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9 UNITED STATES DISTRICT COURT

10 FOR THE CENTRAL DISTRICT OF CALIFORNIA

11 SOUTHERN DIVISION

12 SECURITIES AND EXCHANGE
13 COMMISSION,
14 Plaintiff,
15 v.
16 TLC INVESTMENTS & TRADE CO., ET AL.,
17 Defendants.

Civil Action No.
SACV-00-960-DOC (MLGx)

~~Proposed~~ Final Judgment of
Permanent Injunction and Other
Relief Against Thomas G. Cloud
and Cloud & Associates
Consulting, Inc.

Date: October 15, 2001
Time: 8:30 a.m.
Courtroom: 9D

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1 The motion of Plaintiff Securities and Exchange Commission
2 ("Commission") for summary judgment came on regularly for hearing on
3 October 15, 2001, Hon. David O. Carter, District Judge Presiding. The Court,
4 having considered the Commission's Statement of Uncontroverted Facts and
5 Conclusions of Law, Memorandum of Points and Authorities, supporting
6 Declarations, Defendants' opposing papers, arguments of counsel, and all
7 other matters presented to the Court, IT IS HEREBY ORDERED that Plaintiff
8 Commission's Motion for Summary Judgment is GRANTED against Defendants
9 Cloud and C&A.

10 I.

11 IT IS FURTHER ORDERED, ADJUDGED & DECREED that Defendants
12 Cloud and C&A, their officers, agents, servants, employees, attorneys-in-fact
13 and all persons in active concert or participation with any of them, who receive
14 actual notice of this Final Judgment, by personal service or otherwise, and
15 each of them, are permanently restrained and enjoined from, directly or
16 indirectly:

- 17 A. making use of any means or instruments of transportation or
18 communication in interstate commerce or of the mails to sell the
19 securities of any issuer, through the use or medium of any
20 prospectus or otherwise, unless and until a registration statement
21 is in effect as to such securities;
- 22 B. carrying or causing to be carried through the mails or in
23 interstate commerce, by any means or instruments of
24 transportation, for the purpose of sale or for delivery after sale,
25 the securities of any issuer, unless and until a registration
26 statement is in effect as to such securities; and

1 C. making use of any means or instruments of transportation or
2 communication in interstate commerce or of the mails to offer to
3 sell or offer to buy, through the use or medium of any prospectus
4 or otherwise, the securities of any issuer, unless and until a
5 registration statement has been filed with the Commission as to
6 such securities, or while a registration statement has been filed
7 with the Commission as to such securities, or while a registration
8 statement as to such securities is the subject of a refusal order or
9 stop order or (prior to the effective date of the registration
10 statement) any public proceeding or examination under Section 8
11 of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. § 77h;
12 in violation of Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§
13 77e(a) & 77e(c); provided, however, that nothing in this Final Judgment shall
14 apply to any security or transaction which is exempt from the provisions of
15 Section 5 of the Securities Act, 15 U.S.C. § 77e.

16 II.

17 IT FURTHER IS ORDERED, ADJUDGED AND DECREED that
18 Defendants Cloud and C&A and their agents, servants, employees, attorneys-
19 in-fact and all persons in active concert or participation with any of them, who
20 receive actual notice of this Final Judgment by personal service or otherwise,
21 and each of them, are permanently restrained and enjoined from, directly or
22 indirectly, in the offer or sale of the securities of any issuer, by the use of any
23 means or instruments of transportation or communication in interstate
24 commerce or by the use of the mails:

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

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

III.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendants Cloud and C&A and their 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, directly or indirectly, in connection with the purchase or sale of any security, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange:

- A. employing any device, scheme, or artifice to defraud;
- B. making any untrue statement of a material fact or omitting to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- C. engaging in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person;

in violation of Section 10(b) of the Securities Exchange Act of 1934, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

IV.

1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
2 Defendants Cloud and C&A, jointly and severally, shall pay disgorgement in
3 the amount of \$1,119,556, representing their ill-gotten gains from the conduct
4 alleged in the Complaint, plus prejudgment interest thereon in the amount of
5 \$39,706.56, for a total of \$1,159,262.56. Payment shall be made within ten
6 days of the entry of this Final Judgment by cashier's check, certified check or
7 postal money order made payable to Robb Evans, Receiver for TLC
8 Investments & Trade Co., et al. and sent to Robb Evans, Receiver, at 11450
9 Sheldon Street, Sun Valley, California 91352-1121 under cover of a letter that
10 identifies the defendant, the name and case number of this litigation and the
11 name of the court. A copy of the cover letter and the check or money order
12 shall be simultaneously transmitted to counsel for the Commission at its Pacific
13 Regional Office, located at 5670 Wilshire Boulevard, 11th Floor, Los Angeles,
14 California 90036.

