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UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, vs. DAVID M. OTTO, TODD VAN SICLEN, MITOPHARM CORPORATION, PAK PETER CHEUNG, WALL STREET PR, INC., and CHARLES BINGHAM, Defendants.	Case No. COMPLAINT

Plaintiff Securities and Exchange Commission ("Commission") alleges:

SUMMARY OF ACTION

1. This matter involves a fraudulent "pump and dump" scheme orchestrated by Seattle securities lawyer David Otto. Otto used falsified documents to secretly accumulate the stock of MitoPharm Corporation ("MitoPharm"), the developer of purported anti-aging products. MitoPharm engaged in an aggressive promotional campaign, touting the availability of beverages and pills that did not yet exist in commercial form, causing the stock price to more than quadruple. Meanwhile, Otto dumped his shares on an unsuspecting market, reaping more than $1 million in illicit profits.

2. The scheme began in late 2006, when Otto, who was hired by MitoPharm's CEO, Pak Peter Cheung, arranged to purchase a publicly traded shell company as a merger partner for MitoPharm. Otto and his associate, Todd Van Siclen, drafted opinion letters to MitoPharm's transfer agent filled with false statements in order to secure supposedly "freely tradable" stock certificates for individuals and entities controlled by Otto, giving Otto complete, undisclosed control of MitoPharm's public float.

3. On Otto's recommendation, Cheung hired stock promoter Charles Bingham to embark on an aggressive public relations campaign premised on the misleading promotion of a product that did not exist. As a result of the campaign, MitoPharm's stock price rose more than 400 percent through the summer of 2007, providing the opportunity for Otto and Bingham to earn substantial profits unloading their stock — more than $1 million for Otto and almost $300,000 for Bingham.

4. As a result of these violations, the Commission brings this action to require that Defendants disgorge all of their ill-gotten gains plus prejudgment interest, pay civil monetary penalties, be enjoined from future violations of the federal securities laws, for Cheung to be barred from serving as an officer or director of a public company, and for Cheung, Otto and Van Siclen to be barred from participating in the offer of penny stock.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this action pursuant to Sections 20(b), 20(d) and 22(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §77t(b), 77t(d) and 77v(a)] and Sections 21(d), 21(e) and 27 of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§78u(b), 78u(e) and 78aa]. Defendants, directly or indirectly, have made use of the means and instrumentalities of interstate commerce, or of the mails, in connection with the acts, practices and courses of business alleged in this Complaint.

6. Venue in this District is proper 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]. Certain of the

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transactions, acts, practices and courses of conduct alleged in this Complaint occurred within the Western District of Washington.

7. Assignment to the Seattle Division is appropriate pursuant to Local Rule 5(1) because a substantial part of the events that give rise to the claims occurred in King County. In addition, defendants David Otto's business and home, Todd Van Siclen's home, and MitoPharm Corporation's principal place of business are all located in Seattle.

DEFENDANTS

8. Defendant David Otto, age 50, of Seattle, Washington, is an attorney licensed with the bars of Washington and New York. Otto is the sole partner of Otto Law Group ("OLG"), a law firm in Seattle with approximately six other attorneys. Otto represented MitoPharm from its inception and had represented defendant Cheung in other matters. MitoPharm used OLG's address in Seattle as its principal place of business.

9. Defendant Todd Van Siclen, age 39, of Seattle, Washington, is an associate at OLG and is a member of the New York and New Jersey bars. Van Siclen was responsible for the day-to-day work on the MitoPharm engagement.

10. Defendant MitoPharm Corporation, formerly HerbalPharm, Inc. was incorporated in Washington state in 2004, with its principal place of business in Seattle. MitoPharm purports to be developing products that slow the aging process based on traditional Chinese medicine. During the relevant time period, MitoPharm's stock was quoted on the Pink OTC Markets, Inc. ("Pink Sheets") under the symbols HPBM, MTPM and MTPH.

