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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

HENRY R. HU and STEPHANIE F. HU,	)	Case No. 09-2588 SC
	)	
Plaintiffs,	)	ORDER GRANTING APPLICATION
	)	<u>FOR DEFAULT JUDGMENT</u>
v.	)	
	)	
LANEY LEE, JASON WANG, STEWARD	)	
WANG, I-95 MALL OF ASIA INC.,	)	
A.T.E.C. HOLDING INC., AMERICAN	)	
PRODUCTS EXHIBITION & EXCHANGE	)	
CENTER (CHINA), INC., CHINA	)	
PRODUCTS EXHIBITION & EXCHANGE	)	
CENTER (U.S.A.), ETRADE GUARANTEE	)	
ASSURANCE CORP., EASY EXPRESS	)	
SERVICES CORP.,	)	
	)	
Defendants.	)	

**I. INTRODUCTION**

Plaintiffs Henry R. Hu and Stephanie F. Hu ("Plaintiffs") seek entry of Default Judgment. ECF No. 61 ("Appl. for Default J."). Having considered the papers submitted, the Court GRANTS Plaintiffs' Application for Default Judgment against Defendants Laney Lee, Jason Wang, Steward Wang, and I-95 Mall of Asia Inc. ("I-95").

**II. BACKGROUND**

The following allegations are taken from Plaintiffs' Complaint. Plaintiffs, husband and wife, reside in San Mateo

1 County. ECF No. 1 ("Compl.") ¶ 16. Henry R. Hu is an immigration  
2 attorney. Id. I-95 is a Maryland corporation formed by Jason Wang  
3 in 2004. Id. ¶¶ 17-18. Laney Lee is Jason Wang's wife and Steward  
4 Wang is their son. Id. ¶¶ 19, 22. Laney Lee was a director and  
5 officer of I-95, and Steward Wang was I-95's Director of Sales and  
6 Marketing. Id.

7 Based on solicitations and representations made by I-95  
8 employees, Plaintiffs purchased \$250,000 worth of securities in  
9 I-95 in 2005. Id. ¶¶ 3-40. The Stock Purchase Agreement states  
10 that I-95 owned 140 acres of land adjacent to Interstate 95 in  
11 Maryland, a 250,000 square-foot commercial building, and "[a]s of  
12 August 31, 2005, the total appraised assets (visible and invisible)  
13 of [I-95] is USD 100,000,000." Id. ¶ 34; Hu Decl. Ex. 4 ("Stock  
14 Purchase Agreement").<sup>1</sup>

15 In 2007, Plaintiffs became concerned about their investment  
16 and began investigating the corporation's financial status. Compl.  
17 ¶¶ 46-49. The federal tax returns of the corporation revealed that  
18 it did not own land or buildings, and it did not have assets worth  
19 \$100 million, as represented in the Stock Purchase Agreement. Id.  
20 ¶ 53. At a meeting between Henry Hu and Jason Wang on November 4,  
21 2008, Jason Wang admitted that the statements concerning real  
22 estate properties in the Stock Purchase Agreement were not true.  
23 Id. ¶ 57. According to Plaintiffs, Defendants have defrauded  
24 others in a similar manner. Hu Decl. ¶¶ 48-51. Plaintiffs are  
25 suing Defendants for securities fraud. Id. ¶¶ 60-72.

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27  
28 <sup>1</sup> Henry R. Hu is representing himself and his wife in this case. He filed a declaration in support of the Application for Default Judgment. ECF No. 61-1. For Exhibit No. 4, see ECF No. 61-3.

1 **III. LEGAL STANDARD**

2 After entry of a default, the Court may enter a default  
3 judgment. Fed. R. Civ. P. 55(b)(2). Its decision whether to do  
4 so, while "discretionary," Aldabe v. Aldabe, 616 F.2d 1089, 1092  
5 (9th Cir. 1980), is guided by several factors. As a preliminary  
6 matter, the Court must "assess the adequacy of the service of  
7 process on the party against whom default is requested." Bd. of  
8 Trs. of the N. Cal. Sheet Metal Workers v. Peters, No. 00-0395,  
9 2000 U.S. Dist. LEXIS 19065, at \*2 (N.D. Cal. Jan. 2, 2001).

