

1 JOHN B. BULGOZDY, Cal. Bar No. 219897
Email: bulgozdyj@sec.gov
2 JUNLING MA, Cal. Bar No. 213241
E-mail: maj@sec.gov

3 Attorneys for Plaintiff
4 Securities and Exchange Commission
Rosalind R. Tyson, Regional Director
5 John M. McCoy III, Regional Trial Counsel
5670 Wilshire Boulevard, 11th Floor
6 Los Angeles, California 90036
Telephone: (323) 965-3322
7 Facsimile: (323) 965-3908

8
9 **UNITED STATES DISTRICT COURT**
10 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN FRANCISCO DIVISION**

12 SECURITIES AND EXCHANGE
13 COMMISSION,

14 Plaintiff,

15 vs.

16 ZNEXT MINING CORPORATION, INC.,
17 fka PEARL ASIAN MINING
INDUSTRIES, INC., and ELVIRA G.
18 GAMBOA, aka PEARL ASIAN and BAE
KATIGUMAN,

19 Defendants.

Case No. CV 09-2611 (VRW)

~~PROPOSED~~ CORRECTED
FINAL JUDGMENT OF
PERMANENT INJUNCTION
AND OTHER RELIEF
AGAINST DEFENDANTS

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21
22 Pursuant to Rule 55 of the Federal Rules of Civil Procedure, the Motion of
23 Plaintiff Securities and Exchange Commission for Default Judgment Against
24 Defendants ZNext Mining Corporation, Inc., fka Pearl Asian Mining Industries
25 Inc. (“ZNext”) and Elvira G. Gamboa, aka Pearl Asian and Baw Katiguman
26 (“Gamboa”) came before this Court. The Court, having considered all evidence
27 and argument in connection with the Motion, enters the following
28 Final Judgment:

1 I.

2 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the
3 Securities and Exchange Commission’s Motion for Default Judgment Against
4 Defendants ZNext and Gamboa is GRANTED.

5 II.

6 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that ZNext
7 and Gamboa, and their respective agents, servants, employees, attorneys, and all
8 persons in active concert or participation with them who receive actual notice of
9 this Final Judgment by personal service or otherwise are permanently restrained
10 and enjoined from violating, directly or indirectly, Section 10(b) of the Securities
11 Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5
12 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or
13 instrumentality of interstate commerce, or of the mails, or of any facility of any
14 national securities exchange, in connection with the purchase or sale of any
15 security:

- 16 (a) to employ any device, scheme, or artifice to defraud;
- 17 (b) to make any untrue statement of a material fact or to omit to state a
18 material fact necessary in order to make the statements made, in the
19 light of the circumstances under which they were made, not
20 misleading; or
- 21 (c) to engage in any act, practice, or course of business which operates or
22 would operate as a fraud or deceit upon any person.

23 III.

24 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that ZNext
25 and Gamboa, and their respective agents, servants, employees, attorneys, and all
26 persons in active concert or participation with them who receive actual notice of
27 this Final Judgment by personal service or otherwise are permanently restrained
28 and enjoined from violating Section 17(a) of the Securities Act of 1933 (the

1 “Securities Act”) [15 U.S.C. § 77q(a)] in the offer or sale of any security by the use
2 of any means or instruments of transportation or communication in interstate
3 commerce or by use of the mails, directly or indirectly:

- 4 (a) to employ any device, scheme, or artifice to defraud;
- 5 (b) to obtain money or property by means of any untrue statement of a
6 material fact or any omission of a material fact necessary in order to
7 make the statements made, in light of the circumstances under which
8 they were made, not misleading; or
- 9 (c) to engage in any transaction, practice, or course of business which
10 operates or would operate as a fraud or deceit upon the purchaser.

11 IV.

12 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that ZNext
13 and Gamboa, and their respective agents, servants, employees, attorneys, and all
14 persons in active concert or participation with them who receive actual notice of
15 this Final Judgment by personal service or otherwise are permanently restrained
16 and enjoined from violating Section 5 of the Securities Act, 15 U.S.C. § 77e, by,
17 directly or indirectly, in the absence of any applicable exemption:

- 18 (a) Unless a registration statement is in effect as to a security, making use
19 of any means or instruments of transportation or communication in
20 interstate commerce or of the mails to sell such security through the
21 use or medium of any prospectus or otherwise;
- 22 (b) Unless a registration statement is in effect as to a security, carrying or
23 causing to be carried through the mails or in interstate commerce, by
24 any means or instruments of transportation, any such security for the
25 purpose of sale or for delivery after sale; or
- 26 (c) Making use of any means or instruments of transportation or
27 communication in interstate commerce or of the mails to offer to sell
28 or offer to buy through the use or medium of any prospectus or

1 otherwise any security, unless a registration statement has been filed
2 with the Commission as to such security, or while the registration
3 statement is the subject of a refusal order or stop order or (prior to the
4 effective date of the registration statement) any public proceeding or
5 examination under Section 8 of the Securities Act, 15 U.S.C. § 77h.