11. Defendant Pak Peter Cheung of Vancouver, British Columbia is the president and CEO of MitoPharm.

12. Defendant Wall Street PR, Inc. ("Wall Street PR") is a privately held Texas corporation based in Houston, Texas, owned by defendant Charles Bingham. It engages in public relations and investor relations work for startup and development stage companies. Wall Street PR coordinated MitoPharm's promotional campaign by disseminating web articles, press releases, an advertisement in USA Today, and orchestrating a direct mail campaign.

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13. Defendant Charles Bingham, age 39 of Houston, Texas, owns Wall Street PR.

FACTUAL ALLEGATIONS

A. MitoPharm's Origins and Reverse Merger.

14. MitoPharm originated from Peter Cheung's desire to develop and market a beverage and nutritional supplements that would contain a compound extracted from a berry used in traditional Chinese medicine. The compound purported to have anti-aging health benefits. Cheung believed that he could commercialize this compound with a product line that would appeal to baby boomers.

15. In 2004, Cheung hired David Otto, an experienced securities lawyer, to incorporate HerbalPharm and lead the effort to raise money for the company. Otto recommended taking HerbalPharm public through a reverse merger. Otto explained to Cheung that in a reverse merger, HerbalPharm would merge with a shell company — a company with no assets or ongoing business, but which had previously issued stock registered with the Commission — with an ample supply of so-called freely tradable stock (*i.e.*, stock that can be sold in the public markets). Then, Otto's plan was to have certain entities trade HerbalPharm's freely tradable stock supposedly to create sufficient volume and pricing to attract financing from private investors. Otto did not tell Cheung that the trading entities would be owned and controlled by Otto.

16. In June or July 2006, Otto's associate, Todd Van Siclen located a public shell called Eurosoft Corporation offered by a shell broker who was also Otto's former client. The broker was offering a controlling stake in Eurosoft by selling a stock certificate for 25,000,000 shares out of roughly 49,000,000 shares outstanding.

17. The shell broker initially set the price of the shell at $275,000. Otto and Van Siclen negotiated with the broker to secure the shell for $225,000 — $50,000 less than the original price. But Otto did not tell Cheung about the discount, charging him the full amount of $275,000 for the shell and keeping the difference for himself.

18. In order to conceal this arrangement from Cheung, Otto and Van Siclen purchased the controlling stake in Eurosoft through a company Otto set up for that purpose and then resold

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the stake to HerbalPharm. Otto instructed Van Siclen not to tell Cheung about the price arrangement. Van Siclen completed the transaction without disclosing to Cheung that Otto was earning $50,000 from the sale of the shell.

19. The merger closed on October 25, 2006. As part of the merger process, Eurosoft came under the control of HerbalPharm, its majority shareholder (because it had purchased the majority shareholder certificate from Otto). The private corporation was then merged into the public entity. In March 2007, HerbalPharm changed its name to MitoPharm.

B. Otto Fraudulently Gains Control of MitoPharm's Public Float

20. Following the reverse merger, Otto embarked on a scheme to gain complete control of MitoPharm's public float (the shares outstanding and available for trading by the public), dilute the interests of existing shareholders, and use MitoPharm as a checkbook, selling shares as needed and keeping the proceeds.

21. The centerpiece of the Eurosoft-HerbalPharm merger was a $65,000 convertible promissory note (the "Note"). The Note was issued by Eurosoft to an entity called Wakefield Services Corporation ("Wakefield") in May 2004 supposedly to satisfy Eurosoft's obligations owed under a May 2003 consulting agreement with Wakefield. The Note provided that the noteholder could convert the debt to shares of Eurosoft at a rate of one share per $0.01 of debt, and explicitly stated that the conversion rate would not be affected by stock splits. Accordingly, the Note, on its face, was worth 6.5 million shares.

