

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 SECURITIES AND EXCHANGE
11 COMMISSION,

12 Plaintiff,

13 vs.

14 NOVA GEN CORPORATION; MARGARET
15 GREY; and PAUL RANDALL FRALEY,

16 Defendants.

Case No. 3:09-cv-02711-MMA-WVG

**ORDER GRANTING PLAINTIFF
SECURITIES AND EXCHANGE
COMMISSION'S MOTION FOR FINAL
JUDGMENT SETTING AMOUNTS OF
DISGORGEMENT, PREJUDGMENT
INTEREST, AND CIVIL PENALTIES
AGAINST DEFENDANTS NOVA GEN
CORPORATION AND MARGARET
GREY**

[Doc. No. 25]

17
18
19 Plaintiff Securities and Exchange Commission having filed a Complaint and defendants
20 Nova Gen Corporation ("Nova Gen") and Margaret Grey ("Grey") having entered general
21 appearances; consented to the Court's jurisdiction over Nova Gen and Grey and the subject
22 matter of this action; consented to entry of this Final Judgment (except as to the amounts of
23 disgorgement, prejudgment interest, and civil penalties to be ordered against them) without
24 admitting or denying the allegations of the Complaint (except as to jurisdiction); waived findings
25 of fact and conclusions of law; and waived any right to appeal from this Final Judgment, and the
26 Court having determined, upon motion of the Commission, the amounts of disgorgement,
27 prejudgment interest, and civil penalties to be ordered against Nova Gen and Grey:

28 ///

I.

IT IS HEREBY ORDERED that defendants Nova Gen and Grey and their 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 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.

IT IS HEREBY FURTHER ORDERED that defendants Nova Gen and Grey and their 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 Section 17(a) of the Securities Act of 1933 (the "Securities Act"), 15 U.S.C. § 77q(a), in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading;
- or

- 1 (c) to engage in any transaction, practice, or course of business which operates or
2 would operate as a fraud or deceit upon the purchaser.

3 **III.**

4 IT IS HEREBY FURTHER ORDERED that defendants Nova Gen and Grey and their
5 agents, servants, employees, attorneys, and all persons in active concert or participation with
6 them who receive actual notice of this Final Judgment by personal service or otherwise are
7 permanently restrained and enjoined from violating Section 5(a) and 5(c) of the Securities Act,
8 15 U.S.C. §§ 77e(a) and 77e(c), by, directly or indirectly, in the absence of any applicable
9 exemption:

- 10 (a) Unless a registration statement is in effect as to a security, making use of any
11 means or instruments of transportation or communication in interstate commerce
12 or of the mails to sell such security through the use or medium of any prospectus
13 or otherwise;

- 14 (b) Unless a registration statement is in effect as to a security, carrying or causing to
15 be carried through the mails or in interstate commerce, by any means or
16 instruments of transportation, any such security for the purpose of sale or for
17 delivery after sale; or

- 18 (c) Making use of any means or instruments of transportation or communication in
19 interstate commerce or of the mails to offer to sell or offer to buy through the use
20 or medium of any prospectus or otherwise any security, unless a registration
21 statement has been filed with the Commission as to such security, or while the
22 registration statement is the subject of a refusal order or stop order or (prior to the
23 effective date of the registration statement) any public proceeding or examination
24 under Section 8 of the Securities Act, 15 U.S.C. § 77h.

25 **IV.**

26 IT IS HEREBY FURTHER ORDERED that defendant Grey and her agents, servants,
27 employees, attorneys, and all persons in active concert or participation with them who receive
28 actual notice of this Final Judgment by personal service or otherwise are permanently restrained

1 and enjoined from violating Section 15(a) of the Exchange Act, 15 U.S.C. § 78o(a), by, directly
2 or indirectly, in the absence of any applicable exemption, engaging in the business of a broker or
3 a dealer by making use of the mails or any means or instrumentality of interstate commerce to
4 effect transactions in, induce and attempt to induce the purchase or sale of any security while not
5 being registered with the Commission as a broker or dealer, and when no exemption from
6 registration was available.

7 **V.**

8 IT IS HEREBY FURTHER ORDERED that defendant Nova Gen is liable for
9 disgorgement of **\$2,403,188**, representing funds raised from investors as a result of the conduct
10 alleged in the Complaint, together with prejudgment interest thereon in the amount of **\$133,131**,
11 for a total of **\$2,536,319**, and that defendant Margaret Grey is liable, jointly and severally with
12 Nova Gen, for disgorgement of **\$94,975**, representing funds raised from investors as a result of
13 the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount
14 of **\$5,261**, for a total of **\$100,236**. Defendants shall satisfy their obligations by paying the total
15 amounts of disgorgement and prejudgment interest owed, as set forth above, ***within 14 days after***
16 ***entry of this Final Judgment*** by certified check, bank cashier's check, or United States postal
17 money order payable to the Securities and Exchange Commission. The payment shall be
18 delivered or mailed to: Office of Financial Management, Securities and Exchange Commission,
19 100 F Street, NE, Stop 6042, Washington DC 20549, and shall be accompanied by a letter
20 identifying the remitter as a defendant in this action; setting forth the title and civil action
21 number of this action and the name of this Court; and specifying that payment is made pursuant
22 to this Final Judgment. The defendants shall pay post-judgment interest on any delinquent
23 amounts pursuant to 28 U.S.C. § 1961. The Commission shall remit the funds paid pursuant to
24 this paragraph to the United States Treasury.

25 **VI.**

26 IT IS FURTHER ORDERED that, pursuant to Section 20(d) of the Securities Act, 15
27 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3), defendant
28 Nova Gen shall pay a civil penalty in the amount of **\$725,000** and defendant Grey shall pay a

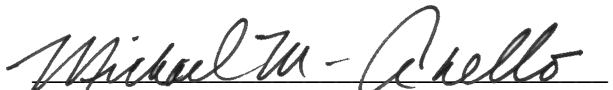
1 civil penalty in the amount of **\$150,000**. Defendants shall make these payments ***within 14 days***
2 ***after entry of this Final Judgment*** by certified check, bank cashier's check, or United States
3 postal money order payable to the Securities and Exchange Commission. The payment shall be
4 delivered or mailed to: Office of Financial Management, Securities and Exchange Commission,
5 100 F Street, NE, Stop 6042, Washington DC 20549, and shall be accompanied by a letter
6 identifying the remitter as a defendant in this action; setting forth the title and civil action
7 number of this action and the name of this Court; and specifying that payment is made pursuant
8 to this Final Judgment. The defendants shall pay post-judgment interest on any delinquent
9 amounts pursuant to 28 U.S.C. § 1961. The Commission shall remit the funds paid pursuant to
10 this paragraph to the United States Treasury.

11 **VII.**

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

14 **IT IS SO ORDERED.**

15 Dated: August 2, 2011


HONORABLE MICHAEL M. ANELLO
UNITED STATES DISTRICT JUDGE