6 V.

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

13 VI.

14 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Gamboa
15 is permanently barred from participating in an offering of penny stock, including
16 engaging in activities with a broker, dealer, or issuer for purposes of issuing,
17 trading, or inducing or attempting to induce the purchase or sale of any penny
18 stock. A penny stock is any equity security that has a price of less than five
19 dollars, except as provided in Rule 3a51-1 under the Exchange Act, 17 C.F.R. §
20 240.3a51-1.

21 VII.

22 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that ZNext is
23 liable for a civil penalty in the amount of \$650,000 pursuant to Section 20(d) of the
24 Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15
25 U.S.C. 78u(d)(3). ZNext shall satisfy this obligation by paying \$650,000 within 14
26 days after entry of this Final Judgment by certified check, bank cashier's check, or
27 United States postal money order payable to the Securities and Exchange
28 Commission. The payment shall be delivered or mailed to the Office of Financial

1 Management, Securities and Exchange Commission, Operations Center, 6432
2 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312, and shall be
3 accompanied by a letter identifying ZNext as a defendant in this action; setting
4 forth the title and civil action number of this action and the name of this Court; and
5 specifying that payment is made pursuant to this Final Judgment. ZNext shall pay
6 post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.
7 The Commission shall remit the funds paid pursuant to this paragraph to the United
8 States Treasury.

9 VIII.

10 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Gamboa
11 shall pay disgorgement of \$1,000,000, representing profits gained as a result of the
12 conduct alleged in the Complaint, together with prejudgment interest thereon in the
13 amount of \$48,588.48, and a civil penalty in the amount of \$130,000 pursuant to
14 Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the
15 Exchange Act, 15 U.S.C. 78u(d)(3). Gamboa shall satisfy this obligation by
16 paying \$1,178,588.48 within 14 days after entry of this Final Judgment by certified
17 check, bank cashier's check, or United States postal money order payable to the
18 Securities and Exchange Commission. The payment shall be delivered or mailed
19 to the Office of Financial Management, Securities and Exchange Commission,
20 Operations Center, 6432 General Green Way, Mail Stop 0-3, Alexandria, Virginia
21 22312, and shall be accompanied by a letter identifying Gamboa as a defendant in
22 this action; setting forth the title and civil action number of this action and the
23 name of this Court; and specifying that payment is made pursuant to this Final
24 Judgment. Gamboa shall pay post-judgment interest on any delinquent amounts
25 pursuant to 28 U.S.C. § 1961. The Commission shall remit the funds paid pursuant
26 to this paragraph to the United States Treasury.

27 The Commission may enforce the Court's judgment for disgorgement and
28 prejudgment interest by moving for civil contempt (and/or through other collection

1 procedures authorized by law) at any time after 14 days following entry of this
2 Final Judgment. In response to any such civil contempt motion by the
3 Commission, Gamboa may assert any legally permissible defense.

4 IX.

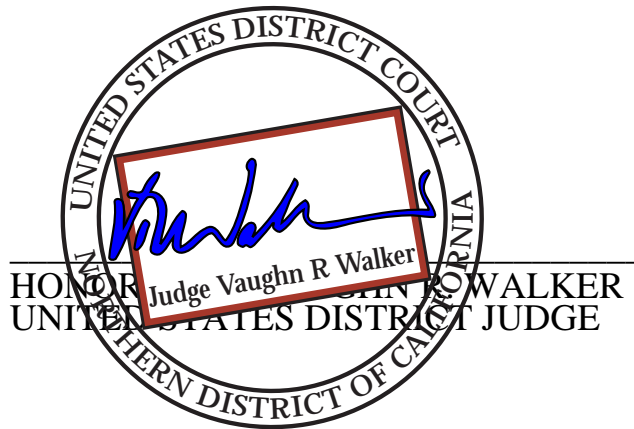
5 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this
6 Court shall retain jurisdiction over this action for all purposes, including to
7 implement and enforce the terms of this Final Judgment and other orders and
8 decrees which may be entered, and to grant such other relief as this Court may
9 deem necessary.

10 X.

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

14
15 IT IS SO ORDERED.

16
17 DATED: September 8, 2010



18
19 Presented by:

20
21 /s/ John B. Bulgozdy
22 JOHN B. BULGOZDY
23 JUNLING MA
24 Attorneys for Plaintiff
25 Securities and Exchange Commission
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