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NOTE CHANGES MADE BY THE COURT.

14 UNITED STATES DISTRICT COURT
15 CENTRAL DISTRICT OF CALIFORNIA
16 WESTERN DIVISION

17 SECURITIES AND EXCHANGE
18 COMMISSION,

19 Plaintiff,

20 vs.

21 ROBERT HURD, YOUR BEST
22 MEMORIES INTERNATIONAL, INC.,
and KENNETH GROSS,

23 Defendants,

24 and SMOKEY CANYON FINANCIAL,
25 INC.,

26 Relief Defendant.

Case No. 2:13-cv-04464-RGK-JCG

~~PROPOSED~~ ORDER OF FINAL
JUDGMENT OF DEFAULT AGAINST
DEFENDANTS ROBERT HURD AND
YOUR BEST MEMORIES
INTERNATIONAL, INC. AND RELIEF
DEFENDANT SMOKEY CANYON
FINANCIAL, INC.

27
28

1 WHEREAS, Plaintiff Securities and Exchange Commission (the
2 “Commission”) filed its Complaint against Defendant Robert Hurd (“Hurd”),
3 Defendant Your Best Memories International, Inc. (“YBMI”) and Defendant
4 Kenneth Gross (“Gross”), and against Relief Defendant Smokey Canyon Financial,
5 Inc. (“Smokey Canyon”) on June 20, 2013;

6 WHEREAS, on June 27, 2013, Defendant Hurd was served with the
7 Complaint, and his response was due on July 18, 2013;

8 WHEREAS, on June 27, 2013, Defendant YBMI was served with the
9 Complaint, and its response was due on July 18, 2013;

10 WHEREAS, on July 1, 2013, Relief Defendant Smokey Canyon was served
11 with the Complaint, and its response was due on July 22, 2013;

12 WHEREAS, no responsive pleading has been filed by Hurd, YBMI and/or
13 Smokey Canyon as required under Federal Rule of Civil Procedure 12(a) (1)(A) (i);

14 WHEREAS, the Commission moved for entry of clerk’s default, pursuant to
15 Federal Rule of Civil Procedure 55(a), which was granted by this Court;

16 WHEREAS, Hurd, YBMI and Smokey Canyon having failed to answer, plead
17 or otherwise defendant in this action, and a default having been entered on September
18 17, 2013;

19 WHEREAS, the Court accepts as true the factual allegations in the Complaint
20 against Hurd, YBMI and Smokey Canyon;

21 WHEREAS, the Commission has now moved for entry of a final default
22 judgment pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure, for the
23 entry of this Final Judgment, and provided supporting memorandum and declarations
24 demonstrating both that the Defendant is not an infant or incompetent person or in
25 the military service of the United States, and that the Commission has made a *prima*
26 *facie* case for relief sought from the Defendants and from the Relief Defendant;

27 NOW THEREFORE BASED ON THE FOREGOING:
28

I.

1
2 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that Hurd and
3 YBMI and each of their agents, servants, employees and attorneys and those persons
4 in active concert or participation with them who receive actual notice of this Final
5 Judgment by personal service or otherwise, including facsimile transmission,
6 electronic mail, or overnight delivery service, are permanently restrained and
7 enjoined from violating Section 10(b) of the Securities Exchange Act of 1934
8 (“Exchange Act”) [15 U.S.C. §78j(b)] and Rule 10b-5 thereunder [17 C.F.R. §
9 240.10b-5] by, directly or indirectly, through the use of the means or
10 instrumentalities of interstate commerce, or of the mails, or of any facility of any
11 national securities exchange; (a) employing any device, scheme or artifice to defraud;
12 (b) making any untrue statement of a material fact or omitting to state a material fact
13 necessary in order to make the statements made, in the light of the circumstances
14 under which they were made, not misleading; or (c) engaging in any act, practice or
15 course of business which operates or would operate as a fraud or deceit upon any
16 person, in connection with the purchase or sale of any security.

