

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

Civil No.

CYBERKEY SOLUTIONS, INC., and  
JAMES E. PLANT,

Defendants.

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**COMPLAINT**

For its complaint against defendants, James E. Plant and CyberKey Solutions, Inc., plaintiff the Securities and Exchange Commission alleges as follows:

**SUMMARY**

1. Starting in November 2005 and continuing through March 19, 2007, CyberKey, a company that purportedly sells Universal Serial Bus (“USB”) flash memory drives and other electronic devices, and its Chief Executive Officer (“CEO”), James E. Plant, engaged in an elaborate scheme to publicize a fictitious \$25 million purchase order from the U.S. Department of Homeland Security (“DHS”) and other false claims to attract interest in CyberKey. Contemporaneously with the publication of the false claims, CyberKey issued hundreds of millions of shares of the company’s stock to associated individuals and entities who then sold those shares into the public market. These individuals and entities paid CyberKey at least \$1.5 million for these shares.

2. As set forth below, CyberKey and Plant falsely stated, among other things, that: (a) CyberKey had received a \$25 million purchase order from the United States

Department of Homeland Security; (b) CyberKey had actually delivered flash memory devices to DHS; and (c) CyberKey had received millions of dollars in payments pursuant to the order.

3. Also, beginning not later than July 28, 2006 and continuing through January 2007, CyberKey repeatedly made false public statements that it was in the process of preparing audited financial statements for public release “in the near future.” In truth, during the relevant time period, no audit of CyberKey’s financial statements had even been started.

4. Before, and concurrently with, the dissemination of this false information, and without being covered by any applicable registration statement, CyberKey and Plant issued hundreds of millions of shares of the company’s stock to associated individuals and entities who then sold those shares into the public market.

5. By virtue of their conduct, CyberKey and Plant have engaged in violations of Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. §§ 77e(a), 77e(c) and 77q(a)], and Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5].

6. Unless enjoined, CyberKey and Plant are likely to commit such violations in the future. They should be enjoined from doing so, ordered to disgorge any ill-gotten gains or benefits derived as a result of their violations (whether realized, unrealized or received) and prejudgment interest thereon, and ordered to pay appropriate civil money penalties. In addition, defendant Plant should be prohibited from acting as an officer or director of any issuer that has a class of securities registered pursuant to Exchange Act

Section 12 [15 U.S.C. § 781] or that is required to file reports pursuant to Exchange Act Section 15(d) [15 U.S.C. § 78o(d)].

### **JURISDICTION AND VENUE**

7. This Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Sections 21(d), 21(e) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e) and 78aa]. In connection with the acts, practices, and courses of business alleged herein, Defendants, directly or indirectly, made use of the means and instruments of transportation and communication in interstate commerce, and of the mails.

8. Certain of the transactions, acts, practices or courses of business alleged herein took place in the Eastern District of Pennsylvania. Venue is therefore proper in this district pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Section 27 of the Exchange Act [15 U.S.C. § 78aa].

### **DEFENDANTS**

9. Defendant CyberKey is a Nevada corporation headquartered in St. George, Utah. The company purportedly sells USB flash memory storage drives and other electronic devices. Prior to February 5, 2007, the common stock of CyberKey was quoted on the Pink Sheets LLC, a provider of pricing and financial information for the over-the-counter securities markets. CyberKey's stock has never been registered with the Commission or listed on any national exchange.

10. Defendant Plant is CyberKey's CEO and Chairman of the company's Board of Directors. Plant founded CyberKey in 2001 and made it a public company in 2003 when he engineered CyberKey's reverse merger into Thin Express, Inc., a publicly traded shell corporation. As CEO and Chairman of the Board of CyberKey, since 2001

Plant has overseen the day-to-day operations of the company, including the review and publication of all company press releases.

