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IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES

Plaintiff,

v.

CHARLES CATHCART, SCOTT
CATHCART, YURIJ DEBEVC, a/k/a
YURI DEBEVC, ROBERT NAGY,
DERIVIUM CAPITAL (USA), INC,
OPTECH LIMITED, CHI-HSIU HSIN,
a/k/a CHARLES HSIN, FRANKLIN
THOMASON

Defendants.

Civil No. 07-4762-PJH

FINAL JUDGMENT OF
PERMANENT INJUNCTION

ORDER

The United States of America has filed a complaint for permanent injunction in this matter against defendant Scott Cathcart (“Cathcart”) and others. Cathcart, without admitting the allegations contained in the complaint, but in order to settle this matter without further litigation, hereby consents to the entry, without further notice, of this Final Judgment of Permanent Injunction.

Cathcart enters into this Final Judgment of Permanent Injunction voluntarily and waives the entry of findings of fact and conclusions of law. Cathcart also waives any right he may have to appeal from this Final Judgment of Permanent Injunction.

NOW, THEREFORE, it is accordingly ORDERED, ADJUDGED AND DECREED that:

1 1. The Court has jurisdiction over this action pursuant to §§ 1340 and 1345 of Title
2 28 of the United States Code, and §§ 7402 and 7408 of the Internal Revenue Code of 1986, as
3 amended (26 U.S.C.) (“Code”).

4 2. Cathcart, individually and doing business as any entity, and any officers, agents,
5 servants, employees, attorneys, and persons in active concert or participation with him, are
6 permanently enjoined from, directly or indirectly:

7 (a) Organizing, promoting, marketing, selling, implementing or providing any
8 advice or assistance in connection with the so-called “90% Loan” program. The
9 “90% Loan” program purported to enable customers to contribute appreciated
10 stocks or other securities in exchange for 90% of the value of those stocks or
11 securities without paying income tax on any capital gains, because the transaction
12 was characterized as a loan rather than a sale. The United States alleges it was in
13 actuality a sale and part of a plan or arrangement that assisted taxpayers in
14 unlawfully evading the assessment or collection of their federal tax liabilities;

15 (b) Organizing, promoting, marketing, selling, implementing or providing
16 advice or assistance in connection with any program, plan or arrangement similar
17 to the “90% Loan” program that purports to enable customers to receive valuable
18 consideration in exchange for stocks or other securities that are transferred or
19 pledged by those customers, without the need to pay tax on any gains because the
20 transaction is characterized as a loan, rather than a sale;

21 (c) Engaging in conduct subject to penalty under Code § 6700, *i.e.*, by making
22 or furnishing, in connection with the organization or sale of a plan or
23 arrangement, a gross valuation overstatement or a statement Cathcart knows or
24 has reason to know to be false or fraudulent as to any material matter under the
25 federal tax laws;

26 (d) Organizing, promoting, marketing, or selling any plan or arrangement that
27 advises or assists taxpayers to attempt to violate the internal revenue laws or
28 unlawfully evade the assessment or collection of their federal tax liabilities;

 (e) Making false statements about the allowability of any deduction or credit,
the excludability of any income, or the securing of any tax benefit by reason of
participating in any plan or arrangement; and

 (f) Engaging in any conduct that interferes with the administration or
enforcement of the internal revenue laws.

 3. The United States is permitted to engage in discovery after the entry of this
Final Judgment of Permanent Injunction to ensure compliance with the permanent
injunction. Post-judgment discovery will be governed by the Federal Rules of Civil

1 Procedure and the Local Rules of the United States District Court for the Northern District
2 of California.

3 4. This Court shall retain jurisdiction over this action for purposes of
4 implementing and enforcing this Final Judgment of Permanent Injunction.

5
6 PURSUANT TO STIPULATION, IT IS SO ORDERED THIS 22nd day of October 2008.
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