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10 **UNITED STATES DISTRICT COURT**
 11 **CENTRAL DISTRICT OF CALIFORNIA**

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

~~PROPOSED~~ **PRELIMINARY
 INJUNCTION AND ORDERS: (1)
 FREEZING ASSETS; (2)
 REQUIRING ACCOUNTINGS; (3)
 REPATRIATING ASSETS;
 (4) PROHIBITING THE
 DESTRUCTION OF DOCUMENTS;
 AND (5) GRANTING EXPEDITED
 DISCOVERY**

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1 This matter came to be heard upon Plaintiff Securities and Exchange
2 Commission's ("Commission") *Ex Parte* Application For A Temporary
3 Restraining Order and Orders: (1) Freezing Assets; (2) Requiring Accountings; (3)
4 Repatriating Assets; (4) Prohibiting The Destruction Of Documents; And (5)
5 Granting Expedited Discovery; And Order To Show Cause Re Preliminary
6 Injunction (the "Application"). On July 27, 2009, the Court granted the
7 Commission's Application and issued a Temporary Restraining Order and Orders:
8 (1) Freezing Assets; (2) Requiring Accountings; (3) Repatriating Assets; (4)
9 Prohibiting The Destruction Of Documents; And (5) Granting Expedited
10 Discovery; And Order To Show Cause Re Preliminary Injunction ("TRO"), which
11 ordered the defendants to show cause, if there be any, why a preliminary injunction
12 should not be granted in accordance with the complaint filed by the Commission.
13 On August 6, 2009, the Court extended the Temporary Restraining Order until
14 August 17, 2009.

15 The Court, having considered the Commission's Complaint, the Application,
16 the supporting Memorandum of Points and Authorities, the Reply and Request to
17 Extend TRO, the Reply Memorandum of Points and Authorities, Declarations and
18 Exhibits, and all other evidence and argument presented, finds that:

- 19 A. This Court has jurisdiction over the parties to, and the subject matter
20 of, this action.
- 21 B. Good cause exists to believe that defendants Diversity Capital
22 Investments, Inc. ("Diversity Capital"), Diversity Capital Bancorp de
23 Mexico Ltd. ("DCBM"), Strong's Capital Investments, Inc. ("Strong's
24 Capital"), The Optimus Fund, Inc. ("Optimus Fund"), Damian
25 Meneses, a/k/a Damian Meneces, a/k/a Abel Dominguez Meneces,
26 a/k/a Francisco D. Dominguez Meneses ("Meneses"), Edward Lantz
27 Ferguson ("Ferguson"), and Joel S. Ley, Jr. ("Ley") (collectively,
28 "Defendants"), and each of them, have engaged in, are engaging in,

1 and are about to engage in transactions, acts, practices and courses of
2 business that constitute violations of Sections 5(a), 5(c), and 17 of the
3 Securities Act of 1933 (“Securities Act”), 15 U.S.C. §§ 77e(a), 77e(c),
4 and 77q(a); and Section 10(b) of the Securities Exchange Act of 1934
5 (“Exchange Act”), 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17
6 C.F.R. § 240.10b-5.

7 C. The Commission has demonstrated a probability of success on the
8 merits and the possibility of dissipation of assets.

9 D. Good cause exists to believe that Defendants will continue to engage
10 in such violations to the immediate and irreparable loss and damage to
11 investors and to the general public unless they are restrained and
12 enjoined.

13 **I.**

14 IT IS HEREBY ORDERED that the Commission’s request for a Preliminary
15 Injunction and Orders: (1) Freezing Assets; (2) Requiring Accountings; (3)
16 Repatriating Assets; (4) Prohibiting The Destruction Of Documents; And (5)
17 Granting Expedited Discovery is hereby GRANTED.