### **FACTUAL ALLEGATIONS**

11. Starting on November 14, 2005, and continuing through March 14, 2007, CyberKey and Plant carried out an elaborate scheme designed to stimulate the market for CyberKey securities. CyberKey and Plant used press releases, penny stock trading websites, e-mail spamming, and print advertising to broadly disseminate a number of false statements to potential investors. These false statements included that: (a) CyberKey had received a \$25 million purchase order from the United States Department of Homeland Security; (b) CyberKey had actually delivered flash memory devices to DHS; (c) Cyberkey had actually received millions of dollars in payments pursuant to the order; and (d) CyberKey was in the process of preparing audited financial statements for public release “in the near future.”

12. In one instance, CyberKey and Plant made misrepresentations to a public relations firm regarding its purported purchase order from DHS. Plant provided the firm a fabricated document that purported to be a \$24.49 million contract between CyberKey and DHS’s “Department of Information Technology.” In fact, CyberKey has never entered a contractual relationship with DHS, and has never received a purchase order from DHS for any of CyberKey’s products.

13. In the three months leading up to the first false press release, the average trading volume of CyberKey’s stock was just over 550,000 shares per day. After July 28, 2006, the date upon which CyberKey first posted unaudited financial statements on the publicly available Pink Sheets website reflecting \$25 million in total income, the daily trading volume often ranged between 10 million and 80 million shares.

**CyberKey's Misrepresentations Regarding  
the Department of Homeland Security**

14. On November 14, 2005, CyberKey and Plant issued the first in a long string of false press releases announcing that it had received a "multi-million Dollar purchase order from the Department of Homeland Security" for over 150,000 units of its USB flash memory storage device.

15. On December 8, 2005, in a nearly verbatim repeat of the press release from November 14, CyberKey and Plant again falsely announced that CyberKey had received a "multi-million Dollar purchase order from the Department of Homeland Security" for over 150,000 units of its USB flash memory storage device.

16. On January 31, 2006, CyberKey and Plant falsely announced (a) "that the Company ha[d] delivered 33,000 CyberKey units, worth more than \$4.2 Million, to the Department of Homeland Security"; and (b) "This is the initial delivery of the total 150,000 unit and multi-million dollar order submitted by the federal government."

17. On March 23, 2006, CyberKey and Plant falsely announced that "the Company ha[d] received another delivery release and [was] shipping another 30,000 CyberKey units, worth more than \$4 million, to the Federal Government." Plant was quoted in the press release saying, "As a result of this multi-million dollar order, we anticipate record breaking revenues that will be positively reflected in the price per share."

18. On April 4, 2006, CyberKey and Plant falsely announced: (1) "that the Company ha[d] received a payment of \$4.2 million from the federal government for its initial shipment of 33,000 CyberKey units; (2) "The total order submitted by the federal government [was] for 150,000 units and [was] expected to exceed \$24 million"; and (3)

“The relationship with the Federal Government gives CyberKey a platform for generating a continuous revenue stream.”

19. On July 18, 2006, CyberKey and Plant issued a press release falsely stating that: “CyberKey Solutions, Inc. recently received a \$25 Million Dollar purchase order from a large Federal Government Agency.” Between July 20, 2006, and February 1, 2007, this or similar language was included in at least ten subsequent press releases on CyberKey’s publicly available website. These press releases are summarized in the following table:

Date	Content
7/20/06	“CyberKey . . . recently received a \$25 Million Dollar purchase order from the federal government.”
8/1/06	“CyberKey . . . recently received a \$25 Million Dollar purchase order from a large Federal Government Agency.”
9/6/06	“CyberKey . . . is currently fulfilling a \$25 Million purchase order to various segments of the U.S. Government.”
10/4/06	“CyberKey . . . is currently fulfilling a \$25 Million purchase order to various segments of the U.S. Government.”
11/1/06	“CyberKey . . . is currently fulfilling a \$25 Million purchase order to various segments of the U.S. Government.”
11/14/06	“CyberKey . . . is currently fulfilling a \$25 Million purchase order to various segments of the U.S. Government.”
12/4/06	“CyberKey . . . is currently fulfilling a \$25 Million purchase order to various segments of the U.S. Government.”
1/4/07	“CyberKey . . . is currently fulfilling a \$25 Million purchase order to various segments of the U.S. Government.”
1/26/07	“CyberKey . . . is currently fulfilling a \$25 Million purchase order to various segments of the U.S. Government.”
2/1/07	“CyberKey . . . is currently fulfilling a \$25 Million purchase order to various segments of the U.S. Government.”

