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Feb 3 2004
CENTRAL DISTRICT OF CALIFORNIA
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CENTRAL DISTRICT OF CALIFORNIA
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1 Paul R. Berger
2 Kathleen A. Ford
3 Russell G. Ryan
4 J. Lee Buck, II
5 Keith A. O'Donnell
6 Attorneys for Plaintiff
7 Securities and Exchange Commission
8 450 Fifth Street, N.W., Mail Stop 911
9 Washington, D.C. 20549-0911
10 (202) 942-2787 (Ford)

11 LOCAL COUNSEL
12 Karen L. Matteson (Cal. Bar No. 102103)
13 Securities and Exchange Commission
14 5670 Wilshire Boulevard, 11th Floor
15 Los Angeles, CA 90036-3648
16 (323) 965-3840; FAX: (323) 965-3908

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11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA

13 -----*
14 SECURITIES AND EXCHANGE COMMISSION,
15
16 Plaintiff,

17 - v. -

18 WILLIAM R. KERR and
19 CHINA INVESTMENT GROUP LTD.,

: Civ. Action No.
: CV02-9659-SJO (PJWx)

: FINAL JUDGMENT AS TO
: WILLIAM R. KERR

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

20 -----*
21 Defendant William R. Kerr has entered a general appearance
22 herein; admitted the jurisdiction of this Court over him and over
23 the subject matter of this action; waived the entry of findings
24 of fact and conclusions of law pursuant to Rule 52 of the Federal
25 Rules of Civil Procedure; and without admitting or denying the
26 allegations of the complaint, except as to jurisdiction, which he
27 admits, consented to the entry of this Final Judgment. It

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1 further appearing that this Court has jurisdiction over Kerr and
2 the subject matter hereof, and the Court being fully advised in
3 the premises and there being no just cause for delay, it is
4 hereby ordered, adjudged and decreed pursuant to Rule 54(b) of
5 the Federal Rules of Civil Procedure as follows:

6 I.

7 Kerr, his agents, servants, employees, and attorneys-in-
8 fact, successors, and assigns and all those persons in active
9 concert or participation with them who receive actual notice of
10 this Final Judgment by personal service or otherwise, and each of
11 them, be and hereby are permanently restrained and enjoined from
12 violating Section 5(a) of the Securities Act, [15 U.S.C. § 77e(a)]
13 by, directly or indirectly, in the absence of any applicable
14 exemption,
15

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

3 II.

4 Kerr, his agents, servants, employees, and attorneys-in-
5 fact, successors, and assigns and all those persons in active
6 concert or participation with them who receive actual notice of
7 this Final Judgment by personal service or otherwise, and each of
8 them, be and hereby are permanently restrained and enjoined from
9 violating Section 5(c) of the Securities Act [15 U.S.C. § 77e(c)]
10 by, directly or indirectly, in the absence of any applicable
11 exemption, making use of any means or instruments of
12 transportation or communication in interstate commerce or of the
13 mails to offer to sell or offer to buy through the use or medium
14 of any prospectus or otherwise any security, unless a
15 registration statement has been filed as to such security, or
16 while the registration statement is the subject of a refusal
17 order or stop order or (prior to the effective date of the
18 registration statement) any public proceeding of examination
19 under Section 8 of the Securities Act [15 U.S.C. § 77h].
20

21 III.

22 Kerr, his agents, servants, employees, and attorneys-in-
23 fact, successors, and assigns and all those persons in active
24 concert or participation with them who receive actual notice of
25 this Final Judgment by personal service or otherwise, and each of
26 them, be and hereby are permanently restrained and enjoined from
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1 violating Section 17(a) of the Securities Act of 1933
2 ("Securities Act") [15 U.S.C. § 77q(a)], in the offer or sale of
3 any securities by use of any means or instruments of
4 transportation or communication in interstate commerce or by the
5 use of the mails, directly or indirectly:

- 6 A. to employ any device, scheme, or artifice to defraud;
7 or
8 B. to obtain money or property by means of an untrue
9 statement of a material fact or omission to state a
10 material fact necessary in order to make the statements
11 made, in light of the circumstances under which they
12 were made, not misleading; or
13 C. to engage in any transaction, practice, or course of
14 business which operates or would operate as a fraud or
15 deceit upon the purchaser.
16

17 IV.

18 Kerr, his agents, servants, employees, attorneys-in-fact,
19 successors, and assigns and all those persons in active concert
20 or participation with them who receive actual notice of this
21 Final Judgment by personal service or otherwise, and each of
22 them, be and they hereby are permanently restrained and enjoined
23 from violating Section 10(b) of the Securities Exchange Act of
24 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 [17
25 C.F.R. § 240.10b-5] promulgated thereunder, directly or
26 indirectly, by the use of any means or instrumentality of
27
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1 interstate commerce, or of the mails, or any facility of any
2 national securities exchange:

3 A. to employ any device, scheme, or artifice to defraud;

4 or

5 B. to make any untrue statement of a material fact or omit
6 to state a material fact necessary in order to make the
7 statements made, in light of the circumstances under
8 which they were made, not misleading; or

9 C. to engage in any act, practice, or course of business
10 which operates or would operate as a fraud or deceit
11 upon any person, in connection with the purchase or
12 sale of any security.