10 If the Court determines that service was sufficient, it should  
11 consider whether the following factors support the entry of default  
12 judgment: (1) the possibility of prejudice to the plaintiff; (2)  
13 the merits of plaintiff's substantive claim; (3) the sufficiency of  
14 the complaint; (4) the sum of money at stake in the action; (5) the  
15 possibility of a dispute concerning material facts; (6) whether the  
16 default was due to excusable neglect; and (7) the strong policy  
17 underlying the Federal Rules of Civil Procedure favoring decisions  
18 on the merits. Eitel v. McCool, 782 F.2d 1470, 1471-72 (9th Cir.  
19 1986). "The general rule of law is that upon default the factual  
20 allegations of the complaint, except those relating to the amount  
21 of damages, will be taken as true." Geddes v. United Fin. Group,  
22 559 F.2d 557, 560 (9th Cir. 1977).

23  
24 **IV. DISCUSSION**

25 **A. Service of Process and Dismissal of Remaining Defendants**

26 After various unsuccessful attempts to serve many of the  
27 Defendants in this case, the Clerk entered default against Laney  
28 Lee, Jason Wang, Steward Wang, and I-95. See ECF Nos. 14, 22, 39,

1 51. Steward Wang was personally served on June 14, 2009, Jason  
2 Wang and Laney Lee were served by substituted service on June 14,  
3 2009, and the corporation, I-95, was served by leaving a copy of  
4 the summons and complaint with Steward Wang, an officer of the  
5 corporation, at the corporation's business address on June 15,  
6 2009. ECF No. 5 ("Aff. of Process Server"). On June 29, 2009,  
7 Jason Wang, on behalf of I-95, sent a letter to Plaintiffs stating  
8 "We have received the summons in a civil action for the above  
9 referenced case. Mr. Jason Wang and Miss Laney are currently in  
10 China for company's [sic] business. We will respond to your  
11 complaint as soon as we return to the United States." Hu Decl. Ex.  
12 20 ("June 29, 2009 Letter"). Clearly, these Defendants had notice  
13 of the lawsuit. Service of process on these four Defendants was  
14 adequate.

15 With regard to the other Defendants, Plaintiffs has filed a  
16 Notice of Voluntary Dismissal. ECF No. 61-6 ("Supplemental Mot. to  
17 Dismiss"). A number of the Defendants named in this document --  
18 Runan Zhang, Anita Bei Huang, Jerry Huang, Edward Wong, King Mark,  
19 Kathy Wang, and Andy Ting -- were dismissed earlier in these  
20 proceedings. See ECF Nos. 52, 57. The Court hereby DISMISSES the  
21 remaining Defendants: A.T.E.C. Holding Inc., American Products  
22 Exhibition & Exchange Center (China), Inc., China Products  
23 Exhibition & Exchange Center (U.S.A.), Inc., ETrade Guarantee  
24 Assurance Corp., and Easy Express Services Corp.<sup>2</sup>

25  
26 <sup>2</sup> The Court notes that Plaintiffs filed an amended complaint  
27 without obtaining leave of the Court to do so. See ECF No. 31.  
28 The amended complaint merely adds Defendants who have now been  
dismissed from this case. The affidavit of the process server  
shows that Defendants Laney Lee, Jason Wang, Steward Wang, and I-95  
were served with the original complaint, not the amended complaint.

1           **B. Default Judgment**

2           The Eitel factors favor default judgment. Without default  
3 judgment, Plaintiffs will be prejudiced because they will be left  
4 without any obvious means of recovering their \$250,000 investment.