17 II.

18 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that Hurd and
19 YBMI and each of their agents, servants, employees and attorneys and those persons
20 in active concert or participation with them who receive actual notice of this Final
21 Judgment by personal service or otherwise, including facsimile transmission,
22 electronic mail, or overnight delivery service, are permanently restrained and
23 enjoined from violating Section 17(a) of the Securities Act of 1933 (“Securities Act”)
24 [15 U.S.C. §77q(a)] by, directly or indirectly, through the use of the means or
25 instrumentalities of interstate commerce, or of the mails, or of any facility of any
26 national securities exchange; (a) employing any device, scheme or artifice to defraud;
27 (b) making any untrue statement of a material fact or omitting to state a material fact
28 necessary in order to make the statements made, in the light of the circumstances

1 under which they were made, not misleading; or (c) engaging in any act, practice or
2 course of business which operates or would operate as a fraud or deceit upon any
3 person, in the offer or sale of any security.

4 III.

5 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that Hurd,
6 and any entity he owns or controls, is further enjoined from directly or indirectly
7 participating in the issuance, offer, or sale of any security, provided, however, that
8 such an injunction shall not prevent Hurd from purchasing or selling securities solely
9 for his own account.

10 IV.

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

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

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

5 V.

6 **IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED**

7 that Hurd, YBMI and Smokey Canyon shall pay disgorgement of \$963,000
8 representing ill-gotten gains from the conduct alleged in the Complaint, plus pre-
9 judgment interest in the amount of \$34,170, for a total disgorgement amount of
10 \$997,170, and that, pursuant to Section 21(d) of the Exchange Act [15 U.S.C.
11 §78u(d)] and Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Hurd and
12 YBMI shall pay a civil penalty in the amount of \$963,000 *together jointly and severally*. These obligations
13 shall be paid, as directed further below, within fourteen (14) days after entry of this
14 Final Judgment.

15 VI.

16 **IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED**

17 that the payments required pursuant to Paragraph V above shall be made
18 electronically to the Commission, which will provide upon request the detailed
19 ACH transfer/Fedwire instructions.

20 Payment may also be made directly from a bank account via Pay.gov
21 through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>.

22 Hurd, YBMI and/or Smokey Canyon may also pay by certified check, bank
23 cashier's check, or United States postal money order payable to the Securities and
24 Exchange Commission, which shall be delivered or mailed to:

25 Enterprise Services Center
26 Accounts Receivable Branch
27 6500 South MacArthur Boulevard
28 Oklahoma City, OK 73169

Such payment shall be accompanied by a letter identifying the case title, civil

1 action number, and name of this Court; and specifying that payment is made
2 pursuant to this Final Judgment.

3 Defendants shall simultaneously transmit photocopies of evidence of
4 payment and case identifying information to the Commission's counsel in this
5 action. By making this payment, Defendants relinquish all legal and equitable
6 right, title, and interest in such funds and no part of the funds shall be returned.
7 The Commission shall send the funds paid pursuant to this Final Judgment to the
8 United States Treasury.

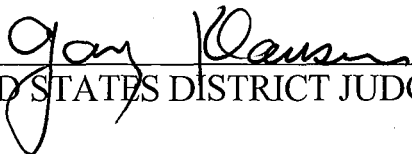
9 The Commission may enforce the Court's judgment for disgorgement and
10 prejudgment interest by moving for civil contempt (and/or through other collection
11 procedures authorized by law) at any time after 14 days following entry of this
12 Final Judgment. Defendants shall pay post judgment interest on any delinquent
13 amounts pursuant to 28 U.S.C. § 1961.

14 VI.

15 **IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED**

16 that this Court shall retain jurisdiction over the Defendants and the Relief Defendants
17 as parties to this matter for all purposes, including the implementation and
18 enforcement of this Final Judgment.

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

22
23 
24 UNITED STATES DISTRICT JUDGE

25 JUN 10 2014

26 Dated: _____