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CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
RIVERSIDE

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff

vs

MX FACTORS, LLC, BBH
RESOURCES, LLC, JTL FINANCIAL
GROUP, LLC, RICHARD M
HARKLESS, DANIEL BERARDI,
THOMAS HAWKESWORTH, and
RANDALL W HARDING,

Defendants

Case No EDCV 04-223 VAP (SGLx)

**JUDGMENT OF PERMANENT
INJUNCTION AND OTHER RELIEF
AGAINST DEFENDANT RANDALL
W. HARDING**

21 Plaintiff Securities and Exchange Commission ("Commission"), having
22 filed and served upon Defendant Randall W Harding ("Defendant") a Summons
23 and Complaint in this action, Harding having admitted service upon him of the
24 Summons and Complaint in this action and the jurisdiction of this Court over him
25 and over the subject matter of this action, having been fully advised and informed
26 of his right to a judicial determination of this matter, having waived the entry of
27 findings of fact and conclusions of law as provided by Rule 52 of the Federal
28 Rules of Civil Procedure, having consented to the entry of this Judgment of
Permanent Injunction and Other Relief Against Randall W Harding ("Judgment")

DOCKETED ON CM
JUN 30 2004
BY [Signature]

1 without admitting or denying the allegations in the Complaint, except as
2 specifically set forth herein and in the Consent of Randall W Harding to Entry of
3 Judgment of Permanent Injunction and Other Relief ("Consent"), no notice of
4 hearing upon the entry of this Judgment being necessary, and this Court being
5 fully advised.

6 **I.**

7 IT IS ORDERED, ADJUDGED AND DECREED that Defendant Harding,
8 and his officers, agents, servants, employees, attorneys, subsidiaries and affiliates,
9 and those persons in active concert or participation with any of them, who receive
10 actual notice of this Order, by personal service or otherwise, and each of them, be
11 and hereby are permanently restrained and enjoined from, directly or indirectly,
12 making use of any means or instruments of transportation or communication in
13 interstate commerce or of the mails, to sell, to offer to sell, or to offer to buy any
14 security, or carrying or causing securities to be carried through the mails or in
15 interstate commerce, by any means or instruments of transportation, for the
16 purpose of sale or delivery after sale, in violation of Sections 5(a) and 5(c) of the
17 Securities Act, 15 U S C §§ 77(e)(a) and 77(e)(c)

18 **II.**

19 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
20 Defendant Harding, and his officers, agents, servants, employees, attorneys,
21 subsidiaries and affiliates, and those persons in active concert or participation with
22 any of them, who receive actual notice of this Order, by personal service or
23 otherwise, and each of them, be and hereby are permanently restrained and
24 enjoined from, directly or indirectly, in the offer or sale of any securities, by the
25 use of any means or instruments of transportation or communication in interstate
26 commerce or by use of the mails

27 A employing any device, scheme or artifice to defraud,

28 B obtaining money or property by means of any untrue statement of a

1 material fact or any omission to state a material fact necessary in
2 order to make the statements made, in light of the circumstances
3 under which they were made, not misleading, or

4 C engaging in any transaction, practice, or course of business which
5 operates or would operate as a fraud or deceit upon the purchaser
6 in violation of Section 17(a) of the Securities Act, 15 U S C § 77q(a)

7 **III.**

8 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
9 Defendant Harding, and his officers, agents, servants, employees, attorneys,
10 subsidiaries and affiliates, and those persons in active concert or participation with
11 any of them who receive actual notice of this Order, by personal service or
12 otherwise, and each of them, be and hereby are permanently restrained and
13 enjoined from, directly or indirectly, in connection with the purchase or sale of any
14 security, by the use of any means or instrumentality of interstate commerce, or of
15 the mails, or of any facility of any national securities exchange

16 A employing any device, scheme, or artifice to defraud,

17 B making any untrue statement of a material fact or omitting to state a
18 material fact necessary in order to make the statements made, in the
19 light of the circumstances under which they were made, not
20 misleading, or

21 C engaging in any act, practice, or course of business which operates or
22 would operate as a fraud or deceit upon any person
23 in violation of Section 10(b) of the Exchange Act, 15 U S C § 78j(b), and Rule
24 10b-5 thereunder, 17 C F R § 240 10b-5

25 **IV.**

26 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
27 Defendant Harding, and his officers, agents, servants, employees, attorneys,
28 subsidiaries and affiliates, and those persons in active concert or participation with

