

MADE JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

ALAN V. PHAN,

Defendant.

Case No. CV 03-3698 GW (PLAx)

**FINAL JUDGMENT AS TO
DEFENDANT ALAN V. PHAN**

The Securities and Exchange Commission having filed a Complaint and Defendant Alan V. Phan having entered a general appearance; consented to the Court’s jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction); waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant’s agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of

///

1 interstate commerce, or of the mails, or of any facility of any national securities
2 exchange, in connection with the purchase or sale of any security:

- 3 (a) to employ any device, scheme, or artifice to defraud;
- 4 (b) to make any untrue statement of a material fact or to omit to state a
5 material fact necessary in order to make the statements made, in the
6 light of the circumstances under which they were made, not
7 misleading; or
- 8 (c) to engage in any act, practice, or course of business which operates or
9 would operate as a fraud or deceit upon any person.

10 **II.**

11 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED
12 that Defendant and Defendant's agents, servants, employees, attorneys, and all
13 persons in active concert or participation with them who receive actual notice of
14 this Final Judgment by personal service or otherwise are permanently restrained
15 and enjoined from violating Section 17(a) of the Securities Act of 1933 (the
16 "Securities Act") [15 U.S.C. § 77q(a)] in the offer or sale of any security by the use
17 of any means or instruments of transportation or communication in interstate
18 commerce or by use of the mails, directly or indirectly:

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

26 **III.**

27 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that,
28 pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)] and

1 Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)], Defendant is prohibited,
2 for five (5) years following the date of entry of this Final Judgment, from acting as
3 an officer or director of any issuer that has a class of securities registered pursuant
4 to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file
5 reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

6 **IV.**

7 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that
8 Defendant shall pay a civil penalty in the amount of \$55,000 pursuant to Section
9 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the
10 Exchange Act [15 U.S.C. § 78u(d)(3)]. Defendant shall make this payment within
11 ten (10) business days after entry of this Final Judgment by certified check, bank
12 cashier's check, or United States postal money order payable to the Securities and
13 Exchange Commission. The payment shall be delivered or mailed to the Office of
14 Financial Management, Securities and Exchange Commission, Operations Center,
15 6432 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312, and shall be
16 accompanied by a letter identifying Defendant Alan V. Phan as a defendant in this
17 action; setting forth the title and civil action number of this action and the name of
18 this Court; and specifying that payment is made pursuant to this Final Judgment.
19 Defendant shall pay post-judgment interest on any delinquent amounts pursuant to
20 28 USC § 1961. The Commission shall remit the funds paid pursuant to this
21 paragraph to the United States Treasury.

22 **V.**

23 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the
24 Consent is incorporated herein with the same force and effect as if fully set forth
25 herein, and that Defendant shall comply with all of the undertakings and
26 agreements set forth therein.

27 ///

28 ///

1 **VI.**

2 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this
3 Court shall retain jurisdiction of this matter for the purposes of enforcing the terms
4 of this Final Judgment.

5 **VII.**

6 There being no just reason for delay, pursuant to Rule 54(b) of the Federal
7 Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment
8 forthwith and without further notice.

9
10 Dated: May 20, 2008



11 **THE HON. GEORGE WU**
12 **UNITED STATES DISTRICT JUDGE**