5           In a letter dated September 9, 2010, Jason Wang states that he  
6 is in hospital in Taiwan due to heart disease, that his wife Laney  
7 Lee and his son Steward Wang are with him, and that he and his  
8 family have been unable to hire a lawyer. ECF No. 62 ("Sept. 9,  
9 2010 Letter").<sup>3</sup> The letter contains a request for more time to  
10 respond to the lawsuit. Id. Plaintiffs' Complaint was filed on  
11 June 10, 2009, and served four or five days later. ECF No. 1, 5.  
12 These Defendants had ample time to respond to the Complaint.  
13 Defendants have made no showing of excusable neglect.<sup>4</sup>

14           Accepting as true the allegation that Plaintiffs purchased  
15 shares of I-95 based on false representations about I-95's assets,  
16 Plaintiffs have stated a claim for securities fraud. Plaintiffs'  
17 substantive claim has merit, and the Complaint is sufficient.  
18 Although federal policy favors a decision on the merits, Rule 55(b)  
19 allows entry of default judgment in situations such as this, where  
20 Defendants have failed to litigate. Courts are less inclined to  
21 enter default judgment if there is a large sum of money at stake.

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22           See ECF No. 5. The Court disregards the amended complaint, views  
23 the original complaint as the operative one, and notes that the  
24 four remaining Defendants were served with the original complaint.

25           <sup>3</sup> This letter was sent by Jason Wang to Henry Hu, who subsequently  
26 filed it with the Court attached to another copy of the Application  
27 for Default Judgment. See ECF No. 62. The letter also consists of  
28 medical records showing that Jason Wang is a patient in Taipei  
Veterans General Hospital.

<sup>4</sup> Defendants have not formally appeared. If Defendants have  
grounds for relief, the Court has the power to set aside this  
default judgment under Rule 60(b).

1 See Eitel, 782 F.2d at 1472 (denying default judgment where  
2 plaintiff sought almost three million dollars). Here, Plaintiffs  
3 seek return of their \$250,000. Appl. for Default J. at 2. While a  
4 considerable amount of money is at stake, the Court finds that, on  
5 balance, the Eitel factors favor default judgment.

6 **C. Remedies**

7 Without providing any legal analysis explaining the basis for  
8 their request, Plaintiffs request injunctions against Defendants  
9 freezing their assets, appointing a receiver, and requiring an  
10 accounting from each Defendant. Appl. for Default J. at 2.  
11 Plaintiffs also seek disgorgement of ill-gotten gains, prejudgment  
12 interest on their damages award, and unspecified civil penalties.  
13 Id. at 2-3. The Court DENIES these requested remedies.

14 The computation of damages in a securities fraud case is not a  
15 straightforward matter. Rescission, however, is a recognized  
16 remedy in Section 10(b) and Rule 10b-5 cases. Blackie v. Barrack,  
17 524 F.2d 891, 909 (9th Cir. 1975). Here, the evidence shows  
18 Plaintiffs sent a total of \$250,000 to I-95 by two wire transfers  
19 on December 2, 2005 and December 3, 2005, in exchange for 500,000  
20 shares of I-95. Hu Decl. Exs. 6, 7. The Court hereby rescinds  
21 this purchase. Plaintiffs no longer own shares of I-95. The Court  
22 awards Plaintiffs \$250,000, the amount they invested in I-95.

23

24 **V. CONCLUSION**

25 The Court DISMISSES the following Defendants: A.T.E.C.  
26 Holding Inc., American Products Exhibition & Exchange Center  
27 (China), Inc., China Products Exhibition & Exchange Center  
28 (U.S.A.), Inc., ETrade Guarantee Assurance Corp., and Easy Express

1 Services Corp.

2 The Court GRANTS the Application for Default Judgment filed by  
3 Plaintiffs Henry R. Hu and Stephanie F. Hu against Defendants Laney  
4 Lee, Jason Wang, Steward Wang, and I-95 Mall of Asia Inc. in the  
5 amount of \$250,000.

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7 IT IS SO ORDERED.

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9 Dated: September 20, 2010

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UNITED STATES DISTRICT JUDGE

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