20. On July 28, 2006, CyberKey and Plant falsely announced that (a) for the first two quarters of 2006, the Company’s “total income was \$25,050,708.23 which includes the purchase order from the Department of Homeland Security”; and (b) “Cyberkey Solutions, Inc. reported Total Assets of \$19,554,590.08. The majority of the

assets are a result of the \$19 million account receivable from the Department of Homeland Security.”

21. Concurrently with the July 28 press release, CyberKey posted unaudited financial statements including a balance sheet and a profit-and-loss statement on the publicly available Pink Sheets website reflecting the same false numbers contained in the press release. These false financial statements included a signed certification from Plant stating that the financial statements fairly presented the financial position of the company.

22. On August 1, 2006, CyberKey and Plant falsely announced “that the Company’s \$25 million purchase order from the Federal Government ha[d] been increased by 40,000 units.” The press release falsely added that “[t]he new order from the federal government [was] estimated to be worth more than \$600,000.”

23. On January 29, 2007, Cyberkey and Plant falsely announced that for the fiscal year 2006 “Cyberkey Solutions ha[d] generated \$33,000,000 in revenues, which include[d] purchase orders from various federal government agencies.” CyberKey also falsely reported that its total assets exceeded \$28,000,000.

24. In fact, CyberKey never received any purchase order from DHS or from any other entity that did business with DHS, nor did CyberKey ever have any accounts receivable from DHS. CyberKey never delivered any products to DHS, as claimed on January 31, 2006, and March 23, 2006. CyberKey did not have total assets of \$19,554,590.08 or total income of \$25,050,708.23 for the first half of 2006, as claimed on July 28, 2006. DHS never increased its “order” to CyberKey by 40,000 units, as claimed on August 1, 2006. CyberKey did not have \$33 million in revenues for fiscal

year 2006, as claimed on January 29, 2007. The balance in CyberKey's bank account never exceeded \$270,000 after it was opened in February 2006.

25. At the time that CyberKey and Plant issued each of the announcements and press releases identified above, they knew, or were reckless in not knowing, that they had made materially false and misleading statements concerning the receipt of purchase orders from DHS for CyberKey products, the delivery of CyberKey products to DHS, and the amount of income CyberKey received from DHS.

**CyberKey's Misrepresentations Regarding  
its "Audited" Financial Statements**

26. On July 28, 2006, and again on August 11, 2006, CyberKey and Plant falsely announced that CyberKey was "currently in the process of auditing their [sic] financial statements and [was] expecting to file them in the near future."

27. On September 12, 2006, CyberKey and Plant issued a press release in which Plant falsely said, "We have been working diligently on our audited financials and look forward to filing them in an effort to uplist to a higher exchange."

28. On October 18, 2006, CyberKey and Plant released a public letter to CyberKey's shareholders in which Plant falsely stated: "I [recently] spoke about the Company's plans to complete our audited financials and up list to the OTC Bulletin Board. We are getting closer to achieving this goal and expect to have the financials in hand soon, at which point, we will file them with the SEC."

29. On November 17, 2006, CyberKey and Plant falsely announced in a press release that it was "continuing the process to complete CyberKey's audited financials and become fully reporting through 'EDGAR System Filing'."

30. On or about December 20, 2006, Plant falsely announced in a paid-for



video interview broadcast on a publicly available Internet website that CyberKey's audited financial statements would be publicly released in "two or three weeks."

31. At the time that CyberKey and Plant issued each of the announcements and press releases identified above, they knew, or were reckless in not knowing, that they had made materially false and misleading statements concerning the audit of CyberKey's financial statements. In fact, between July 28, 2006, and March 14, 2007, neither CyberKey nor Plant had engaged an accounting firm to conduct an audit of CyberKey's financial records, CyberKey was not being audited, and, as of March 14, 2007, CyberKey had not publicly released any audited, financial statements.

