

1 MICHAEL A. PIAZZA, Cal. Bar No. 235881
E-mail: piazzam@sec.gov
2 JOSE F. SANCHEZ, Cal. Bar No. 161362
E-mail: sanchezj@sec.gov
3 C. DABNEY O'RIORDAN, Cal. Bar No. 205158
E-mail: oriordand@sec.gov

FILED
CLERK, U.S. DISTRICT COURT
MAR 22 2006
CENTRAL DISTRICT OF CALIFORNIA
BY [initials] DEPUTY

4 Attorneys for Plaintiff
5 Securities and Exchange Commission
Randall R. Lee, Regional Director
6 Briane Nelson Mitchell, Associate Regional Director
5670 Wilshire Boulevard, 11th Floor
7 Los Angeles, California 90036
Telephone: (323) 965-3998
8 Facsimile: (323) 965-3908

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MAR 23 2006
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U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES

BY [initials]

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10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12 WESTERN DIVISION

13 SECURITIES AND EXCHANGE
14 COMMISSION,

15 Plaintiff,

16 vs.

17 RAINMAKER MANAGED LIVING, LLC,
a New York limited liability company;
18 RAINMAKER MANAGED LIVING, LLC,
a California limited liability company;
19 FURMAN & DILMAGHANI P.C., a New
York professional service corporation;
20 ALIREZA DILMAGHANI; SIDNEY F.
LEVINE; and JAMES JOSEPH CONWAY,

21 Defendants.

Case No. CV 05-6121 SJO (SHx)

**JUDGMENT OF PERMANENT
INJUNCTION AND OTHER
RELIEF AGAINST DEFENDANT
JAMES JOSEPH CONWAY**

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28 THIS CONSTITUTES NOTICE OF ENTRY
AS REQUIRED BY FRCP, RULE 77(d)

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SCANNED

1 Plaintiff Securities and Exchange Commission (“Commission”), having filed
2 and served upon Defendant James Joseph Conway (“Conway”) a Summons and
3 Complaint in this action; Defendant Conway having entered a general appearance,
4 consented to the Court’s jurisdiction over Defendant Conway and the subject
5 matter of this action, consented to entry of this Judgment, without admitting or
6 denying the allegations of the Complaint, except as to jurisdiction and as
7 specifically set forth herein, waived findings of fact and conclusions of law, and
8 waived any right to appeal from this Judgment; no notice of hearing upon entry of
9 this Judgment being necessary; and this Court being fully advised:

10 **I.**

11 IT IS ORDERED, ADJUDGED, AND DECREED that Defendant Conway
12 and his officers, agents, servants, employees, attorneys, subsidiaries and affiliates,
13 and those persons in active concert or participation with him, who receive actual
14 notice of this Judgment, by personal service or otherwise, and each of them, be and
15 hereby are permanently restrained and enjoined from, directly or indirectly,
16 making use of any means or instruments of transportation or communication in
17 interstate commerce or of the mails, to sell, to offer to sell, or to offer to buy any
18 security; or carrying or causing securities to be carried through the mails or in
19 interstate commerce, by any means or instruments of transportation, for the
20 purpose of sale or delivery after sale, in violation of Sections 5(a) and 5(c) of the
21 Securities Act of 1933 (“Securities Act”), 15 U.S.C. §§ 77(e)(a) and 77(e)(c).

22 **II.**

23 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that
24 Defendant Conway, and his officers, agents, servants, employees, attorneys,
25 subsidiaries and affiliates, and those persons in active concert or participation with
26 any of them, who receive actual notice of this Judgment, by personal service or
27 otherwise, and each of them, be and hereby are permanently restrained and
28 enjoined from, directly or indirectly, in the offer or sale of any securities, by the

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1 use of any means or instruments of transportation or communication in interstate
2 commerce or by use of the mails:

- 3 A. employing any device, scheme or artifice to defraud;
- 4 B. obtaining money or property by means of any untrue statement
5 of a material fact or any omission of a material fact necessary in
6 order to make the statements made, in light of the
7 circumstances under which they were made, not misleading; or
- 8 C. engaging in any transaction, practice, or course of business
9 which operates or would operate as a fraud or deceit upon the
10 purchaser

