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9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11 **SOUTHERN DIVISION**

12
13 SECURITIES AND EXCHANGE
COMMISSION,

14 Plaintiff,

15 vs.

16 DIVERSITY CAPITAL INVESTMENTS,
17 INC.; DIVERSITY CAPITAL BANCORP
DE MEXICO LTD.; STRONG'S
18 CAPITAL INVESTMENTS, INC.; THE
OPTIMUS FUND, INC.; DAMIAN
19 MENESES; EDWARD LANTZ
FERGUSON, and JOEL S. LEY, JR.

20 Defendants,

21 and

22 JUAN GALINDO FLORES and
23 SOCORRO TERLIZZI,

24 Relief Defendants.

Case No. CV 09-5449 ODW (RCx)

**FINAL JUDGMENT AS TO
DEFENDANT EDWARD LANTZ
FERGUSON**

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1 Plaintiff Securities and Exchange Commission having filed a Complaint and
2 Defendant Edward Lantz Ferguson (“Defendant”) having entered a general
3 appearance; consented to the Court’s jurisdiction over Defendant and the subject
4 matter of this action; consented to entry of this Final Judgment without admitting
5 or denying the allegations of the Complaint (except as to jurisdiction); waived
6 findings of fact and conclusions of law; and waived any right to appeal from this
7 Final Judgment:

8 **I.**

9 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant
10 and Defendant’s agents, servants, employees, attorneys, and all persons in active
11 concert or participation with them who receive actual notice of this Final Judgment
12 by personal service or otherwise are permanently restrained and enjoined from
13 violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of
14 1934 (the “Exchange Act”), 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated
15 thereunder, 17 C.F.R. § 240.10b-5, by using any means or instrumentality of
16 interstate commerce, or of the mails, or of any facility of any national securities
17 exchange, in connection with the purchase or sale of any security:

- 18 (a) to employ any device, scheme, or artifice to defraud;
- 19 (b) to make any untrue statement of a material fact or to omit to state a
20 material fact necessary in order to make the statements made, in the
21 light of the circumstances under which they were made, not
22 misleading; or
- 23 (c) to engage in any act, practice, or course of business which operates or
24 would operate as a fraud or deceit upon any person.

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II.

IT IS HEREBY FURTHER 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 Section 17(a) of the Securities Act of 1933 (the “Securities Act”), 15 U.S.C. § 77q(a), in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

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

III.

IT IS HEREBY FURTHER 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 Section 5 of the Securities Act, 15 U.S.C. § 77e, by, directly or indirectly, in the absence of any applicable exemption:

- (a) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;

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- 1 (b) Unless a registration statement is in effect as to a security, carrying or
2 causing to be carried through the mails or in interstate commerce, by
3 any means or instruments of transportation, any such security for the
4 purpose of sale or for delivery after sale; or
- 5 (c) Making use of any means or instruments of transportation or
6 communication in interstate commerce or of the mails to offer to sell
7 or offer to buy through the use or medium of any prospectus or
8 otherwise any security, unless a registration statement has been filed
9 with the Commission as to such security, or while the registration
10 statement is the subject of a refusal order or stop order or (prior to the
11 effective date of the registration statement) any public proceeding or
12 examination under Section 8 of the Securities Act, 15 U.S.C. § 77h.

13 **IV.**

14 **IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED**
15 that Defendant is jointly and severally liable with defendants Diversity Capital
16 Bancorp de Mexico, Ltd., Strong's Capital Investments, Inc., The Optimus Fund,
17 Inc., Damian Meneses, and Joel S. Ley, Jr. for disgorgement of \$587,516,
18 representing profits gained and/or losses avoided as a result of the conduct alleged
19 in the Complaint, together with prejudgment interest thereon in the amount of
20 \$23,868, for a total of \$611,384. Based on Defendant's sworn representations in
21 his Statement of Financial Condition dated July 27, 2010 and other documents and
22 information submitted to the Commission, the Court is not ordering Defendant to
23 pay a civil penalty. Defendant shall assign to the Commission all of his rights and
24 interests in the following assets and claims:

- 25 1. All payments made into the registry of the Court and all payments due
26 and owing in the future under a Note Secured by Security Agreement
27 dated November 9, 2007, executed by Gian Curry ("Curry") on behalf
28 of Blue Rhino, Inc. ("Blue Rhino"), pursuant to which Curry and/or

1 Blue Rhino promise to pay the principal amount of \$280,000, plus
2 interest at 8.75% per annum (as of August 10, 2010, the outstanding
3 balance on the note is approximately \$60,100);

4 2. The balance in account no. 2374526511 maintained at Wells Fargo
5 Bank, N.A., in the name of SD Automotive Holdings Inc.
6 (approximately \$12,440);

7 3. The balance in account no. 33209365 maintained with Scottrade, Inc.,
8 in the name of Edward Ferguson (approximately \$176); and

9 4. All funds deposited with the registry of the Court pursuant to an Order
10 entered by the Court on November 13, 2009 (Docket No. 54),
11 including all funds deposited by Curry, Blue Rhino, and Defendant
12 (approximately \$48,232).