22. Before the reverse merger closed, Otto and Van Siclen had coordinated a reverse 1000:1 split in Eurosoft's stock. The effect of the reverse split was to reduce the stake of Eurosoft's roughly 400 existing shareholders who had held the remaining 24,000,000 shares available for public trading that were not sold to HerbalPharm as part of the merger to 24,000 shares. Because the Note was not affected by the reverse split, converting the Note and issuing millions of shares to Otto, gave Otto complete control of MitoPharm's publicly tradable stock.

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The Convertible Note Assignment

23. The Note was accompanied by a document entitled Note Assignment (the "Assignment"), dated January 15, 2006, which states that Wakefield assigns the Note "to the attached assigns (see attached)" but does not mention any specific person or entity as the assignee. There was no attachment to the Assignment when Van Siclen received the Eurosoft due diligence file from the shell broker.

24. In August or September 2006, Van Siclen created a document entitled "Attachment to Promissory Note Assignment" (the "Attachment"). That document stated that Wakefield assigned the Note "for value received" proportionally to five entities that Otto controlled (the "Otto Entities"), and to an individual who is a friend of Otto's (collectively, the "Nominee Shareholders"). Otto instructed Van Siclen on how to divide up the Note principal among the Nominee Shareholders. Both Otto and Van Siclen knew that the Nominee Shareholders paid nothing for the Assignment.

25. As drafted by Van Siclen, the Attachment was effectively backdated to create the false impression that it had accompanied the original January 15, 2006 Assignment (*i.e.*, as if the Nominee Shareholders were actually assigned the Note on January 15, 2006). The transaction was also structured to create the appearance that the Nominee Shareholders were unaffiliated with Otto.

26. These impressions are false and misleading, at least in part, because two of the Otto Entities did not even exist in January 2006, and in fact, each of the Otto Entities is owned in part, and controlled entirely by, Otto.

Issuance of the Convertible Note Shares

27. On October 25, 2006, MitoPharm's board (including Cheung and two others) approved a resolution Van Siclen drafted issuing over seven million MitoPharm shares to the Nominee Shareholders based on conversion of the Note.

28. The next step in Otto's scheme to gain control of MitoPharm's stock was to get MitoPharm's transfer agent to issue stock certificates without a restrictive legend on them to the

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Nominee Shareholders. Stock certificates bearing restrictive legends cannot be traded, and transfer agents require legal opinions to remove restrictive legends. The certificates originally issued from the conversion of the Note bore restrictive legends, as required by the federal securities laws.

29. Accordingly, once MitoPharm authorized issuance of the shares, Otto instructed Van Siclen to "go get those shares." Van Siclen drafted and signed six legal opinion letters, as opinions of OLG, to the transfer agent to have the restrictive legends removed from the Nominee Shareholders' stock certificates, making them, in Otto's terminology, freely tradable.

30. For each of the Nominee Shareholders, Van Siclen represented he had reviewed a Shareholder Representation Letter containing statements regarding payment for the shares and beneficial ownership, evidence regarding the date of payment for the shares, and the Form 144 filled out by the Nominee Shareholder. Form 144 is document filed with the Commission that provides notice of a proposed sale of securities. Each opinion letter, dated October 24, 2006, concludes that the Nominee Shareholder is not an affiliate of MitoPharm and provided valuable consideration for the shares more than two years ago.

31. At the time he issued the instruction to write the opinion letters, Otto knew that there was no basis for removing the restrictive legend from the Nominee Shareholders' shares. As a securities lawyer, Otto knew, or was reckless in not knowing, that in order to remove the legend, Van Siclen would have to misrepresent material facts to the transfer agent.

32. Van Siclen knew he had no basis for making any of these representations in the opinion letter. He did not see any Shareholder Representation Letter from any of the Nominee Shareholders, and he knew no such letters existed. He also did not see any evidence of any Nominee Shareholder paying for the shares, and to his knowledge they paid nothing for the shares they were issued, or for the Note itself that was assigned to them. Van Siclen also knew that none of the Nominee Shareholders filed a Form 144 with the Commission for their MitoPharm shares. Van Siclen knew Otto had some ownership interest in the Otto Entities, but took no steps to confirm whether Otto or the Entities were affiliates of MitoPharm. As a securities lawyers, Van

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Siclen and Otto knew, or were reckless in not knowing, that the opinion letters Van Siclen wrote were false and misleading, and there was no basis for requesting removal of the restrictive legend for the reasons he stated in the opinion letters.