11 in violation of Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

12 **III.**

13 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that
14 Defendant Conway and his officers, agents, servants, employees, attorneys,
15 subsidiaries and affiliates, and those persons in active concert or participation with
16 any of them who receive actual notice of this Judgment, by personal service or
17 otherwise, and each of them, be and hereby are permanently restrained and
18 enjoined from, directly or indirectly, in connection with the purchase or sale of any
19 security, by the use of any means or instrumentality of interstate commerce, or of
20 the mails, or of any facility of any national securities exchange:

- 21 A. employing any device, scheme, or artifice to defraud;
- 22 B. making any untrue statement of a material fact or omitting to
23 state a material fact necessary in order to make the statements
24 made, in the light of the circumstances under which they were
25 made, not misleading; or
- 26 C. engaging in any act, practice, or course of business which
27 operates or would operate as a fraud or deceit upon any person
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1 in violation of Section 10(b) of the Securities Exchange Act of 1934 ("Exchange
2 Act"), 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

3 IV.

4 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that
5 Defendant Conway and his officers, agents, servants, employees, attorneys,
6 subsidiaries and affiliates, and those persons in active concert or participation with
7 any of them, who receive actual notice of this Order, by personal service or
8 otherwise, and each of them, be and hereby are permanently restrained and
9 enjoined from making use of the mails or any means or instrumentality of interstate
10 commerce to effect any transactions in, or to induce or attempt to induce the
11 purchase or sale of, any security, without being registered as a broker and/or dealer
12 pursuant to Section 15(b) of the Exchange Act, 15 U.S.C. § 78o(b), in violation of
13 Section 15(a) of the Exchange Act, 15 U.S.C. § 78o(a).

14 V.

15 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED, that upon
16 motion of the Commission, the Court shall determine whether it is appropriate to
17 order disgorgement of ill-gotten gains, prejudgment interest, and/or a civil penalty
18 pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section
19 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3), and, if so, the amount(s) of
20 disgorgement, prejudgment interest, and/or civil penalty. If ordered by the Court,
21 prejudgment interest shall be calculated pursuant to 26 U.S.C. § 1961. In
22 connection with the Commission's motion, and at any hearing held to determine
23 the appropriate amounts of disgorgement, prejudgment interest, and civil penalty:
24 (a) Defendant Conway will be precluded from arguing that he did not violate the
25 federal securities laws as alleged in the Complaint; (b) Defendant Conway may not
26 challenge the validity of the Consent or this Judgment; (c) solely for the purposes
27 of the Commission's motion, the allegations of the Complaint shall be accepted as
28 and deemed true by the Court; and (d) the Court may determine the issues raised in

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1 the motion on the basis of affidavits, declarations, excerpts of sworn deposition or
2 investigative testimony, and documentary evidence, without regard to the standards
3 for summary judgment contained in Rule 56(c) of the Federal Rules of Civil
4 Procedure. In connection with the Commission's motion, the parties may take
5 discovery, including discovery from appropriate third parties.

6 **VI.**

7 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the
8 provisions of the Consent filed concurrently with this Judgment are incorporated
9 herein with the same force and effect as if fully set forth herein and that Defendant
10 Conway shall comply with the Consent.

11 **VII.**

12 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the asset
13 freeze provided for in paragraphs VI. and VII. of the Court's September 1, 2005
14 Amended Order Granting Preliminary Injunction and Orders: (1) Freezing Assets,
15 (2) Requiring Accountings; and (3) Prohibiting the Destruction of Documents shall
16 remain in full force and effect, until further order of this Court.

17 **VIII.**

18 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED
19 that during the pendency of this action against any defendant, Defendant Conway
20 shall remain subject to the discovery provisions of the Federal Rules of Civil
21 Procedure which apply to parties, and, in addition, that Defendant Conway agrees
22 and undertakes, without service of a subpoena, to appear for his deposition or to
23 testify as a witness at any trial of this action or at any related proceeding. Failure
24 to comply with the foregoing will subject Defendant Conway to the remedies and
25 sanctions set forth in Rule 37 of the Federal Rules of Civil Procedure and all other
26 available remedies.

27 **IX.**

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1 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this
2 Court shall retain jurisdiction over this action for all purposes, including
3 implementing and carrying out the terms of this Judgment and all other orders
4 which may be entered herein, to resolve the Commission's pending claims against
5 Defendant Conway for disgorgement, prejudgment interest, and civil penalty, and
6 to entertain any suitable application or motion for additional relief within the
7 jurisdiction of this Court.

