

United States District Court
Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

BARBRA ALEXANDER, et al.,
Defendants.

Case No.10-CV-04535-LHK

**FINAL JUDGMENT AS TO
DEFENDANT SWANSON**

The Court has granted Plaintiff’s motion for summary judgment. ECF No. 89.

Accordingly, in this Final Judgment as to Michael Swanson (“Final Judgment”), IT IS
HEREBY ORDERED:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendant and his
agents, servants, employees, attorneys-in-fact, and all persons in active concert or participation
with any of them, who receive actual notice of this Final Judgment, by personal service or
otherwise, and each of them, 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, 17 C.F.R. § 240.10b-5, by using any means or instrumentality

United States District Court
Northern District of California

1 of interstate commerce, or of the mails, or of any facility of any national securities exchange, in
2 connection with the purchase or sale of any security:

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

9 II.

10 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant and his
11 agents, servants, employees, attorneys-in-fact, and all persons in active concert or participation
12 with any of them, who receive actual notice of this Final Judgment, by personal service or
13 otherwise, and each of them, are permanently enjoined and restrained from, directly or
14 indirectly, violating Section 17(a) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C. §
15 77q(a), by:

- 16 (i) employing any device, scheme or artifice to defraud;
- 17 (ii) obtaining money or property by means of untrue statements of material fact or
18 by omitting to state a material fact necessary in order to make the statements
19 made, in light of the circumstances under which they were made, not misleading;
20 or
- 21 (iii) engaging in any transaction, practice, or course of business which operates or
22 would operate as a fraud or deceit upon the purchaser,

23 in the offer or sale of any securities by the use of any means or instrumentality of interstate
24 commerce, or of the mails.

25 III.

26 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant and his
27 agents, servants, employees, attorneys-in-fact, and all persons in active concert or participation

United States District Court
Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

with any of them, who receive actual notice of this Final Judgment, by personal service or otherwise, and each of them, are permanently enjoined and restrained from violating Section 5 of the Securities Act [15 U.S.C. § 77e], by directly or indirectly, in the absence of any applicable exemption:

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

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that defendant is liable for, and ordered to pay, a civil penalty in the amount of \$150,000, pursuant to Section 20 of the Securities Act, 15 U.S.C. §§ 77t(d)(2), and Section 21 of the Exchange Act, 15 U.S.C. § 78u(d)(3).

Defendant may transmit payment electronically to the Commission, which will provide

United States District Court
Northern District of California

1 detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly
2 from a bank account via Pay.gov through the SEC website at
3 <http://www.sec.gov/about/offices/ofm.htm>. Defendant may also pay by certified check, bank
4 cashier’s check, or United States postal money order payable to the Securities and Exchange
5 Commission, which shall be delivered or mailed to:

6 Enterprise Services Center
7 Accounts Receivable Branch
8 6500 South MacArthur Boulevard
9 Oklahoma City, OK 73169

10 Payment shall be accompanied by a letter identifying the case title, civil action number, and name
11 of this Court; Michael E. Swanson as a defendant in this action; and specifying that payment is
12 made pursuant to this Final Judgment.

13 Defendant shall simultaneously transmit photocopies of evidence of payment and case
14 identifying information to the Commission’s counsel in this action. By making this payment,
15 Defendant relinquishes all legal and equitable right, title, and interest in such funds and no part of
16 the funds shall be returned to Defendant. The Commission shall send the funds paid pursuant to
17 this Final Judgment to the United States Treasury. Defendant shall pay post-judgment interest on
18 any delinquent amounts pursuant to 28 U.S.C. § 1961.

19 V.

20 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall
21 retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.
22
23
24
25
26
27

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

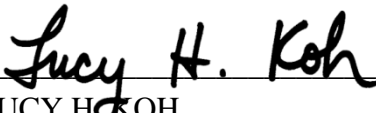
VI.

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.

The Clerk shall close the case file.

IT IS SO ORDERED.

Dated: July 17, 2015



LUCY H. KOH
United States District Judge

United States District Court
Northern District of California