States Treasury.

Tapanes shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made pursuant to any insurance policy, with regard to any civil penalty amount he pays pursuant to this Final Judgment, regardless of whether such penalty amounts or any party thereof are added to a distribution fund or otherwise used for the benefit of investors. Tapanes further shall not claim, assert, or apply for tax deduction or tax credit with regard to any federal, state, or local tax for any penalty amounts Tapanes pays pursuant to this Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors.

### **III.**

#### **PAYMENT PLAN**

**IT IS FURTHER ORDERED AND ADJUDGED** that Tapanes shall pay \$216,355.40 in five installments according to the following schedule: (1) \$109,253.48, within ten days of entry of this Final Judgment plus post-judgment interest pursuant to 28 U.S.C. § 1961; (2) \$26,775.48, within 90 days of entry of this Final Judgment plus post-judgment interest pursuant to 28 U.S.C. § 1961; (3) \$26,775.48, within 180 days of entry of this Final Judgment plus post-judgment interest pursuant to 28 U.S.C. § 1961; (4) \$26,775.48, within 270 days of entry of this Final Judgment plus post-judgment interest pursuant to 28 U.S.C. § 1961; and (5) \$26,775.48, within

365 days of entry of this Final Judgment plus post-judgment interest pursuant to 28 U.S.C. § 1961.

If Tapanes fails to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Final Judgment, including post-judgment interest, shall become due and payable immediately without further application to the Court.

**IV.**

**INCORPORATION OF CONSENT**

**IT IS FURTHER ORDERED AND ADJUDGED** that the Consent is incorporated into this Final Judgment with the same force and effect as if fully set forth herein, and that Tapanes shall comply with all of the undertakings and agreements set forth in the Consent.

**V.**

**RETENTION OF JURISDICTION**

**IT IS FURTHER ORDERED AND ADJUDGED** that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

Accordingly it is **ORDERED AND ADJUDGED** as follows:

1. The clerk shall close this case.
2. All pending motions are denied as moot.

**DONE AND ORDERED** in Chambers in Fort Lauderdale , Florida, this 24thday of January, 2008.

  
WILLIAM P. DIMITROULEAS  
United States District Judge

copies furnished to:

Robert K. Levenson, Esq.

Ernesto Tapanes  
3108 N.E. 27<sup>th</sup> Street, Apt. 202  
Ft. Lauderdale, FL 33308

Ernesto Tapanex  
2359 Dalebrook Drive  
Oakville, Ontario L6H 6K2  
Canada