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10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 SECURITIES AND EXCHANGE
13 COMMISSION,

14 Plaintiff,

15 vs.

16 DIVERSITY CAPITAL INVESTMENTS,
17 INC.; DIVERSITY CAPITAL BANCORP
DE MEXICO LTD.; STRONG'S
18 CAPITAL INVESTMENTS, INC.; THE
OPTIMUS FUND, INC.; DAMIAN
19 MENESES; EDWARD LANTZ
FERGUSON, and JOEL S. LEY, JR.

20 Defendants,

21 and

22 JUAN GALINDO FLORES and
23 SOCORRO TERLIZZI,

24 Relief Defendants.

Case No. CV 09-5449 ODW (RCx)

**AMENDED FINAL JUDGMENT OF
PERMANENT INJUNCTION AND
OTHER RELIEF AGAINST
DEFENDANTS DIVERSITY
CAPITAL BANCORP DE MEXICO
LTD., STRONG'S CAPITAL
INVESTMENTS, INC., THE
OPTIMUS FUND, INC., DAMIAN
MENESES, AND JOEL S. LEY, JR.,
AND RELIEF DEFENDANT
SOCORRO TERLIZZI**

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1 Plaintiff Securities and Exchange Commission (“Commission”) filed a Motion
2 for Entry of Final Judgment by Default Against Defendants Diversity Capital
3 Bancorp de Mexico Ltd. (“DCBM”), Strong’s Capital Investments, Inc. (“Strong’s”),
4 The Optimus Fund, Inc. (“Optimus”), Damian Meneses (“Meneses”), and Joel S.
5 Ley, Jr. (“Ley”), and Relief Defendant Socorro Terlizzi (“Terlizzi”) (“Motion for
6 Final Judgment”), pursuant to Rule 55 of the Federal Rules of Civil Procedure. The
7 Court, having considered the Commission’s Motion, the memorandum of points and
8 authorities and supplemental memorandum of points and authorities filed in support
9 of the Motion, the declarations, and all other documents filed in support of the
10 Motion, and all other evidence and argument presented regarding the Motion, finds
11 that:

12 **I.**

13 IT IS ORDERED that the Commission’s Motion for Final Judgment against
14 defendants DCBM, Strong’s, Optimus, Meneses, and Ley, and relief defendant
15 Terlizzi, is hereby GRANTED.

16 **II.**

17 IT IS HEREBY FURTHER ORDERED that defendants DCBM, Strong’s,
18 Optimus, Meneses, and Ley, and their agents, servants, employees, attorneys, and
19 all persons in active concert or participation with them who receive actual notice of
20 this Final Judgment by personal service or otherwise are permanently restrained
21 and enjoined from violating, directly or indirectly, Section 10(b) of the Securities
22 Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. § 78j(b), and Rule 10b-5
23 promulgated thereunder, 17 C.F.R. § 240.10b-5, by using any means or
24 instrumentality of interstate commerce, or of the mails, or of any facility of any
25 national securities exchange, in connection with the purchase or sale of any
26 security:

- 27 (a) to employ any device, scheme, or artifice to defraud;
28 (b) to make any untrue statement of a material fact or to omit to state a

1 material fact necessary in order to make the statements made, in the
2 light of the circumstances under which they were made, not
3 misleading; or

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

6 **III.**

7 IT IS HEREBY FURTHER ORDERED that defendants DCBM, Strong's,
8 Optimus, Meneses, and Ley, and their agents, servants, employees, attorneys, and
9 all persons in active concert or participation with them who receive actual notice of
10 this Final Judgment by personal service or otherwise are permanently restrained
11 and enjoined from violating Section 17(a) of the Securities Act of 1933 (the
12 "Securities Act"), 15 U.S.C. § 77q(a), in the offer or sale of any security by the use
13 of any means or instruments of transportation or communication in interstate
14 commerce or by use of the mails, directly or indirectly:

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

22 **IV.**

23 IT IS HEREBY FURTHER ORDERED that defendants DCBM, Strong's,
24 Optimus, Meneses, and Ley, and their agents, servants, employees, attorneys, and
25 all persons in active concert or participation with them who receive actual notice of
26 this Final Judgment by personal service or otherwise are permanently restrained
27 and enjoined from violating Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C.
28 § 77e, by, directly or indirectly, in the absence of any applicable exemption:

- 1 (a) Unless a registration statement is in effect as to a security, making use
2 of any means or instruments of transportation or communication in
3 interstate commerce or of the mails to sell such security through the
4 use or medium of any prospectus or otherwise;
- 5 (b) Unless a registration statement is in effect as to a security, carrying or
6 causing to be carried through the mails or in interstate commerce, by
7 any means or instruments of transportation, any such security for the
8 purpose of sale or for delivery after sale; or
- 9 (c) Making use of any means or instruments of transportation or
10 communication in interstate commerce or of the mails to offer to sell
11 or offer to buy through the use or medium of any prospectus or
12 otherwise any security, unless a registration statement has been filed
13 with the Commission as to such security, or while the registration
14 statement is the subject of a refusal order or stop order or (prior to the
15 effective date of the registration statement) any public proceeding or
16 examination under Section 8 of the Securities Act, 15 U.S.C. § 77h.

