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Send letter
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AUG 14 2007
CENTRAL DISTRICT OF CALIFORNIA
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

NICHOLAS A. CZUCZKO,

Defendant.

Case No. CV 06-4792 ODW (SSx)

~~PROPOSED~~ ORDER FOR
PERMANENT INJUNCTION AND
OTHER RELIEF AS TO DEFENDANT
NICHOLAS A. CZUCZKO

DOCKETED ON CM
AUG 15 2007
BY
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[Handwritten mark]

1 The Securities and Exchange Commission having filed a complaint in this
2 action and Defendant Nicholas A. Czuczko, having entered a general appearance in
3 the action, consented to the Court's jurisdiction over him and the subject matter of this
4 action, consented to entry of this Order for Permanent Injunction And Other Relief
5 ("Permanent Injunction") without admitting or denying the allegations of the
6 Complaint (except as to jurisdiction), waived findings of fact and conclusions of law,
7 and waived any right to appeal from this Permanent Injunction:
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11 I.

12 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant
13 and his agents, servants, employees, attorneys, and all persons in active concert or
14 participation with them who receive actual notice of this Permanent Injunction by
15 personal service or otherwise are permanently restrained and enjoined from violating,
16 directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the
17 "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder
18 [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate
19 commerce, or of the mails, or of any facility of any national securities exchange, in
20 connection with the purchase or sale of any security:
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- 24 (a) to employ any device, scheme, or artifice to defraud;
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- 1 (b) to make any untrue statement of a material fact or to omit to state a
- 2 material fact necessary in order to make the statements made, in the light
- 3 of the circumstances under which they were made, not misleading; or
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- 5 (c) to engage in any act, practice, or course of business which operates or
- 6 would operate as a fraud or deceit upon any person.
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8 II.

9 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that

10 Defendant and his agents, servants, employees, attorneys, and all persons in active

11 concert or participation with them who receive actual notice of this Permanent

12 Injunction by personal service or otherwise are permanently restrained and enjoined

13 from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)] in the offer or

14 sale of any security by the use of any means or instruments of transportation or

15 communication in interstate commerce or by use of the mails, directly or indirectly:

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

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2 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED^{AND} that
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4 Defendant and his agents, servants, employees, attorneys, and all persons in active
5 concert or participation with them who receive actual notice of this Permanent
6 Injunction by personal service or otherwise are permanently restrained and enjoined
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8 from violating Section 16(a) of the Exchange Act [15 U.S.C. § 78p(a)] and Rule 16a-3
9 thereunder [17 C.F.R. § 240.16a-3], at such time as they are directly or indirectly the
10 beneficial owner of more than 10 percent of any class of equity security (other than
11 exempted security) which is registered pursuant to Section 12 [15 U.S.C. § 78l] of the
12 Exchange Act, or who is a director or officer of the issuer of such security, by failing
13 to file required statements accurately reflecting changes in their beneficial ownership
14 of common stock and annual statements accurately reflecting their beneficial
15 ownership of common stock.
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IV.

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20 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
21 Defendant is permanently barred from participating in an offering of penny stock,
22 including engaging in activities with a broker, dealer, or issuer for purposes of issuing,
23 trading, or inducing or attempting to induce the purchase or sale of any penny stock.
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25 A penny stock is any equity security that has a price of less than five dollars, except as
26 provided in Rule 3a51-1 under the Exchange Act [17 C.F.R. 240.3a51-1].
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V.

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2 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, pursuant to
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4 Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)] [and/or Section 20(e) of
5 the Securities Act [15 U.S.C. § 77t(e)], Defendant is prohibited from acting as an
6 officer or director of any issuer that has a class of securities registered pursuant to
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8 Section 12 of the Exchange Act [15 U.S.C. § 78I] or that is required to file reports
9 pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)]

VI.

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12 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
13 Defendant shall pay disgorgement of ill-gotten gains, prejudgment interest thereon,
14 and a civil penalty pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)]
15 and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. The Court shall
16 determine the amounts of the disgorgement and civil penalty upon motion of the
17 Commission or at trial. Prejudgment interest shall be calculated from December 12,
18 2005, by applying the method established for calculating post-judgment interest
19 pursuant to 28 U.S.C. § 1961. In connection with the Commission's motion for
20 disgorgement and civil penalties, and at any hearing held on such a motion or at trial:

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22 (a) Defendant will be precluded from arguing that he did not violate the federal
23 securities laws as alleged in the Complaint; (b) Defendant may not challenge the
24 validity of the Consent or this Final Judgment; (c) solely for the purposes of such
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1 motion, the allegations of the Complaint shall be accepted as and deemed true by the
2 Court; and (d) the Court may determine the issues raised in the motion on the basis of
3 affidavits, declarations, excerpts of sworn deposition or investigative testimony, and
4 documentary evidence, without regard to the standards for summary judgment
5 contained in Rule 56(c) of the Federal Rules of Civil Procedure.
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8 VII.

9 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant's
10 Consent is incorporated herein with the same force and effect as if fully set forth
11 herein, and that Defendant shall comply with all of the undertakings and agreements
12 set forth therein.
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15 VIII.

16 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court
17 shall retain jurisdiction of this matter for the purposes determining the additional relief
18 requested by the Commission and enforcing the terms of this Permanent Injunction.
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21 Dated: 8-13-07



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23 **OTIS D. WRIGHT**
UNITED STATES DISTRICT JUDGE

SCANNED