#### **CyberKey's Stock Offering**

32. Starting in February 2005 and continuing through at least January 2007, without being covered by any applicable registration statement, CyberKey and Plant issued hundreds of millions of CyberKey shares.

33. At the time these shares were issued, no registration statement was in effect with regard to any public sale of the securities at issue, no exemption claimed by the Defendants or otherwise, was applicable, and no public disclosure of the issuance, distribution, or intent to sell the shares into the market was made.

#### **CyberKey and Plant Benefit Financially from their Scheme**

34. During the period in which the false statements were disseminated, CyberKey and Plant issued hundreds of millions of shares of CyberKey's stock to associated individuals and entities who then sold those shares into the public market. These individuals and entities paid CyberKey at least \$1.5 million for these shares.

## **CLAIMS FOR RELIEF**

### **FIRST CLAIM**

#### **Violations of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5]**

35. The Commission re-alleges and incorporates by reference the allegations contained in Paragraphs 1 through 34 above.

36. As set forth more fully above, CyberKey and Plant, directly or indirectly, by use of the means or instrumentalities of interstate commerce, or by the use of the mails or of the facilities of a national securities exchange, in connection with the purchase or sale of securities have knowingly or recklessly: employed devices, schemes, or artifices to defraud; made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or engaged in acts, practices, or courses of business which operate or would operate as a fraud or deceit upon any person.

37. By reason of the foregoing, the Defendants have violated Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

### **SECOND CLAIM**

#### **Violations of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)]**

38. The Commission re-alleges and incorporates by reference the allegations contained in Paragraphs 1 through 37 above.

39. As set forth more fully above, CyberKey and Plant, directly or indirectly, in the offer or sale of securities, by the use of the means of or instruments of transportation or communication in interstate commerce or by the use of the mails, have

knowingly, recklessly or negligently: employed devices, schemes, or artifices to defraud; obtained money or property by means of untrue statements of material facts or omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or engaged in acts, practices, or courses of business which operate or would operate as a fraud or deceit upon the purchasers of such securities.

40. By reason of the foregoing, the Defendants have violated Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

### **THIRD CLAIM**

#### **Violations of Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. § 77e]**

41. The Commission re-alleges and incorporates by reference the allegations contained in Paragraphs 1 through 40 above.

42. As set forth more fully above, the Defendants, directly or indirectly, singly or in concert, have made, and are making, use of the means or instruments of transportation or communication in interstate commerce, or of the mails, to offer and sell securities through the use or medium of a prospectus or otherwise when no registration statement was in effect, and when no exemption from registration was available.

43. By reason of the foregoing, the Defendants have violated Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)].

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, the Securities and Exchange Commission, respectfully requests that this Court enter a judgment:

(1) permanently restraining and enjoining Plant and his agents, servants, employees, attorneys, and all persons in active concert or participation with him who receive actual notice of the injunction by personal service or otherwise, and each of them, from future violations of Sections 5(a), 5(c) and 17(a) of the Securities Act [15 U.S.C. §§ 77e(a), 77e(c) and 77q(a)], and Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder;

(2) permanently restraining and enjoining CyberKey and its officers, agents, servants, employees, attorneys, and all persons in active concert or participation with CyberKey who receive actual notice of the injunction by personal service or otherwise, and each of them, from future violations of Sections 5(a), 5(c) and 17(a) of the Securities Act [15 U.S.C. §§ 77e(a), 77e(c) and 77q(a)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder;

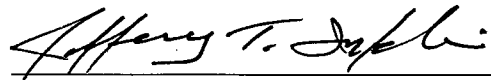
(3) requiring Plant to pay an amount equal to all moneys he obtained through the illegal activities described above plus prejudgment interest thereon, and to pay civil penalties pursuant to Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)];

(4) requiring CyberKey to pay an amount equal to all moneys it obtained through the illegal activities described above plus prejudgment interest thereon, and to pay civil penalties pursuant to Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)];

(5) granting such other relief as this Court deems just and proper.

Dated: March 20, 2007

Respectfully Submitted,



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