

The Honorable Marsha J. Pechman

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SECURITIES AND EXCHANGE COMMISSION,

Case No. C11-0096-MJP

Plaintiff,

v.

ZIZHONG FAN AND ZISHEN FAN,

**PRELIMINARY INJUNCTION AND
ASSET FREEZE ORDER**

Defendants,

and

JUNHUA FAN,

Relief Defendant.

1 On January 19, 2011, plaintiff Securities and Exchange Commission filed its Complaint in
2 this action (Dkt. No. 1), and also moved the Court to issue a temporary restraining order against
3 defendants Zizhong Fan and Zishen Fan, and relief defendant Junhua Fan. That same day, the Court
4 issued a Temporary Restraining Order and Order to Show Cause re Preliminary Injunction, and set a
5 preliminary injunction hearing for January 27. (Dkt. No. 10.)

6 On January 25, 2011, based on a stipulation of the parties, the Court entered a Stipulation and
7 Extension of Temporary Restraining Order, which rescheduled the preliminary injunction hearing to
8 March 1, 2011, and extended the temporary restraining order pending that hearing. (Dkt. No. 16.)

9 The Court has now received the Consent of Defendants and Relief Defendant to Entry of
10 Preliminary Injunction and Asset Freeze (“Consent”). In the Consent, among other things,
11 defendants Zizhong Fan and Zishen Fan and relief defendant Junhua Fan each: (1) entered a general
12 appearance; (2) consented to the Court’s jurisdiction over him and the subject matter of this action;
13 (3) consented to entry of this Preliminary Injunction and Asset Freeze Order (“Order”), without
14 admitting or denying the allegations of the Complaint (except as to jurisdiction, which each admits);
15 (4) waived findings of fact and conclusions of law for purposes of this Order only; and (5) waived
16 any right to appeal from this Order.

17 Based on the Consent, and for good cause appearing, the Court orders as follows:

18 I.

19 IT IS HEREBY ORDERED THAT, pending a final disposition of this action, defendants
20 Zizhong Fan and Zishen Fan and their respective officers, agents, servants, employees, attorneys, and
21 those persons in active concert or participation with any of them, who receive actual notice of this
22 Order, by personal service or otherwise, and each of them, are preliminarily enjoined from, directly
23 or indirectly, in connection with the purchase or sale of securities, by use of means or
24 instrumentalities of interstate commerce, or of the mails, with scienter:

25 (a) employing devices, schemes, or artifices to defraud;

26 (b) making untrue statements of material fact or omitting to state material facts

27 necessary in order to make the statements made, in the light of the circumstances

28 under which they were made, not misleading; and

1 (c) engaging in acts, practices, or courses of business which operate or would
2 operate as a fraud or deceit upon other persons, including purchasers and sellers
3 of securities
4 in violation of Section 10(b) of the Securities Exchange Act of 1934 [15 U.S.C. § 78(j)] and
5 Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

6 II.

7 IT IS FURTHER ORDERED THAT, pending a final disposition of this action, defendants
8 Zizhong Fan and Zishen Fan, and their respective officers, agents, servants, employees, attorneys,
9 and those persons in active concert or participation with any of them, who receive actual notice of
10 this Order, by personal service or otherwise, and each of them, are preliminarily enjoined from
11 transferring, assigning, selling, hypothecating, changing, wasting, dissipating, converting, concealing,
12 encumbering, or otherwise disposing of, in any manner, funds, assets or securities in any TD
13 Ameritrade account in the name of relief defendant Junhua Fan, subject only to the provisions of
14 Section III.b., below.

15 III.

16 IT IS FURTHER ORDERED THAT, pending a final disposition of this action, an immediate
17 freeze shall be placed on all monies and assets in all accounts at TD Ameritrade held in the name of
18 relief defendant Junhua Fan, with the following exceptions:

- 19 a. TD Ameritrade is directed and ordered to sell all securities held in any TD Ameritrade
20 brokerage account in the name of Junhua Fan at prevailing market prices within one
21 (1) business day after it receives notice of this Order; and
22 b. TD Ameritrade is directed and ordered to preserve all cash, including cash from
23 securities sales made pursuant to this Order, in such accounts in the name of Junhua
24 Fan until further order of this Court, provided that TD Ameritrade shall remit funds in
25 the accounts in excess of \$753,000 in accordance with the directions of relief
26 defendant Junhua Fan.

27 In addition, TD Ameritrade is directed and ordered to invest all cash it preserves pursuant to
28 Section III.b., above, in any TD Ameritrade brokerage account in the name of Junhua Fan in an

1 interest bearing money market fund, in accordance with its usual business practices for the short-term
2 investment of customer funds.

3 IV.

4 IT IS FURTHER ORDERED THAT, pending a final disposition of this action, defendants
5 Zizhong Fan and Zishen Fan and relief defendant Junhua Fan, and their respective officers, agents,
6 servants, employees, attorneys, and those persons in active concert or participation with any of them,
7 who receive actual notice of this Order, by personal service or otherwise, and each of them, shall
8 keep, preserve and maintain all of their books, records, papers, account statements, computers, email,
9 electronic data, journals, data bases, calendars, hard drives, flash drives, or any other documents,
10 materials and media (however created, produced, or stored) that relate to any of the matters raised in
11 this proceeding.

12 V.

13 IT IS FURTHER ORDERED THAT the parties may immediately take discovery by any
14 means authorized under the Federal Rules of Civil Procedure.

15 VI.

16 IT IS FURTHER ORDERED THAT, pursuant to Federal Rule of Civil Procedure 4(f)(3), in
17 addition to service otherwise permitted by rule, service of all papers in this case, including without
18 limitation all pleadings, orders, motions, discovery requests and responses, and all documents
19 otherwise authorized by rule to be filed or served on a party, may be served by e-mail or by
20 International Fed Ex (or by an international courier of equivalent reliability).

21 VII.


22 IT IS FURTHER ORDERED THAT the temporary restraining order issued by the Court on
23 January 19, 2011 (Docket Item 10) and extended pursuant to the Stipulation and Extension of
24 Temporary Restraining Order (Docket Item 16) is hereby dissolved.

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VIII.

IT IS FURTHER ORDERED THAT the terms of this Order shall remain in force until further order by this Court.

Dated this 14th day of February, 2011


Marsha J. Pechman
United States District Judge