18 **II.**

19 IT IS FURTHER ORDERED that Defendants Diversity Capital, DCBM,
20 Strong’s Capital, Optimus Fund, Meneses, Ferguson, and Ley, and their officers,
21 agents, servants, employees, attorneys, subsidiaries and affiliates, and those
22 persons in active concert or participation with any of them, who receive actual
23 notice of this Order, by personal service or otherwise, and each of them, be and
24 hereby are preliminarily restrained and enjoined from, directly or indirectly,
25 making use of any means or instruments of transportation or communication in
26 interstate commerce or of the mails, to sell, to offer to sell, or to offer to buy any
27 security, or carrying or causing securities to be carried through the mails or in
28 interstate commerce, by any means or instruments of transportation, for the

1 purpose of sale or delivery after sale, in violation of Sections 5(a) and 5(c) of the
2 Securities Act, 15 U.S.C. §§ 77(e)(a) & 77(e)(c).

3 **III.**

4 IT IS FURTHER ORDERED that Defendants Diversity Capital, DCBM,
5 Strong's Capital, Optimus Fund, Meneses, Ferguson, and Ley, and their officers,
6 agents, servants, employees, attorneys, subsidiaries and affiliates, and those
7 persons in active concert or participation with any of them, who receive actual
8 notice of this Order, by personal service or otherwise, and each of them, be and
9 hereby are preliminarily restrained and enjoined from, directly or indirectly, in
10 the offer or sale of any securities, by the use of any means or instruments of
11 transportation or communication in interstate commerce or by use of the mails:

- 12 A. employing any device, scheme or artifice to defraud;
13 B. obtaining money or property by means of any untrue statement of a
14 material fact or any omission to state a material fact necessary in
15 order to make the statements made, in light of the circumstances
16 under which they were made, not misleading; or
17 C. engaging in any transaction, practice, or course of business which
18 operates or would operate as a fraud or deceit upon the purchaser

19 in violation of Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

20 **IV.**

21 IT IS FURTHER ORDERED that Defendants Diversity Capital, DCBM,
22 Strong's Capital, Optimus Fund, Meneses, Ferguson, and Ley, and their officers,
23 agents, servants, employees, attorneys, subsidiaries and affiliates, and those
24 persons in active concert or participation with any of them, who receive actual
25 notice of this Order, by personal service or otherwise, and each of them, be and
26 hereby are preliminarily restrained and enjoined from, directly or indirectly, in
27 connection with the purchase or sale of any security, by the use of any means or
28 instrumentality of interstate commerce, or of the mails, or of any facility of any

1 national securities exchange:

- 2 A. employing any device, scheme, or artifice to defraud;
- 3 B. making any untrue statement of a material fact or omitting to state a
4 material fact necessary in order to make the statements made, in the
5 light of the circumstances under which they were made, not
6 misleading; or
- 7 C. engaging in any act, practice, or course of business which operates or
8 would operate as a fraud or deceit upon any person

9 in violation of Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule
10 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

11 **V.**

12 IT IS FURTHER ORDERED that all content shall be removed from the
13 Internet web sites www.diversitycapital.co.nz, www.diversitydemexico.com,
14 www.dcbm.com, and www.theoptimusfund.com, and any other web sites through
15 which Defendants Diversity Capital, DCBM, Strong's Capital, Optimus Fund,
16 Meneses, Ferguson, or Ley offer or advertise their purported foreign currency
17 trading investment programs, and that Defendants Diversity Capital, DCBM,
18 Strong's Capital, Optimus Fund, Meneses, Ferguson, and Ley shall take whatever
19 action is required to remove the content from the above-described web sites.

20 **VI.**

21 IT IS FURTHER ORDERED that, except as otherwise ordered by this Court,
22 Defendants Diversity Capital, DCBM, Strong's Capital, Optimus Fund, Meneses,
23 Ferguson, and Ley, and their officers, agents, servants, employees, attorneys,
24 subsidiaries and affiliates, and those persons in active concert or participation with
25 any of them, who receive actual notice of this Order, by personal service or
26 otherwise, and each of them, be and hereby are preliminarily restrained and
27 enjoined from, directly or indirectly, transferring, assigning, selling, hypothecating,
28 changing, wasting, dissipating, converting, concealing, encumbering, or otherwise