8 X.

9 There being no just reason for delay, the Clerk of the Court is hereby
10 directed, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, to enter
11 this Judgment without further notice.

12 IT IS SO ORDERED.

13 DATED:

3/22/06



14 _____
15 The Honorable S. James Otero
16 UNITED STATES DISTRICT JUDGE

17 APPROVED AS TO FORM AND CONTENT:

18 DATED:

19 2/24, 2006

20 _____
21 *James J. Conway*
22 Defendant James Joseph Conway

23 DATED:

24 3/2, 2006

25 _____
26 *Kirk G. Downing*
27 Kirk G. Downing
28 Attorney for Defendant James Joseph
Conway

PROOF OF SERVICE

SCANNED

I am over the age of 18 years and not a party to this action. My business address is

U.S. SECURITIES AND EXCHANGE COMMISSION, 5670 Wilshire Boulevard, 11th Floor, Los Angeles, California 90036-3648

Telephone No. (323) 965-3998; Facsimile No. (323) 965-3908.

On March 21, 2006, I served the document entitled **JUDGMENT OF PERMANENT INJUNCTION AND OTHER RELIEF AGAINST DEFENDANT JAMES JOSEPH CONWAY** upon the parties to this action addressed as stated on the attached service list:

OFFICE MAIL: By placing in sealed envelope(s), which I placed for collection and mailing today following ordinary business practices. I am readily familiar with this agency's practice for collection and processing of correspondence for mailing; such correspondence would be deposited with the U.S. Postal Service on the same day in the ordinary course of business.

PERSONAL DEPOSIT IN MAIL: By placing in sealed envelope(s), which I personally deposited with the U.S. Postal Service. Each such envelope was deposited with the U.S. Postal Service at Los Angeles, California, with first class postage thereon fully prepaid.

EXPRESS U.S. MAIL: Each such envelope was deposited in a facility regularly maintained at the U.S. Postal Service for receipt of Express Mail at Los Angeles, California, with Express Mail postage paid.

HAND DELIVERY: I caused to be hand delivered such envelope/document to each addressee on the attached service list.

FEDERAL EXPRESS BY COURT ORDER: By placing in sealed envelope(s) designated by Federal Express with delivery fees paid or provided for, which I deposited in a facility regularly maintained by Federal Express or delivered to a Federal Express courier, at Los Angeles, California.

ELECTRONIC MAIL: By transmitting the document by electronic mail to the electronic mail address as stated on the attached service list.

FAX: By transmitting the document by facsimile transmission. The transmission was reported as complete and without error.

(Federal) I declare that I am employed in the office of a member of the bar of this Court, at whose direction the service was made. I declare under penalty of perjury that the foregoing is true and correct.

Date: March 21, 2006

Magnolia M. Marcelo
MAGNOLIA M. MARCELO

SEC v. RAINMAKER MANAGED LIVING, LLC, et al.
United States District Court – Central District of California
Case No. CV 05-6121 SJO (SHx)
(LA-3107)

SERVICE LIST

SCANNED

Kirk Downing, Esq. (served by U.S. Mail)
111 S. Poinsettia Place
Los Angeles, CA 90036
Telephone: (323) 935-3517
Facsimile: (323) 935-0410
Email: kirk@kdowning.com
Attorney for Defendant James Joseph Conway

Rainmaker Managed Living, LLC (served by U.S. Mail)
c/o James Joseph Conway
1129 W. 2nd Street
San Pedro, CA 90731

Alireza Dilmaghani (served by U.S. Mail)
Rainmaker Managed Living, LLC
Furman & Dilmaghani, P.C.
106 Central Park South, Suite 8 D
New York, NY 10019
Telephone: (646) 375-2393
Facsimile: (646) 375-2235
Email: aldal2004@hotmail.com

Sidney F. Levine (served by U.S. Mail)
140 West 75th Street, Lower
New York, NY 10023
Email: sidlevine2005@aol.com

Daniel J. Cheren, Esq. (served by U.S. Mail)
Cheren and Associates
16055 Ventura Boulevard, Suite 525
Encino, CA 91436
Telephone: (818) 990-7700
Facsimile: (818) 990-9888

John W. Cotton, Esq.
Cotton & Gundzik, LLP
801 S. Figueroa Street, 14th Floor
Los Angeles, CA 90017
Receiver for Defendants Rainmaker Managed Living, LLC, a New York limited liability company, and Rainmaker Managed Living, LLC, a California limited liability company