33. Based on the misrepresentations in the OLG opinion letters, the transfer agent issued share certificates to the Nominee Shareholders for 7,706,663 shares dated November 22, 2007 without restrictive legends. Absent the misrepresentations in the opinion letters, the transfer agent could not have issued unlegended share certificates.

Post-Conversion, Otto Controlled MitoPharm

34. By causing MitoPharm to issue 7.7 million shares to entities that he controlled directly (and a person over whom Otto had control), and then obtaining unlegended share certificates, Otto knew he was diluting the other shareholders, particularly holders of unrestricted shares. These maneuvers gave Otto undisclosed control over 25% of MitoPharm — and over 99% of the public float.

C. The Fraudulent Promotion of MitoPharm Stock

A Campaign to Promote Product That Does Not Exist

35. In the winter and spring of 2007, Otto, Van Siclen, Cheung and others, including Charles Bingham, who runs Wall Street PR, began to work on a promotional campaign for MitoPharm. The promotional campaign touted MitoPharm's two supposed products, "Restorade" and "Stamina Solution."

36. The campaign was false and misleading because it used statements and images to create the impression that MitoPharm was in a position to distribute widely, and sell commercially, different product lines, when in reality MitoPharm was a development stage company that had no money, no distribution channels, and no production capability.

37. The promotional materials falsely stated that both Restorade and Stamina Solution are "*[a]vailable* as functional beverage or as a soft gel capsule." Other materials stated that:

- "The Company's key products, Restorade and Stamina Solution *contain* a unique compound"

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- "The Restorade and Stamina Solutions products *are* the result of over 15 years of research"
- Restorade "*Counteracts* leading cause of aging, *Increases* cellular anti-oxidant capacity"
- Stamina Solution "*Improves* stamina and endurance"

(emphasis supplied).

38. To accompany the written text of MitoPharm's website and other promotional materials, Cheung had a graphics artist create renderings of what the containers for MitoPharm's products *could* look like. These were full color images of an aluminum can (like a typical soda can) and a plastic pill bottle with a design logo, either the "Restorade" or "Stamina Solutions" label, and language stating the flavor contained within. Promotional materials, including MitoPharm's website, web profiles created by Bingham and others, and written materials disseminated to investors typically used these fake images side-by-side with bullet points stating that product was "available" and other present tense descriptions of the product.

39. At the time of the promotional campaign — from late April until September 2007 — MitoPharm had no beverage other than a few test batches, no production facility, no distribution channels, and no sales. No soft gel capsule was ever developed.

The Materials Were Disseminated Widely Starting in Spring 2007

40. MitoPharm's campaign kicked off in April 2007 and continued throughout the summer promoting the product with materials that misrepresented the state of product development. The effort started with the posting of a profile of MitoPharm on a website, "EquityDigest.com." The profile used present tense language to describe MitoPharm's products, accompanied by the images purporting to be cans and bottles of MitoPharm's products.

41. In May 2007, Bingham increased the intensity of MitoPharm's promotional campaign. This involved issuing press releases several times a week (11 in 23 business days that month). In particular, company press releases issued on May 22, 2007 and May 31, 2007 contained statements that MitoPharm had product available when it did not. Other releases misleadingly used the present tense when referring to MitoPharm's products. In addition,

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sometime in May 2007, Bingham prepared and posted a web profile on a website called "The Bull Run Report." That profile contained the fake images alongside the misleading language that MitoPharm had available product. During that same time frame, MitoPharm posted on its own website the fake images and misleading language stating that product was available.