13
14 V.

15 Kerr, his agents, servants, employees, attorneys-in-fact,
16 successors, and assigns and all those persons in active concert
17 or participation with them who receive actual notice of this
18 Final Judgment by personal service or otherwise, and each of
19 them, be and they hereby are permanently restrained and enjoined
20 from violating Section 15(a) of the Exchange Act [15 U.S.C. §
21 78o(a)] by, directly or indirectly effecting securities
22 transactions for the account of others or engaging in business as
23 a dealer without being registered as a broker-dealer or being
24 associated with a registered broker-dealer for purposes of those
25 transactions or that business.

VI.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that based on Kerr's sworn representations in his Statement of Financial Condition dated April 8, 2003, and other documents and information submitted to the Commission and in recognition of the outstanding restitution order imposed on Kerr in connection with the case of the United States of America v. William R. Kerr, No. CR 02-1281 (C.D.Cal.) (information filed December 19, 2002), the Court is not ordering Defendant to pay a civil penalty and is waiving payment of disgorgement of \$10,757,775, as well as payment of pre-judgment interest thereon. The determination not to impose a civil penalty and to waive payment of the disgorgement and pre-judgment interest is contingent upon the accuracy and completeness of Kerr's Statement of Financial Condition. If at any time following the entry of this Final Judgment the Commission obtains information indicating that Kerr's representations to the Commission concerning his assets, income, liabilities, or net worth were fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such representations were made, the Commission may, at its sole discretion and without prior notice to Kerr, petition the Court for an order requiring him to pay the unpaid portion of the disgorgement, pre-judgment and post-judgment interest thereon, and the maximum civil penalty allowable under the law. In connection with any such petition, the only contestable issue

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1 shall be whether the financial information provided by Kerr was
2 fraudulent, misleading, inaccurate, or incomplete in any material
3 respect as of the time such representations were made. In its
4 petition, the Commission may move this Court to consider all
5 available remedies, including, but not limited to, ordering Kerr
6 to pay funds or assets, directing the forfeiture of any assets,
7 or sanctions for contempt of this Final Judgment. The Commission
8 may also request additional discovery. Apart from the
9 contestable issue referenced above, Kerr may not, by way of
10 defense to such petition: (1) challenge the validity of this
11 Consent or the Final Judgment; (2) contest the allegations in the
12 Complaint filed by the Commission; (3) assert that payment of
13 disgorgement, pre-judgment and post-judgment interest or a civil
14 penalty should not be ordered; (4) contest the amount of
15 disgorgement and pre-judgment and post-judgment interest; (5)
16 contest the imposition of the maximum civil penalty allowable
17 under the law; or (6) assert any defense to liability or remedy,
18 including, but not limited to, any statute of limitations
19 defense.
20

21 VII.

22
23 The annexed Consent of William R. Kerr is hereby
24 incorporated herein with the same force and effect as if fully
25 set forth herein.
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VIII.

1
2 This Court shall retain jurisdiction of this action,
3 pursuant to Rule 65(d) of the Federal Rules of Civil Procedure,
4 for all purposes, including the implementation and enforcement of
5 this Final Judgment.

6 IX.

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

10 SO ORDERED, this 30 day of JAN, 2004 at _____.

11
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13 _____
14 UNITED STATES DISTRICT JUDGE
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PROOF OF SERVICE

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

[X] U.S. SECURITIES AND EXCHANGE COMMISSION, 450 Fifth Street, NW, Washington, DC 20549-0911

Telephone: (202) 942-2787 Fax: (202) 942-9581

On January 29, 2004, I served the document entitled **FINAL JUDGEMENT AS TO WILLIAM R. KERR** 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 Washington, DC, 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 Washington, DC, 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 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 Washington, DC.

[] **FAX (BY AGREEMENT ONLY):** By transmitting the document by facsimile transmission. The transmission was reported as complete and without error.

[X] **(Federal)** I declare that I am admitted to the bar of this Court pro hac vice. I declare under penalty of perjury that the foregoing is true and correct

Date: January 29, 2004


KATHLEEN A. FORD

SEC v. WILLIAM R. KERR, et al.
United States District Court - Central District of California
Case No. CV 02-9659 SJO (PJWx)

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SERVICE LIST

William R. Kerr
China Investment Group, Ltd.
c/o Derrick & Briggs
100 N. Broadway, Suite 2000
Oklahoma City, OK 73102

Jay L. Lichtman, Esq.
Law Offices of Jay L. Lichtman
Paramount Plaza - Suite 2000
3550 Wilshire Boulevard
Los Angeles, CA 90010