

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

SECURITIES EXCHANGE ACT OF 1934  
Release No. 54069/June 29, 2006

ADMINISTRATIVE PROCEEDING  
File No. 3-12228

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In the Matter of :  
: ORDER MAKING FINDINGS AND  
JAMES E. FRANKLIN : IMPOSING SANCTION BY DEFAULT

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### SUMMARY

This Order bars James E. Franklin (Franklin), from participating in an offering of penny stock. Franklin was previously enjoined against violations of the securities laws based on his wrongdoing in a scheme to defraud involving penny stocks.

### I. BACKGROUND

The Securities and Exchange Commission (Commission) issued its Order Instituting Proceedings (OIP) against Franklin on March 6, 2006, pursuant to Section 15(b) of the Securities Exchange Act of 1934 (Exchange Act). The OIP alleges that Franklin was permanently enjoined in 2005 from violating the antifraud and other provisions of the federal securities laws. The only sanction authorized by the OIP is a penny stock bar.

Franklin was served with the OIP on May 31, 2006. His answer to the OIP was due within twenty days of service. See 17 C.F.R. § 201.220(b); OIP at 3. Previously, Franklin was advised that if his answer were not received by that date, the undersigned would enter an order by default imposing a penny stock bar. See James E. Franklin, Admin. Proc. No. 3-12228 (A.L.J. June 7, 2006) (unpublished). Franklin failed to file an answer. A respondent who fails to file an answer to the OIP may be deemed to be in default, and the administrative law judge may determine the proceeding against him. See 17 C.F.R. §§ 201.155(a), .220(f); OIP at 3. Thus, Franklin is in default, and the undersigned finds that the allegations in the OIP are true.

### II. FINDINGS OF FACT

In 2005, Franklin was permanently enjoined from violating the antifraud, antitouting, and registration provisions of the federal securities laws, Sections 5(a), 5(c), 17(a), and 17(b) of the

Securities Act of 1933 and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.<sup>1</sup> SEC v. Franklin, No. 02CV0084 IEG (RBB) (S.D. Cal. Dec. 15, 2005). The wrongdoing that underlies the injunction occurred during 1997 and 1998. Franklin, a resident of San Diego, California, orchestrated a fraudulent scheme to tout at least seven stocks, including Easy Cellular, Inc. (Easy Cellular), a penny stock, on Red Hot Stocks, a website that he and an associate operated. Franklin acquired the stocks cheaply (through private offerings, open-market purchases, and consulting fees) in various accounts, including a Canadian brokerage account in the name of Vector Keel Ltd., which he controlled. He then sold the shares after their price increased following false and misleading “profiles” of the companies on the Red Hot Stocks website. The “profiles” recommended that investors purchase a stock without disclosing that Franklin intended to sell his own shares in coordination with the touts. Additionally, another Franklin-controlled company, Initial Public Offering Consultants, Inc., provided public relations services to Easy Cellular and other companies profiled in the website.

### III. CONCLUSIONS OF LAW

Franklin has been permanently enjoined “from engaging in or continuing any conduct or practice in connection . . . with the purchase or sale of any security” within the meaning of Sections 15(b)(4)(C) and 15(b)(6)(A)(iii) of the Exchange Act. Further, Easy Cellular stock was a penny stock within the meaning of Exchange Act Section 3(a)(51) and Rule 3a51-1, and in the wrongdoing that underlay his injunction, Franklin was a “person participating in an offering of penny stock” within the meaning of Exchange Act Section 15(b)(6)(C).

### IV. SANCTION

Franklin will be barred from participating in an offering of penny stock. Thus, he will be barred from acting as a promoter, finder, consultant, or agent; or otherwise engaging in activities with a broker, dealer, or issuer for purposes of the issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock. This sanction will serve the public interest and the protection of investors, pursuant to Section 15(b) of the Exchange Act. It accords with Commission precedent and the sanction considerations set forth in Steadman v. SEC, 603 F.2d 1126, 1140 (5th Cir. 1979), aff’d on other grounds, 450 U.S. 91 (1981). Franklin’s unlawful conduct was recurring and egregious, extending over a period of many months. There are no mitigating circumstances.

### V. ORDER

IT IS ORDERED that, pursuant to Section 15(b) of the Securities Exchange Act of 1934, JAMES E. FRANKLIN IS BARRED from participating in an offering of penny stock.

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Carol Fox Foelak  
Administrative Law Judge

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<sup>1</sup> He was also ordered to pay a third-tier civil penalty of \$770,000.