15 V.

16 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
17 Defendant Cloud is assessed, and shall pay to the Commission for delivery to
18 the United States Treasury, a civil penalty in the amount of \$110,000 pursuant
19 to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section
20 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3). Defendant Cloud shall
21 pay the penalty within ten days of the entry of this Final Judgment. Payment
22 shall be made by cashier's check, certified check or postal money order made
23 payable to the United States Treasury, and shall be transmitted to the
24 Comptroller, Securities and Exchange Commission, Operations Center, 6432
25 General Green Way, Stop 0-3, Alexandria, Virginia 22312, under cover of a
26 letter that identifies the defendant, the name and case number of this litigation
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1 and the name of the court. A copy of the cover letter and the check or money
2 order shall be simultaneously transmitted to counsel for the Commission at its
3 Pacific Regional Office, located at 5670 Wilshire Boulevard, 11th Floor, Los
4 Angeles, California 90036.

5 **VI.**

6 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
7 Defendant C&A is assessed, and shall pay to the Commission for delivery to
8 the United States Treasury, a civil penalty in the amount of \$550,000 pursuant
9 to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section
10 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3). Defendant C&A shall
11 pay the penalty within ten days of the entry of this Final Judgment. Payment
12 shall be made by cashier's check, certified check or postal money order made
13 payable to the United States Treasury, and shall be transmitted to the
14 Comptroller, Securities and Exchange Commission, Operations Center, 6432
15 General Green Way, Stop 0-3, Alexandria, Virginia 22312, under cover of a
16 letter that identifies the defendant, the name and case number of this litigation
17 and the name of the court. A copy of the cover letter and the check or money
18 order shall be simultaneously transmitted to counsel for the Commission at its
19 Pacific Regional Office, located at 5670 Wilshire Boulevard, 11th Floor, Los
20 Angeles, California 90036.

21 **VII.**

22 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this
23 Court shall retain jurisdiction over this action for all purposes, including to
24 implement and enforce the terms of this Final Judgment against Defendants
25 Thomas G. Cloud and Cloud & Associates Consulting, Inc. and all other orders
26 and decrees which have been or may be entered in this case, and to grant
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1 such other relief as this Court may deem necessary and just.

2 VIII.

3 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
4 compliance with this Final Judgment by Defendants Cloud and C&A shall not
5 be deemed a violation of the freeze placed on their assets pursuant to Part VI
6 of the Order of Preliminary Injunction and Orders: (1) Freezing Assets; (2)
7 Appointing a Receiver; (3) Prohibiting the Destruction of Documents; (4) for
8 Accounting; (5) for Repatriation of Assets; and (6) for Expedited Discovery,
9 issued by this Court on November 1, 2000. Such asset freeze shall otherwise
10 remain in full force and effect until such time that Defendants Cloud and C&A
11 fully satisfy the disgorgement, prejudgment interest and penalties ordered
12 herein.

13 * * * * *

14 There being no just reason for delay, the Clerk of the Court is directed,
15 pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, to enter this
16 Final Judgment forthwith.

17
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19 DATED:

20 *October 15, 2001*

David O. Carter
HONORABLE DAVID O. CARTER
UNITED STATES DISTRICT JUDGE

21 Respectfully submitted by:

22 *Marianne Wisner*
23 Marianne Wisner
24 Attorney for Plaintiff
Securities and Exchange Commission

PROOF OF SERVICE

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I am over the age of 18 years and not a party to this action. My business address is:
 5670 Wilshire Boulevard, 11th Floor, Los Angeles, California 90036-3648,
telephone no. (323) 965-3998, facsimile no. (323) 965-3908.

On September 17, 2001, I caused to be served the documents entitled **[PROPOSED]
FINAL JUDGMENT OF PERMANENT INJUNCTION AND OTHER RELIEF
AGAINST DEFENDANTS THOMAS G. CLOUD AND CLOUD & ASSOCIATES
CONSULTING, INC.** upon the parties to this action addressed as stated on the
attached service list by:

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 firm'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.

PERSONAL SERVICE: I caused to be personally delivered each such
envelope by hand to the office of the addressee in the attached service list.

FEDERAL EXPRESS: 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.

FAX (BY AGREEMENT ONLY): 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: September 17, 2001

Magnolia M. Marcelo
Magnolia M. Marcelo

SEC v. TLC INVESTMENTS & TRADE CO., et. al.
United States District Court - Central District of California
Southern Division
Case No. SACV 00-960 DOC (EEx)
(LA-2379)

SERVICE LIST

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and mailing today following ordinary business practices. I am readily familiar
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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
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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.

[] **PERSONAL SERVICE:** I caused to be personally delivered each such
envelope by hand to the office of the addressee in the attached service list.

[X] **FEDERAL EXPRESS:** By placing in sealed envelope(s) designated by
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SEC v. TLC INVESTMENTS & TRADE CO., et. al.
United States District Court - Central District of California
Southern Division
Case No. SACV 00-960 DOC (EEx)
(LA-2379)

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