1 disposing of, in any manner, any funds, assets, securities, claims, or other real or
2 personal property, including any notes or deeds of trust or other interests in real
3 property, wherever located, of Defendants Diversity Capital, DCBM, Strong's
4 Capital, Optimus Fund, Meneses, Ferguson, and/or Ley, and their subsidiaries and
5 affiliates, whether owned by, controlled by, managed by or in the possession or
6 custody of any of them, and from transferring, encumbering, dissipating, incurring
7 charges or cash advances on any debit or credit card or the credit arrangement of
8 Defendants Diversity Capital, DCBM, Strong's Capital, Optimus Fund, Meneses,
9 Ferguson, and/or Ley.

10 **VII.**

11 IT IS FURTHER ORDERED that, except as otherwise ordered by this
12 Court, an immediate freeze shall be placed on all monies and assets (with an
13 allowance for necessary and reasonable living expenses to be granted only upon
14 good cause shown by application to the Court with notice to and an opportunity for
15 the Commission to be heard) in all accounts at any bank, financial institution,
16 brokerage firm, or Internet or "e-currency" payment processor, all certificates of
17 deposit, and other funds or assets, such as personal or real property, held in the
18 name of, for the benefit of, or over which account authority is held by Defendants
19 Diversity Capital, DCBM, Strong's Capital, Optimus Fund, Meneses, Ferguson,
20 and/or Ley, and/or Relief Defendants Juan Galindo Flores, a/k/a Juan Flores
21 Galindo ("Flores") or Socorro Terlizzi ("Terlizzi") or any trust, partnership, joint
22 venture, person or entity affiliated with any of them (including subsidiaries),
23 including but not limited to the following accounts:

24

Financial Institution, Bank or e-currency entity	Account Name	Account Number
Bank of America	Diversity Capital Investments, Inc.	XXXXX-X4233
Bank of America	Diversity Capital Investments, Inc.	XXXXX-X7811

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	Financial Institution, Bank or e-currency entity	Account Name	Account Number
1			
2			
3	Bank of America	Diversity Capital Investments, Inc.	XXXXXX-X7830
4	Bank of America	Diversity Capital Investments, Inc. Expense Account	XXXXXX-X7816
5			
6	Bank of America	Diversity Capital Investments, Inc. Socorro Terlizzi	XXXXXX-X4209
7	Bank of America	Diversity Capital Investments, Inc. Socorro Terlizzi	XXXXXX-X7243
8			
9	Bank of America	Diversity Capital Investments, Inc. Socorro Terlizzi	XXXXXX-X4210
10	Bank of America	Damian Meneses Socorro Terlizzi	XXXXXX-X7247
11			
12	Bank of America	Joel S. Ley	XXXXXX-X1338
13	Bank of America	Joel S. Ley	XXXXXX-X9953
14	Bank of America	Joel S. Ley	XXXXXX3823
15	Bank of America	The Optimus Fund, Inc.	XXXXXX-X1767
16	Bank of America	The Optimus Fund, Inc.	XXXXXX-X1766
17	Bank of America	The Optimus Fund, Inc.	XXXXXX-X0807
18	Bank of America	Juan G. Flores	XXXXXX-X7674
19	Bank of America	Home Solutions SD Home Solutions, Inc.	XXXXXX-X4231
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21	Bank of America	Home Solutions SD Home Solutions, Inc.	XXXXXX-X4232
22	Bank of America	Joseph Capital Investments LLC (Expense Account)	XXXXXX-X4681
23			
24	Bank of America	SD Financial Solutions, Inc.	XXXXXX-X4228
25	Bank of America	Joseph Capital Investments LLC	XXXXXX1573
26	Bank of America	Joseph Capital Fund LP	XXXXXXXX1574
27	Bank of America	Juan Gabriel Flores-Galindo	XXXXXX7674
28	Citi Bank	Joel S. Ley	XXX3853

