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09-CV-01263-ORD

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Civil Action No. **C09-1263**

BAT

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

CELLCYTE GENETICS CORPORATION and
RONALD W. BERNINGER,

Defendants.

~~PROPOSED~~ FINAL JUDGMENT AS TO
DEFENDANT RONALD W. BERNINGER

The Securities and Exchange Commission having filed a Complaint and Defendant Ronald W. Berninger 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.

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 permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities

SEC V. CELLCYTE GENETICS CORP., ET AL.
FINAL JUDGMENT AS TO DEFENDANT RONALD W.
BERNINGER

SECURITIES AND EXCHANGE COMMISSION
44 MONTGOMERY STREET, SUITE 2600
SAN FRANCISCO, CA 94104
TELEPHONE: 415-705-2500

1 Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated
2 thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or
3 of the mails, or of any facility of any national securities exchange, in connection with the purchase or
4 sale of any security:

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

6 (b) to make any untrue statement of a material fact or to omit to state a material fact necessary
7 in order to make the statements made, in the light of the circumstances under which they
8 were made, not misleading; or

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

11 II.

12 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant and
13 Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation
14 with them who receive actual notice of this Final Judgment by personal service or otherwise are
15 permanently restrained and enjoined from aiding and abetting any violation of Section 13(a) of the
16 Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20, 13a-11 and 13a-13 promulgated thereunder
17 [17 C.F.R. §§ 240.12b-20, 240.13a-11 and 240.13a-13] by knowingly providing substantial
18 assistance to an issuer that has a class of securities registered pursuant to Section 12 of the Exchange
19 Act [15 U.S.C. § 78l] or is required to file reports pursuant to Section 15(d) of the Exchange Act [15
20 U.S.C. § 78o] in failing to file with the Commission such accurate and complete reports, information,
21 and documents as are required to be filed with the Commission pursuant to Section 13(a) of the
22 Exchange Act [15 U.S.C. § 78m(a)] and the Commission's Rules thereunder, including but not
23 limited to, current reports on Form 8-K [17 C.F.R. § 249.308] as prescribed by Commission Rule
24 13a-11 [17 C.F.R. § 240.13a-11] and quarterly reports on Form 10-Q [17 C.F.R. § 249.308a] as
25 prescribed by Commission Rule 13a-13 [17 C.F.R. § 240.13a-13], such information and documents
26 to contain, in addition to such information as is expressly required to be included in a statement or
27 report to the Commission, such further material information, if any, as may be necessary to make the

1 required statements, in the light of the circumstances under which they are made, not misleading, as
2 prescribed by Commission Rule 12b-20 [17 C.F.R. § 240.12b-20].

3
4 III.

5 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, pursuant to Section
6 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], Defendant is prohibited, for five years
7 following the date of entry of this Final Judgment, from acting as an officer or director of any issuer
8 that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l]
9 or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

10 IV.

11 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant shall pay a civil
12 penalty in the amount of \$50,000 pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. §
13 78u(d)(3)]. Defendant shall make this payment within ten (10) business days after entry of this Final
14 Judgment by certified check, bank cashier's check, or United States postal money order payable to
15 the Securities and Exchange Commission. The payment shall be delivered or mailed to the Office of
16 Financial Management, Securities and Exchange Commission, Operations Center, 6432 General
17 Green Way, Mail Stop O-3, Alexandria, Virginia 22312, and shall be accompanied by a letter
18 identifying Ronald W. Berninger as a defendant in this action; setting forth the title and civil action
19 number of this action and the name of this Court; and specifying that payment is made pursuant to
20 this Final Judgment. Defendant shall simultaneously transmit photocopies of such payment and letter
21 to the attention of Marc J. Fagel, Regional Director, at the Commission's San Francisco Regional
22 Office, 44 Montgomery Street, Suite 2600, San Francisco, CA 94104. Defendant shall pay post-
23 judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961. The Commission shall
24 remit the funds paid pursuant to this paragraph to the United States Treasury.

25 V.

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

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VI.

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

VII.

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: Dec. 10, 2009

MMS Lasnik
UNITED STATES DISTRICT JUDGE

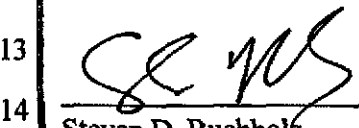
1 Approved as to form:

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11 RONALD W. BERNINGER

12 Submitted by:

13 
14

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21 Attorney for Plaintiff
22 SECURITIES AND EXCHANGE COMMISSION