1 any of them, who receive actual notice of this Order, by personal service or
2 otherwise, and each of them, be and hereby are permanently restrained and
3 enjoined from making use of the mails or any means or instrumentality of
4 interstate commerce to effect any transactions in, or to induce or attempt to induce
5 the purchase or sale of, any security, without being registered as a broker and/or
6 dealer pursuant to Section 15(b) of the Exchange Act, 15 U S C § 78o(b), in
7 violation of Section 15(a) of the Exchange Act, 15 U S C § 78o(a)

8 **V.**

9 IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the
10 Court retains jurisdiction to determine appropriate amounts of disgorgement,
11 prejudgment interest, and civil penalties that shall be paid by Defendant Harding
12 for the conduct alleged in the Commission's Complaint Prejudgment interest
13 shall be calculated pursuant to 28 U S C § 1961 based on the date of entry of the
14 order fixing the amount of disgorgement In connection with any hearing to
15 determine the appropriate amounts of disgorgement and civil penalties, Defendant
16 Harding shall not raise as a defense that they are not liable for payment of
17 *disgorgement or civil penalties because they did not violate the provisions of the*
18 Securities Act, the Exchange Act, or rules thereunder as set forth in the Complaint
19 Solely for the purposes of determining the amounts of disgorgement and civil
20 penalties, the Court shall accept and deem as true the facts alleged in the
21 Commission's Complaint Defendant Harding shall not be entitled to a trial by
22 jury for purposes of determining the appropriate amounts of disgorgement or civil
23 penalties

24 **VI.**

25 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the
26 provisions of the Consent filed concurrently with this Judgment are incorporated
27 herein with the same force and effect as if fully set forth herein and that Defendant
28 Harding shall comply with his Consent

1 **VII.**

2 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
3 Defendant Harding, and his agents, servants, employees and attorneys, shall
4 continue to cooperate with and assist the Receiver appointed in this case and shall
5 take no action, directly or indirectly, to hinder, obstruct, or otherwise interfere
6 with the Receiver or his attorneys, accountants, employees or agents, in the
7 conduct of his duties or to interfere in any manner, directly or indirectly, with the
8 custody, possession, management, or control by the Receiver of the funds, assets,
9 collateral, premises, and choses in action belonging to, being managed by or in the
10 possession of or control of Mx, BBH, or JTL, or any of their subsidiaries and
11 affiliates

12 **VIII.**

13 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the asset
14 freeze provided for in paragraphs VI and VII of the March 8, 2004 Stipulation
15 Between Plaintiff Securities and Exchange Commission and Defendant Randall
16 W Harding and Preliminary Injunction and Orders (1) Freezing Assets, (2)
17 Appointing a Permanent Receiver, (3) Prohibiting the Destruction of Documents,
18 (4) Requiring Accountings, as amended by the Court on April 20, 2004, shall
19 remain in full force and effect as to Defendant Harding, until further order of this
20 Court

21 **IX.**

22 IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED
23 that during the pendency of this action against any defendant, Defendant Harding
24 shall remain subject to the discovery provisions of the Federal Rules of Civil
25 Procedure which apply to parties, and, in addition, that Defendant Berardi agrees
26 and undertakes, without service of a subpoena, to appear for his deposition or to
27 testify as a witness at any trial of this action or at any related proceeding Failure
28 to comply with the foregoing will subject Defendant Harding to the remedies and

1 sanctions set forth in Rule 37 of the Federal Rules of Civil Procedure and all other
2 available remedies

3 X.

4 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this
5 Court shall retain jurisdiction over this action for all purposes, including
6 implementing and carrying out the terms of this Judgment and all other orders
7 which may be entered herein, to resolve the Commission's pending claims against
8 Defendant Harding for disgorgement, prejudgment interest, and civil penalties,
9 and to entertain any suitable application or motion for additional relief within the
10 jurisdiction of this Court

11
12 XI.

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

16
17 IT IS SO ORDERED

18
19 DATED June 29, 2004

Virginia A Phillips
The Honorable Virginia A Phillips
UNITED STATES DISTRICT JUDGE

20
21
22 APPROVED AS TO FORM AND CONTENT

23
24
25 DATED June 23, 2004

Randall W. Harding
Defendant Randall W. Harding

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

U S SECURITIES AND EXCHANGE COMMISSION, 5670 Wilshire Boulevard, 11th Floor, Los Angeles, California 90036

Telephone (323) 965-3998 Fax (323) 965-3908

On June 25, 2004, I served the document entitled **JUDGMENT OF PERMANENT INJUNCTION AND OTHER RELIEF AGAINST DEFENDANT RANDALL W. HARDING** 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 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

FACSIMILE (by agreement of parties 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 June 25, 2004

Magnolia M Marcelo
MAGNOLIA M MARCELO

SEC v. MX FACTORS, LLC, et al.
United States District Court - Central District of California
Case No. EDCV 04-223 VAP (SGLx)
(LA-2790)

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