42. The promotional campaign, including MitoPharm's website and press releases, was virtually the only information available to investors about the company. There were no current reports on Forms 10-K or 10-Q filed with the Commission. The misstatements in the promotional campaign were designed to spur investor interest in a development stage company with no product and no sales by creating the impression that product was available. By misrepresenting MitoPharm's status in widely distributed public statements, the defendants misstated material facts to investors and potential investors in MitoPharm securities.

Cheung, Otto, and Van Siclen Knew or Were Reckless In Not Knowing That The Promotional Materials Were False and Misleading

43. Cheung, Otto, and Van Siclen knew that MitoPharm did not have product available, understood that MitoPharm needed financing before it could begin to create or distribute the product, and knew that statements that MitoPharm's products "*are available*" as a beverage or a soft gel capsule were not true at the time they were made. They were also aware that images of "Restorade" and "Stamina Solutions" beverage cans and pill bottles depicted product was at most in the development stage and not available for sale.

44. Cheung was aware that the promotional campaign was disseminating misleading information about the state of MitoPharm's product development. Cheung was responsible for the content of MitoPharm's website, which contained the "available" language and the fake pictures. Cheung was also responsible for creating the fake images of the cans and bottles, which he knew would be used to promote the product. Moreover, Cheung was involved in the drafting of the May 22 and May 31 press releases, or at least reviewed them.

45. Cheung was cavalier about accuracy of statements made to the public. On May 1, as the promotional efforts were gathering steam, Cheung emailed Bingham, Otto, and Van Siclen

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asking that they "Not to belabor on [sic] the accuracy of the contents, as we can always revise any incorrect information by future releases." But Cheung did not ask Bingham or anyone else to correct the May 22 or May 31 release, or any other public statement that MitoPharm had product available, even though he was in the best position to know such statements were misleading.

46. Otto and Van Siclen were also well aware that MitoPharm was actively promoting a product that did not exist. Cheung asked Bingham to send all press releases and other content to Otto and Van Siclen for review. Van Siclen saw many of the press releases before they went out. Otto paid particular attention to press releases. Both Otto and Van Siclen were aware of the EquityDigest website, which contained the fake images describing product in the present tense, and were asked to approve it before it was posted. Van Siclen was aware of MitoPharm's website.

Bingham Was Principally Responsibly For Disseminating Promotional Materials and Was Negligent In Not Knowing Whether MitoPharm Had Product Available

47. Bingham, who was hired by MitoPharm on Otto's introduction and recommendation, wrote and distributed much of the promotional material. His company, Wall Street PR, was MitoPharm's public relations company. As such, Bingham was fully aware of the web profiles, the newsletters, and the press releases that were published during the promotional campaign.

48. When Bingham began the promotional campaign, he understood that MitoPharm was a development stage company with the concept of selling a beverage. He never saw MitoPharm's product or the cans and bottles represented in the images on the promotional materials. Importantly, as MitoPharm's chief promoter making statements to the public, Bingham did not undertake any steps to ensure the accuracy of the materials he was drafting or disseminating. Accordingly, Bingham knew or should have known that the promotional materials he wrote and distributed contained misstatements of material facts.

49. On May 1, 2007, Otto transferred 50,000 unrestricted MitoPharm shares from one of the Otto Entities to Wall Street PR as compensation for the public relations work. Bingham

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therefore stood to gain by the rise in the company's stock price because of the shares Otto gave him.

D. As MitoPharm's Stock Price Rose, Otto and Bingham Sold Their Shares

50. In the few months before the promotional campaign, MitoPharm's stock was trading between approximately $0.50 and $0.65 per share on volume of at most a few thousand, and typically a few hundred, shares a day. Starting in late April 2007, one of the entities controlled by Otto began selling its MitoPharm stock using the means and instrumentalities of interstate commerce. Because Otto controlled virtually the entire public float of MitoPharm stock at the time, these initial sales constituted nearly the only available shares for the investing public to buy. As MitoPharm's stock price steadily rose in May 2007, Otto sold thousands of shares nearly every day in May 2007, eventually selling over 730,000 shares in the month for approximately $730,000. No registration statement was in effect for these transactions and no exemption from the registration requirements applied. The proceeds from these sales were deposited in a money market account held by OLG and controlled by Otto.

