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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

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OCT 05 2001

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

12 Richard W. Wiekling
13 Clerk, U.S. District Court
Northern District of California
San Jose

SW

Civil No. C-98-21137-SW/WAI

[PROPOSED] FINAL JUDGMENT
OF PERMANENT INJUNCTION
AND OTHER RELIEF AGAINST
DEFENDANT HEN TRUONG

16 SECURITIES AND EXCHANGE COMMISSION,

17 Plaintiff,

18 vs.

19 HANH TRUONG, HIEU TRUONG, HEN TRUONG,
20 NINA VINH, MIKE PIRBAZARI, and CHRISTOPHER
21 NGUYEN,

22 Defendants.

SW
[Handwritten notes]
of record

OCT 12 2001

ENTERED IN CIVIL DOCKET ON:

FINAL JUDGMENT

1
2 This proceeding arises from the Complaint for Insider Trading in Violation of the Federal
3 Securities Laws (the "Complaint") filed by the plaintiff Securities and Exchange Commission
4 ("Commission") on November 16, 1998, against defendants Hanh Truong ("Hanh"), Hen Truong
5 ("Hen"), Hieu Truong ("Hieu"), Christopher Nguyen ("Nguyen"), Nina Vinh and Mike Pirbazari for
6 violations of Section 17(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. § 77q(a), Section
7 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78j(b), and Rule 10b-5,
8 17 C.F.R. 240.10b-5, in connection with sales and short sales of Molecular Dynamics, Inc.
9 ("Molecular") common stock in late March 1994.

10
11 On April 12, 2000, this Court issued a written order (the "April 12 Order") granting
12 summary judgment in favor of defendants Hieu and Nguyen and granting partial summary judgment in
13 favor of defendants Hanh and Hen with respect to any Molecular trading that occurred before March 22,
14 1994. In the April 12 Order, the Court also denied summary judgment in favor of Hanh and Hen with
15 respect to Hen's short sale of 15,000 Molecular shares on March 23 and 24, 1994 in his newly opened
16 account at McLaughlin Capital (the "McLaughlin Account Short Sales").

17 The Court has considered the Consent to the Entry of Permanent Injunction and Other
18 Relief ("Consent") of defendant Hen in which he: admits service upon him of the Summons and
19 Complaint in this action and the jurisdiction of this Court over him and over the subject matter of this
20 action; acknowledges having been fully advised and informed of his right to a judicial determination of
21 the Commission's allegations relating to the McLaughlin Account Short Sales; waives the entry of
22 findings of fact and conclusions of law as provided by Rule 52 of the Federal Rules of Civil Procedure
23 with respect to the McLaughlin Account Short Sales; agrees to neither admit nor deny the allegations in
24 the Complaint relating to the McLaughlin Account Short Sales; voluntarily consents to the entry of this
25 Final Judgment of Permanent Injunction and Other Relief ("Final Judgment") as set forth in the
26 Consent; and waives notice of hearing upon the entry of this Final Judgment. The Court being fully
27 advised and there being no just reason for delay hereby makes final as to defendant Hen its grant of
28

1 partial summary judgment as to any Molecular trading before March 22, 1994 and denial of summary
2 judgment as to the McLaughlin Account Short Sales in the April 12 Order. The Court furthermore
3 enters as its Final Judgment that:

4 I.

5 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that defendant Hen, his
6 officers, agents, servants, employees and attorneys, and all persons acting in concert or participation
7 with him, who receive actual notice of this Final Judgment by personal service or otherwise, and each of
8 them, are permanently restrained and enjoined from, directly or indirectly, violating Section 17(a) of the
9 Securities Act [15 U.S.C. § 77q(a)] by, in the offer or sale of the securities of any issuer, by the use of
10 any means or instruments of transportation or communication in interstate commerce or by the use of the
11 mails:

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

19 II.

20 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant Hen, his
21 officers, agents, servants, employees and attorneys, and all persons acting in concert or participation
22 with him, who receive actual notice of this Final Judgment by personal service or otherwise, and each of
23 them, are permanently restrained and enjoined from, directly or indirectly, violating Section 10(b) of the
24 Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5] by the use of
25 any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national
26 securities exchange:
27
28

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

8
9 III.

10 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Hen shall pay
11 disgorgement of \$66,250 on the McLaughlin Account Short Sales, prejudgment interest of \$25,621
12 (calculated using a 4.46% annual rate from April 6, 1994 to October 1, 2001), postjudgment interest
13 of \$941 on the disgorgement amount calculated pursuant to 28 U.S.C. § 1961, and a civil monetary
14 penalty of \$66,250, representing a one-time penalty equal to the profits on the McLaughlin Account
15 Short Sales, pursuant to Section 21A(a)(2) of the Exchange Act [15 U.S.C. § 78uu(a)(2)]. Hen will
16 pay disgorgement of \$66,250, with any accrued interest from an escrowed account, into the Court
17 registry upon entry of this Final Judgment. Hen will pay within six months from the entry of the
18 Final Judgment, in two installments, the prejudgment interest of \$25,621, the postjudgment interest of
19 \$941 and the civil monetary penalty of \$66,250. The first payment of \$46,249 shall be due within
20 ninety days of the entry of the Final Judgment and the second payment shall be due ninety days
21 thereafter. To make the first payment, Hen shall pay \$25,621 by check to the Court registry as the
22 prejudgment interest on the principal disgorgement amount. At the same time, Hen shall pay \$20,628
23 to the Comptroller, U.S. Securities and Exchange Commission, Operations Center, 6432 General
24 Green Way, Stop O-3, Alexandria, Virginia 22312, as a portion of the penalty amount and post-
25 judgment interest. Hen's final payment of \$46,363 as the remaining balance of the penalty amount
26 and post-judgment interest shall be due ninety days thereafter. Hen shall make this final payment to
27 the Office of the Secretary, U.S. Securities and Exchange Commission, 6432 General Green Way,
28

1 Stop O-3, Alexandria, Virginia 22312. The payments to the United States Securities and Exchange
2 Commission and shall be under cover of a letter that identifies the defendant, the name and case
3 number of this litigation, and the court. A copy of each such cover letter shall be simultaneously
4 transmitted to counsel for the Commission in this action at its San Francisco office, located at 44
5 Montgomery Street, Suite 1100, San Francisco, California 94104.

6 IV.

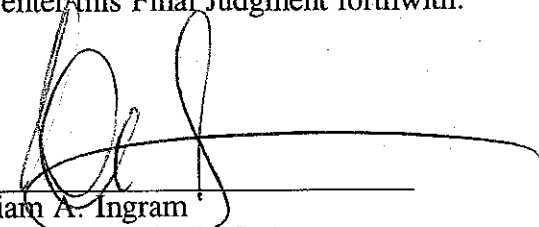
7 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the provisions of the
8 Consent filed concurrently with this Final Judgment are incorporated herein by reference, and that Hen
9 shall comply with all terms of his Consent.

10 V.

11 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain
12 jurisdiction over this action for the purpose of implementing and carrying out the terms of the Consent
13 and Final Judgment and to entertain any suitable application or motion, by the parties, within the
14 jurisdiction of this Court. In the event of any appeal of the April 12 Order by or against any other
15 defendant, Hen's duties, rights and obligations under this Final Judgment shall not be affected by any
16 decision on appeal or trial following appeal.

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

19 DATED: October 9, 2001

20
21 
22 William A. Ingram
23 United States District Judge

24 Presented by:

25 
26 John S. Yun
27 Attorney for Plaintiff
28 SECURITIES AND EXCHANGE COMMISSION