

THE HONORABLE JAMES L. ROBERT

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
WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

PATH AMERICA, LLC, et al.,

Defendants and Relief Defendants.

Civil Action No. C-15-1350-JLR

~~PROPOSED~~ FINAL JUDGMENT
AS TO DEFENDANT LOBSANG
DARGEY AND RELIEF
DEFENDANT PATH OTHELLO,
LLC

1 The Securities and Exchange Commission (“SEC”) having filed a complaint, as amended,
2 and Defendant Lobsang Dargey (“Defendant”) and Relief Defendant Path Othello, LLC (“Relief
3 Defendant”) having each entered a general appearance; consented to the Court’s jurisdiction over
4 Defendant and Relief Defendant and the subject matter of this action; consented to entry of this
5 Final Judgment pursuant to the Consent to Final Judgment as to Defendant Lobsang Dargey and
6 Relief Defendant Path Othello, LLC (“Consent”); waived findings of fact and conclusions of law;
7 and waived any right to appeal from this Final Judgment:

8 I.

9 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is
10 permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the
11 Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. § 78j(b), and Rule 10b-5,
12 17 C.F.R. § 240.10b-5, by using any means or instrumentality of interstate commerce, or of the
13 mails, or of any facility of any national securities exchange, in connection with the purchase or
14 sale of any security:

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

21 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal
22 Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive
23 actual notice of this Final Judgment by personal service or otherwise: (a) Defendant’s officers,
24 agents, servants, employees, and attorneys; and (b) other persons in active concert or participation
25 with Defendant or with anyone described in (a).

26 II.

27 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is
28 permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933

1 (the "Securities Act"), 15 U.S.C. § 77q(a), in the offer or sale of any security by the use of any
2 means or instruments of transportation or communication in interstate commerce or by use of the
3 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 material fact or
6 any omission of a material fact necessary in order to make the statements made, in light of
7 the circumstances under which they were made, not misleading; or

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

10 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal
11 Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive
12 actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers,
13 agents, servants, employees, and attorneys; and (b) other persons in active concert or participation
14 with Defendant or with anyone described in (a).

15 III.

16 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is permanently
17 restrained and enjoined from, directly or indirectly, soliciting any person or entity to purchase or sell,
18 or from participating in the issuance, offer, or sale, of any security of any entity controlled by him
19 such that Defendant has the ability to direct the actions of the entity, including through participation
20 in its management or ownership of the entity's securities, or through any contract or other
21 arrangement regarding its securities; provided, however, that such injunction shall not prevent
22 Defendant from purchasing securities for or selling securities from his own personal account.

23 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal
24 Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive
25 actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers,
26 agents, servants, employees, and attorneys; and (b) other persons in active concert or participation
27 with Defendant or with anyone described in (a).

28

1 IV.

2 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for
3 disgorgement of \$17,600,000, as a result of the conduct alleged in the complaint, as amended,
4 together with prejudgment interest thereon in the amount of \$791,182, for a total of \$18,391,182,
5 but that this amount shall be deemed satisfied by: (1) Defendant's relinquishment of all legal and
6 equitable right, title, and interest in all properties, businesses, funds and assets currently controlled
7 by the Court Appointed Receiver in this action ("Receiver") as set forth in Annex B to the
8 Consent; and (2) the order of restitution described in Paragraph 11 of the Plea Agreement (attached
9 as Annex A to the Consent) in *United States v. Lobsang Dargey* (W.D. Wash.) (which shall not be
10 altered or affected by this Final Judgment).

11 V.

12 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, within seven days of
13 the entry of this Final Judgment, Defendant will execute a document reasonably suitable to the
14 SEC conveying to the receivership estate in this action all right, title and interest in all properties,
15 businesses, funds and assets over which the Receiver currently has control, as identified in Annex
16 B to the Consent.

17 VI.

18 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Order Granting
19 Motion for Preliminary Injunction (ECF No. 68) (including all subsequent modifications to that
20 Order) is hereby dissolved as to Defendant and Relief Defendant and is no longer of any force or
21 effect as to either of them, including the provision freezing their assets. All banks, financial
22 institutions, and brokerage firms are hereby notified that the asset freeze is no longer in effect as to
23 the Defendant and as to the Relief Defendant.

24 VII.

25 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent is
26 incorporated herein with the same force and effect as if fully set forth herein, and that Defendant
27 and Relief Defendant shall comply with all of the undertakings and agreements set forth therein.
28

VIII.

1
2 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, for purposes of
3 exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the
4 allegations in the complaint, as amended, are true and admitted by Defendant, and further, any
5 debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Defendant
6 under this Final Judgment or any other judgment, order, consent order, decree or settlement
7 agreement entered in connection with this proceeding, is a debt for the violation by Defendant of
8 the federal securities laws or any regulation or order issued under such laws, as set forth in Section
9 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

10 IX.

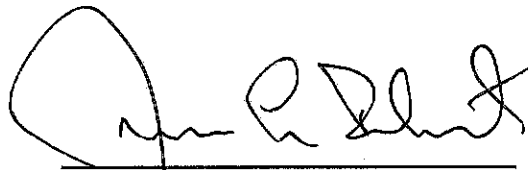
11 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain
12 jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

13 X.

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

16
17
18
19 IT IS SO ORDERED:

20
21
22
23 Dated: 3 March 2017



JAMES L. ROBART
United States District Judge

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

Presented by

Susan F. LaMarca
lamarcas@sec.gov
SECURITIES AND EXCHANGE COMMISSION
44 Montgomery Street, Suite 2800
San Francisco, CA 94104
(415) 705-2500

CERTIFICATE OF SERVICE

1
2
3 I hereby certify that on March 2, 2017, I caused the foregoing document ([Proposed] Final
4 Judgment As To Defendant Lobsang Dargey And Relief Defendant Path Othello, LLC and
5 accompanying Consent) to be electronically filed with the Clerk of the Court using the CM/ECF
6 system, which will send notification of the filing to all counsel of record.
7
8
9

10 Dated: March 2, 2017

/s/ Susan F. LaMarca
Susan F. LaMarca

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28