51. In early June 2007, using the means and instrumentalities of interstate commerce, Bingham sold Wall Street PR's shares while MitoPharm's stock continued to rise, making $80,000. In addition, Bingham received via wire transfer $207,000 from an Luxembourg entity that had sold MitoPharm stock it had received from one of the Otto Entities. No registration statement was in effect for these transactions and no exemption from the registration requirements applied.

E. The Promotional Campaign Continued and Otto Dumped the Nominee Shareholders' Stock.

52. MitoPharm's misleading promotional campaign continued through the summer of 2007, with MitoPharm's stock price peaking in early August. As the promotional campaign lost momentum, Otto began selling heavily the Nominee Shareholders' MitoPharm stock in September 2007 and did not stop selling until November 15, 2007, at which time each Nominee sold its remaining shares. Combined, the Nominee Shareholders sold over 4,500,000 shares of

MitoPharm for over $1.3 million. Nearly all of the proceeds from the sale of MitoPharm stock, including the individual Nominee Shareholder's, were deposited in an OLG money market account controlled by Otto.

53. This sales activity crushed MitoPharm's stock price, which dropped from a high of $2.31 on August 9, 2007 to $0.05 in the beginning of November 2007.

F. MitoPharm and Otto Provided Inaccurate Information About the Company and Its Shareholders

The Misleading Pink Sheets Disclosure

54. In the midst of the public relations campaign, MitoPharm filed a misleading statement with the Pink Sheets quotation services that hid Otto's and the Nominee Shareholders' ownership in the company. The Pink Sheets is an online service that provides quotations for certain stocks that are traded over-the-counter. In early June 2007, Van Siclen prepared a Company Information File (the "Profile") required by the Pink Sheets. The Profile, dated June 6, 2007 and posted on the Pink Sheets website, required disclosure of "all persons holding more than 5% of any class of the Issuer's equity securities."

55. To prepare the Profile, Van Siclen drafted a table of five percent owners that failed to include the holdings or ownership interest of any of the Otto Entities, the individual Nominee Shareholder, or David Otto. As of June 6, 2007, three of the Otto Entities owned more than five percent of MitoPharm stock, as did the individual Nominee Shareholder. Moreover, based on his ownership stake in each of the Otto Entities, Otto was the beneficial owner of over seven percent of MitoPharm stock at that time and controlled at least 25% of MitoPharm's stock.

56. Failing to disclose the Nominee Shareholders' stake and Otto's beneficial interest was misleading to investors because it hid from them the fact that one person — namely, MitoPharm's attorney — controlled large blocks of MitoPharm stock. Otto and Van Siclen both had access to or were aware of each Nominee Shareholder's ownership stake in MitoPharm. Otto and Van Siclen knew or were reckless in not knowing that the Pink Sheets profile Van Siclen prepared was materially misleading.

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The Failure to File Section 13 and 16 Disclosures

57. Following the reverse merger, MitoPharm was registered as a reporting issuer pursuant to Section 12 of the Exchange Act. A Section 12 registrant is required to make periodic filings with the Commission pursuant to Section 13 of the Exchange Act. From October 2006 until June 2007, MitoPharm failed to make filings required by Section 13(a) of the Exchange Act, including those on Forms 10-K for the fiscal year ended December 31, 2006 and 10-Q for fiscal quarter ended March 31, 2007.

58. Under Section 16 of the Exchange Act, officers and directors and beneficial owners of ten percent of a Section 12 registrant's stock must disclose their ownership interests and any changes thereto. Otto was the beneficial owner of more than ten percent of MitoPharm stock from November 22, 2006, when share certificates were issued to the Nominee Shareholders, until May 2007, when one of the Otto Entities sold substantial amounts of stock. Otto did not report his ownership stake on Form 3 or his sales on Form 4 as required by Section 16 of the Exchange Act. Failing to make these required filings was yet another way that Otto hid his ownership and control of MitoPharm's float from the public view.

