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FILED
San Diego Superior Court

NOV 18 2013

Clerk of the Superior Court
BY: H. HENSON

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

THE PEOPLE OF THE STATE OF CALIFORNIA, by and through the California Corporations Commissioner,

Plaintiff,

vs.

RMC CAPITAL MANAGEMENT, INC., a California corporation; BURGESS NATHANIEL HALLUMS, an individual; INNOVATION FUND 2000, LLC, a California limited liability company; SEGUE CAPITAL, INC., a California corporation; PACIFIC PHOENIX COMMUNITIES, LLC, a California limited liability company; DAVID W. HOPTAR, an individual; and DOES 1-10, inclusive,

Defendants,

and

IMMCAPNMOTION, INC., a Delaware corporation; MISTNET MEDICAL DEVICES, INC., a Delaware corporation; MAGNETO INERTIAL SENSING TECHNOLOGY, INC., aka, MIST, a Nevada corporation; MIST NET, INC., an entity of unknown form; MIST, INC., an entity of unknown form; THORNTON CAPITAL ADVISORS, INC., a California corporation; DONALD J. COURTNEY, an individual; WALLACE BENWARD, an individual; and RELIEF DOES 1-10, inclusive,

Relief Defendants.

Case No.: 37-2011-00103198-CU-MC-CTL

~~[PROPOSED]~~ FINAL JUDGMENT
AGAINST DEFENDANT BURGESS
NATHANIEL HALLUMS

[IMAGED FILE]

ASSIGNED FOR ALL PURPOSES TO:
HON. WILLIAM S. DATO

Dept: C-67

Date Action Filed: December 30, 2011

1 Plaintiff, the People of the State of California, having filed a Second Amended Complaint
2 in this action and Defendant Burgess Nathaniel Hallums having (a) entered a general appearance,
3 (b) consented to the Court’s jurisdiction over him and the subject matter of this action, (c)
4 consented to entry of this Final Judgment without admitting or denying the allegations of the
5 Second Amended Complaint (except as to jurisdiction over him and the subject matter), (d)
6 waived findings of fact and conclusions of law, (e) waived any right to appeal from this Final
7 Judgment, and (f) waived any defense to this action, and the parties having stipulated to the entry
8 of the final judgment, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

9 **I.**

10 **INJUNCTIVE RELIEF**

11 IT IS HEREBY ORDERED THAT:

12 Defendant Burgess Nathaniel Hallums is hereby permanently enjoined from directly or
13 indirectly:

14 1. Violating Corporations Code section 25235 by engaging in any act, practice, or
15 course of business which is fraudulent, deceptive, or manipulative, including but not limited to,
16 operating a Ponzi scheme, misusing clients funds, employing fraudulent practices and engaging in
17 transactions that operate as a fraud to the detriment of clients;

18 2. Violating Corporations Code section 25238 and California Code of Regulations
19 section 260.238 by engaging in investment advisory activities in an unfair, inequitable and
20 unethical manner, including but not limited to failing to disclose material facts about the
21 representative, and misrepresenting or omitting to state a material fact about fees for the advisory
22 services;

23 3. Violating Corporations Code section 25241 and California Code of Regulations
24 section 260.241.3 by maintaining false and inaccurate books and records;

25 4. Violating Corporations Code section 25404 by knowingly making an untrue
26 statement to the Commissioner during the course of her investigation and examination, with the
27 intent to impede, obstruct, or influence the administration or enforcement of the Corporate
28 Securities Law of 1968;

1 5. Violating California Code of Regulations section 260.237, by failing to have
2 clients' funds and securities audited and failing to provide itemized statements to clients; and

3 6. Violating Corporations Code section 25401 by offering to sell or selling any
4 security of any kind, including but not limited to the securities described in the Second Amended
5 Complaint, by means of any written or oral communication which includes any untrue statement
6 of material fact or omits or fails to state any material fact necessary in order to make the
7 statements made, in the light of the circumstances under which they are made, not misleading,
8 including but not limited to the misrepresentations and/or omissions alleged in the Second
9 Amended Complaint.