17 **V.**

18 IT IS HEREBY FURTHER ORDERED that defendants DCBM, Strong's,
19 Optimus, Meneses, and Ley are jointly and severally liable for disgorgement of
20 \$25,566,932, representing profits gained as a result of the conduct alleged in the
21 Complaint, together with prejudgment interest thereon in the amount of \$85,267,
22 for a total of \$25,652,199. Defendants shall satisfy this obligation by paying
23 \$25,652,199 within 14 days after entry of this Final Judgment to the Clerk of this
24 Court, together with a cover letter identifying the remitter as a defendant in this
25 action; setting forth the title and civil action number of this action and the name of
26 this Court; and specifying that payment is made pursuant to this Final Judgment.
27 Defendants shall simultaneously transmit photocopies of such payment and letter
28 to the Commission's counsel in this action. By making this payment, defendants

1 relinquish all legal and equitable right, title, and interest in such funds, and no part
2 of the funds shall be returned to any of the defendants. The Clerk shall deposit the
3 funds into an interest bearing account with the Court Registry Investment System
4 or any other type of interest bearing account that is utilized by the Court. These
5 funds, together with any interest and income earned thereon (collectively, the
6 “Fund”), shall be held in the interest bearing account until further order of the
7 Court. In accordance with 28 U.S.C. § 1914 and the guidelines set by the Director
8 of the Administrative Office of the United States Courts, the Clerk is directed,
9 without further order of this Court, to deduct from the income earned on the money
10 in the Fund a fee equal to ten percent of the income earned on the Fund. Such fee
11 shall not exceed that authorized by the Judicial Conference of the United States.
12 The Commission may propose a plan to distribute the Fund subject to the Court’s
13 approval. Defendants shall pay post-judgment interest on any delinquent amounts
14 pursuant to 28 U.S.C. § 1961.

15 VI.

16 IT IS HEREBY FURTHER ORDERED that relief defendant Terlizzi is
17 liable for disgorgement of \$348,424, representing profits gained as a result of the
18 conduct alleged in the Complaint for which she gave no consideration and to which
19 she has no legitimate claim, together with prejudgment interest thereon in the
20 amount of \$1,162, for a total of \$349,586. Terlizzi shall satisfy this obligation by
21 paying \$349,586 within 14 days after entry of this Final Judgment to the Clerk of
22 this Court, together with a cover letter identifying her as a defendant in this action;
23 setting forth the title and civil action number of this action and the name of this
24 Court; and specifying that payment is made pursuant to this Final Judgment.
25 Terlizzi shall simultaneously transmit photocopies of such payment and letter to
26 the Commission’s counsel in this action. By making this payment, Terlizzi
27 relinquishes all legal and equitable right, title, and interest in such funds, and no
28 part of the funds shall be returned to her. The Clerk shall deposit the funds into the

1 Fund, described above. In accordance with 28 U.S.C. § 1914 and the guidelines
2 set by the Director of the Administrative Office of the United States Courts, the
3 Clerk is directed, without further order of this Court, to deduct from the income
4 earned on the money in the Fund a fee equal to ten percent of the income earned on
5 the Fund. Such fee shall not exceed that authorized by the Judicial Conference of
6 the United States. The Commission may propose a plan to distribute the Fund
7 subject to the Court's approval. Terlizzi shall pay post-judgment interest on any
8 delinquent amounts pursuant to 28 U.S.C. § 1961.

9 **VII.**

10 IT IS HEREBY FURTHER ORDERED that defendants DCBM, Strong's,
11 and Optimus shall each pay a civil penalty in the amount of \$650,000, and
12 defendants Meneses and Ley shall each pay a civil penalty of \$130,000, pursuant
13 to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of
14 the Exchange Act, 15 U.S.C. § 78u(d)(3). Defendants shall make these payments
15 within 14 days after entry of this Final Judgment by certified check, bank cashier's
16 check, or United States postal money order payable to the Securities and Exchange
17 Commission. The payments shall be delivered or mailed to the Office of Financial
18 Management, Securities and Exchange Commission, Operations Center, 6432
19 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312, and shall be
20 accompanied by a letter identifying the remitter as a defendant in this action;
21 setting forth the title and civil action number of this action and the name of this
22 Court; and specifying that payment is made pursuant to this Final Judgment.
23 Defendants shall pay post-judgment interest on any delinquent amounts pursuant to
24 28 U.S.C. § 1961. The Commission shall remit the funds paid pursuant to this
25 paragraph to the United States Treasury.

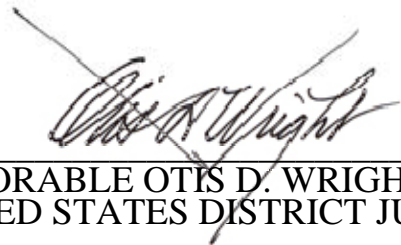
26 **VIII.**

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

IX.

There being no just reason for delay, pursuant to Rules 54(b) and 55 of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without further notice.

Dated: May 26, 2010



HONORABLE OTIS D. WRIGHT II
UNITED STATES DISTRICT JUDGE

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