Financial Institution, Bank or e-currency entity	Account Name	Account Number
Union Bank of America	Joel S. Ley	XXXXXX4092
Wells Fargo Bank, N.A.	Strong's Capital Investments, Inc.	XXX-XXX7677
Wells Fargo Bank, N.A.	SD Automotive	XXX-XXX6511
Wells Fargo Bank, N.A.	SD Automotive	XXX-XXX8808
Wells Fargo Bank, N.A.	SD Automotive	XXX-XXX5108
Wells Fargo Bank, N.A.	SD Automotive	XXX-XXX6789
Wells Fargo Bank, N.A.	SD Automotive	XXX-XXX1779
Wells Fargo Bank, N.A.	SD Automotive	XXX-XXX8738
Wells Fargo Bank, N.A.	Strong's Capital Investments, Inc.	XXX-XXX3051
Wells Fargo Bank	Strong's Capital Investments, Inc.	XXXXXX7677

VIII.

IT IS FURTHER ORDERED that representatives of the Commission are authorized to have continuing access to inspect or copy any or all of the corporate books and records and other documents of Diversity Capital, DCBM, Strong's Capital, and Optimus Fund, and their subsidiaries and affiliates, and continuing access to inspect their funds, property, assets and collateral, wherever located.

IX.

IT IS FURTHER ORDERED that, except as otherwise ordered by this Court, Defendants Diversity Capital, DCBM, Strong's Capital, Optimus Fund, Meneses, Ferguson, and Ley, and their officers, agents, servants, employees,

1 attorneys, subsidiaries and affiliates, and those persons in active concert or
2 participation with any of them, who receive actual notice of this Order, by personal
3 service or otherwise, and each of them, be and hereby are preliminarily restrained
4 and enjoined from, directly or indirectly: destroying, mutilating, concealing,
5 transferring, altering, or otherwise disposing of, in any manner, any documents,
6 which includes all books, records, computer programs, computer files, computer
7 printouts, contracts, correspondence, memoranda, brochures, or any other
8 documents of any kind in their possession, custody or control, however created,
9 produced, or stored (manually, mechanically, electronically, or otherwise),
10 pertaining in any manner to Diversity Capital, DCBM, Strong's Capital, or
11 Optimus Fund.

12 **X.**

13 IT IS FURTHER ORDERED that Defendants Diversity Capital, DCBM,
14 Strong's Capital, Optimus Fund, Meneses, Ferguson, and Ley shall, within five
15 days of the date of issuance of this Order, prepare and deliver to the Commission a
16 detailed and complete schedule of all assets of Diversity Capital, DCBM, Strong's
17 Capital, Optimus Fund, Meneses, Ferguson, and Ley, including all real and
18 personal property exceeding \$5,000 in value, and all bank, securities, futures,
19 Internet payment processor, and other accounts identified by institution, branch
20 address and account number. The accountings shall include a description of the
21 source(s) of all such assets. Such accountings shall be filed with the Court and
22 copies shall be delivered to the attention of Teri M. Melson at the Commission's
23 Los Angeles Regional Office located at 5670 Wilshire Boulevard, 11th Floor, Los
24 Angeles, California 90036. After completion of the accountings, Diversity Capital,
25 DCBM, Strong's Capital, Optimus Fund, Meneses, Ferguson, and Ley shall
26 produce to the Commission's Los Angeles Regional Office, at a time agreeable to
27 the Commission, all books, records and other documents supporting or underlying
28 the accountings.

1 **XIII.**

2 IT IS FURTHER ORDERED that this Court shall retain jurisdiction over
3 this action for the purpose of implementing and carrying out the terms of all orders
4 and decrees which may be entered herein and to entertain any suitable application
5 or motion for additional relief within the jurisdiction of this Court.
6

7 IT IS SO ORDERED.

8
9 DATED: August 17, 2009

10 TIME: 3:15 o'clock p.m.
11

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13 
14 _____
HONORABLE OTIS D. WRIGHT II
UNITED STATES DISTRICT JUDGE

15 Presented by:

16 /s/ David J. Van Havermaat
17 David J. Van Havermaat
18 Lorraine B. Echavarria
19 Teri M. Melson
Attorneys for Plaintiff
Securities and Exchange Commission
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