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FILED
Clerk of the Superior Court

NOV 15 2013

By: L. SAN NICOLAS, Deputy

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 DAVID W.
HOPTAR

[IMAGED FILE]

JUDGE: HON. WILLIAM S. DATO
DEPARTMENT: C-67

DATE ACTION FILED: 12/30/2011

TRIAL DATE: 11/22/2013

1 The People of the State of California, by and through the California Commissioner of
2 Corporations (now the Commissioner of Business Oversight) (hereinafter “Plaintiff”), on May 2,
3 2012, filed a Second Amended Complaint (hereinafter “SAC”), against defendant David W.
4 Hoptar and other parties.

5 Plaintiff’s SAC alleges violations of Corporations Code section 25238 and California
6 Code of Regulations section 260.238 (Unethical, unfair and inequitable conduct by an associated
7 person of an investment adviser) and Corporations Code section 25401 (the offer or sale of
8 securities by means of material misrepresentations and/or omission) of the Corporate Securities
9 Law of 1968 (“CSL”) against defendant David W. Hoptar.

10 Without admitting or denying any material allegation of the SAC, defendant David W.
11 Hoptar has voluntarily consented to entry of this Final Judgment, waiving any trial or adjudication
12 of any fact or law or the taking of any proof. However, for the limited purpose of the federal
13 Bankruptcy Code, specifically 11 United States Code section 523 subdivision (a)(19), defendant
14 David W. Hoptar has stipulated that this Final Judgment is for violations of the CSL and is not
15 dischargeable in bankruptcy court.

16 **NOW, THEREFORE, GOOD CAUSE APPEARING, IT IS HEREBY ORDERED**
17 **THAT JUDGMENT BE ENTERED AS FOLLOWS:**

18 1. The Order for Preliminary Injunction and Freezing Assets against defendant David
19 W. Hoptar issued on October 5, 2012 is hereby dissolved.

20 2. Pursuant to Corporations Code section 25530, subdivision (a), defendant David W.
21 Hoptar is hereby permanently enjoined from directly or indirectly engaging in, committing, aiding
22 and abetting, or performing, by any means whatsoever, any of the following acts:

23 a. Violating Corporations Code section 25238 and California Code of Regulations
24 section 260.238 by engaging in investment advisory activities in an unfair, inequitable and
25 unethical manner, including but not limited to failing to disclose material facts about his criminal
26 history; and

27 b. Violating Corporations Code section 25401, by offering to sell or selling any
28 security of any kind by means of any written or oral communication which includes any untrue

1 statement of material fact or omits or fails to state any material fact necessary in order to make the
2 statements made, in the light of the circumstances under which they are made, not misleading.

3 3. Pursuant to Corporations Code section 25530, subdivision (b), defendant David W.
4 Hoptar is hereby ordered to pay restitution and disgorgement in favor of Plaintiff in the amount of
5 \$100,000.00, as follows:

6 a. Defendant David W. Hoptar shall make a payment in the amount of \$10,000.00 by
7 December 10, 2013.

8 b. Defendant David W. Hoptar shall make payments of \$833.33 per month, beginning
9 on the 10th of January 2014 and continuing on the 10th of each month thereafter until December
10 2018, for a total of sixty (60) months.

11 c. Defendant David W. Hoptar shall make payments to Eric J. Benink, the court-
12 appointed receiver, at 550 West C Street, Suite 530, San Diego, California 92101.

13 d. If defendant David W. Hoptar misses a payment such that he is more than 15 days
14 late on any payment, a judgment of the remaining balance shall be entered and due immediately to
15 Plaintiff.

16 4. The parties shall bear their own expenses and costs, including attorneys' fees,
17 incurred in connection with this case and Final Judgment.

18 5. The Court shall retain jurisdiction of this action in order to implement and enforce
19 the terms of this Final Judgment and the duties of the court-appointed receiver, and to entertain
20 any suitable application or motion for additional relief or modification of any order made herein
21 within the jurisdiction of this Court, the Honorable William S. Dato and Honorable Jay M. Bloom.

22 IT IS SO ORDERED:

23
24 DATED: November 15, 2013

25 WILLIAM S. DATO
26 JUDGE OF THE SUPERIOR COURT