10 **II.**

11 **ORDER BARRING**

12 IT IS FURTHER ORDERED THAT:

13 Defendant Burgess Nathaniel Hallums is hereby barred from any position of employment,
14 management or control of any broker-dealer, investment adviser or commodity adviser.

15 **III.**

16 **RESTITUTION AND CIVIL PENALTY**

17 IT IS FURTHER ORDERED THAT as a result of the violations alleged in Plaintiff's
18 Second Amended Complaint:

19 1. Defendant Burgess Nathaniel Hallums, joint and severally with Defendants RMC
20 Capital Management, Inc., Innovation Fund 2000, LLC, Segue Capital, Inc., and Pacific Phoenix
21 Communities, LLC, shall pay restitution in the total amount of \$10,409,046.99. Any restitution
22 amount recovered shall become an asset of the receivership estate.

23 2. Defendant Burgess Nathaniel Hallums, joint and severally with Defendants RMC
24 Capital Management, Inc., Innovation Fund 2000, LLC, Segue Capital, Inc., and Pacific Phoenix
25 Communities, LLC, shall pay civil penalties in the amount of \$875,000.00.

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1 IV.

2 ADDITIONAL RELIEF

3 IT IS FURTHER ORDERED THAT:

4 1. Eric J. Benink, the Receiver, shall retain control over all money and assets, as set
5 forth in Exhibit 2, acquired at the time the Receivership was ordered by this Court over Defendant
6 Burgess Nathaniel Hallums. The items set forth in Exhibit 2 shall be referred to as the
7 “Receivership Assets.”

8 2. All monies obtained through the enforcement of this Final Judgment shall be
9 applied first to the restitution order and second to the civil penalty order.

10 3. All monies actually recovered by the Receiver from third parties in the future shall
11 be credited to the restitution order.

12 4. All current Receivership Assets, including those assets identified in Exhibit 2, shall
13 be forfeited by Defendant Burgess Nathaniel Hallums, and shall be subject to the terms and
14 conditions in the April 27, 2012 Receivership Order. All assets identified in Exhibit 3 are not
15 subject to the Receivership Order.

16 5. Plaintiff or Receiver may seek to enforce the Final Judgment. Any recovery
17 obtained by the Receiver through the enforcement of the Final Judgment shall become property of
18 the Receivership Estate.

19 6. In the event it is shown by the Plaintiff that Defendant Burgess Nathaniel Hallums
20 had assets that were not known to the Receiver or identified in Exhibits 2 and 3, the Plaintiff may
21 seek relief from the court to modify this Final Judgment against the party violating this Final
22 Judgment to seek additional amounts of restitution and civil penalties from that party in an amount
23 according to proof by the Plaintiff. The request shall be made by noticed motion to permit
24 sufficient opportunity for all parties to be heard.

25 7. Any violation of this Final Judgment by Defendant Burgess Nathaniel Hallums or
26 efforts to seek additional restitution or civil penalties by the Plaintiff pursuant to such violation
27 shall not affect the ability of the Plaintiff to seek to collect from Defendant Burgess Nathaniel
28 Hallums the amount of the restitution and civil penalties specified in this Final Judgment.

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V.

COURT TO RETAIN JURISDICTION

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain jurisdiction of this action in order to implement and enforce the terms of the Stipulation between the parties and entry of this Final Judgment, and to entertain any suitable application or motion for additional relief or modification or any order made herein within the jurisdiction of the Court.

VI.

ENTRY OF JUDGMENT FORTHWITH

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Clerk of the Court shall enter this Judgment forthwith and without further notice.

VII.

SERVICE OF ORDER

IT IS FURTHER ORDERED:

Copies of this Final Judgment may be served by any means, including, but not limited to, first class mail, facsimile transmission or electronic mail transmission upon all parties, and any entity or person that may be subject to any provision of this Final Judgment. Plaintiff shall serve notice on all parties within 72 hours of the date of this Final Judgment.

IT IS SO ORDERED:

Dated: November 18, 2013

WILLIAM S. DATO
JUDGE OF THE SUPERIOR COURT