13 Based upon Defendant's assignment to the Commission of all of his rights
14 and interests in the assets and claims listed above and Defendant's sworn
15 representations in his Statement of Financial Condition dated July 27, 2010 and
16 other documents and information submitted to the Commission, the Commission
17 will waive and deemed satisfied the outstanding balance of Defendant's
18 disgorgement and prejudgment interest obligations based upon the Commission's
19 receipt of the funds arising from the assets and claims listed above. In the event
20 that Defendant does not execute all documents necessary to turn over to the
21 Commission all of the assets listed above, Defendant shall also pay post-judgment
22 interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

23 Defendant shall timely execute all documents necessary to transfer title,
24 without encumbrances, of the foregoing assets to the Commission. The Clerk of
25 the Court is directed to transfer all funds deposited with the registry of the Court
26 pursuant to the Order entered by the Court on November 13, 2009 within 14 days
27 after entry of this Final Judgment to the Securities and Exchange Commission.
28 With respect to the accounts listed above that are maintained with Wells Fargo

1 Bank, N.A. (account no. 2374526511) and Scottrade, Inc. (account no. 33209365),
2 those entities are directed to forward the full balances in the identified accounts
3 within 14 days after entry of this Final Judgment to the Securities and Exchange
4 Commission. All payments shall be made by certified check, bank cashier's check,
5 or United States postal money order payable to the Securities and Exchange
6 Commission. The payments shall be delivered or mailed to the Office of Financial
7 Management, Securities and Exchange Commission, Operations Center, 6432
8 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312. The Commission
9 shall remit the funds paid to the United States Treasury.

10 The determination not to impose a civil penalty and to waive payment of the
11 balance of disgorgement and prejudgment interest, upon the conditions set forth
12 above, is contingent upon the accuracy and completeness of Defendant's Statement
13 of Financial Condition. If at any time following the entry of this Final Judgment
14 the Commission obtains information indicating that Defendant's representations to
15 the Commission concerning his assets, income, liabilities, or net worth were
16 fraudulent, misleading, inaccurate, or incomplete in any material respect as of the
17 time such representations were made, the Commission may, at its sole discretion
18 and without prior notice to Defendant, petition the Court for an order requiring
19 Defendant to pay the unpaid portion of the disgorgement, prejudgment and post-
20 judgment interest thereon, and the maximum civil penalty allowable under the law.
21 In connection with any such petition, the only issue shall be whether the financial
22 information provided by Defendant was fraudulent, misleading, inaccurate, or
23 incomplete in any material respect as of the time such representations were made.
24 In its petition, the Commission may move this Court to consider all available
25 remedies, including, but not limited to, ordering Defendant to pay funds or assets,
26 directing the forfeiture of any assets, or sanctions for contempt of this Final
27 Judgment. The Commission may also request additional discovery. Defendant
28 may not, by way of defense to such petition: (1) challenge the validity of the

1 Consent or this Final Judgment; (2) contest the allegations in the Complaint filed
2 by the Commission; (3) assert that payment of disgorgement, prejudgment and
3 post-judgment interest or a civil penalty should not be ordered; (4) contest the
4 amount of disgorgement and prejudgment and post-judgment interest; (5) contest
5 the imposition of the maximum civil penalty allowable under the law; or (6) assert
6 any defense to liability or remedy, including, but not limited to, any statute of
7 limitations defense.

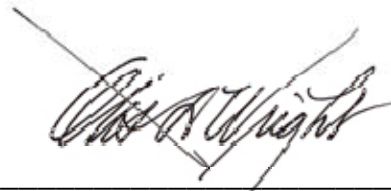
8 **V.**

9 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the
10 Consent of Defendant Edward Lantz Ferguson is incorporated herein with the same
11 force and effect as if fully set forth herein, and that Defendant shall comply with
12 all of the undertakings and agreements set forth therein.

13 **VI.**

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

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19 Dated: August 31, 2010



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22 HONORABLE OTIS D. WRIGHT III
23 UNITED STATES DISTRICT JUDGE
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