59. On June 12, 2007, Van Siclen caused MitoPharm to file a report on Form 15 terminating the registration of MitoPharm's common stock.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violations of Sections 5(a) and 5(c) of the Securities Act by All Defendants

60. The Commission hereby incorporates and re-alleges here paragraphs 1 through 59.

61. By engaging in the acts and conduct alleged above, Otto, Van Siclen, Cheung, Bingham, MitoPharm, and Wall Street PR, directly or indirectly, made use of means or instruments of transportation or communication in interstate commerce or of the mails to offer or to sell securities through the use or medium of a prospectus or otherwise when no registration statement had been filed or was in effect as to such securities and no exemption from registration was available.

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62. By reason of the foregoing, Otto, Van Siclen, Cheung, Bingham, MitoPharm, and Wall Street PR, have violated and, unless enjoined, will continue to violate Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)].

SECOND CLAIM FOR RELIEF

Violations of Section 17(a)(1) of the Securities Act by Otto, Van Siclen, Cheung and MitoPharm

63. The Commission hereby incorporates and re-alleges here paragraphs 1 through 59.

64. By engaging in the acts and conduct alleged above, Otto, Van Siclen, Cheung and MitoPharm, directly or indirectly, in the offer or sale of securities, by use of the means or instruments of transportation or communication in interstate commerce or by use of the mails with scienter employed devices, schemes, or artifices to defraud

65. By reason of the foregoing, Otto, Van Siclen, Cheung and MitoPharm have violated and, unless restrained and enjoined, will continue to violate Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)].

THIRD CLAIM FOR RELIEF

Violations of Section 17(a)(2)and (a)(3) of the Securities Act by All Defendants

66. The Commission realleges and incorporates by reference Paragraphs 1 through 59.

67. By engaging in the conduct described above, Otto, Van Siclen, Cheung, Bingham, MitoPharm, and Wall Street PR, directly or indirectly, in the offer or sale of securities, by the use of the means or instruments of transportation or communication in interstate commerce or by use of the mails:

(a) obtained money or property by means of untrue statements of a material fact or omissions to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and

(b) engaged in transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon purchasers of securities.

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68. By reason of the foregoing, Otto, Van Siclen, Cheung, Bingham, MitoPharm, and Wall Street PR have violated, and unless restrained and enjoined will continue to violate, Section 17(a)(2) and (a)(3) of the Securities Act [15 U.S.C. § 77q(a)(2) and 77q(a)(3)].

FOURTH CLAIM FOR RELIEF

Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder by Otto, Van Siclen, Cheung, and MitoPharm

69. The Commission realleges and incorporates by reference Paragraphs 1 through 59.

70. By engaging in the conduct described above, Otto, Van Siclen, Cheung, and MitoPharm, with scienter, directly or indirectly, in connection with the purchase or sale of securities, by the use of means or instrumentalities of interstate commerce or of the mails, or of facilities of a national securities exchange:

(a) employed devices, schemes, or artifices to defraud;

(b) made untrue statements of a material fact or omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and

(c) engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon other persons, including purchasers and sellers of securities.

71. By reason of the foregoing, Otto, Van Siclen, Cheung, and MitoPharm have violated, and unless restrained and enjoined will continue to violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Rule 10b-5 [17 C.F.R. § 240.10b-5].

FIFTH CLAIM FOR RELIEF

Aiding and Abetting Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder by Van Siclen

72. The Commission realleges and incorporates by reference Paragraphs 1 through 59.

73. By engaging in the conduct described above, Otto, Van Siclen, Cheung, and MitoPharm, with scienter, directly or indirectly, in connection with the purchase or sale of securities, by the use of means or instrumentalities of interstate commerce or of the mails, or of facilities of a national securities exchange:

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(a) employed devices, schemes, or artifices to defraud;

(b) made untrue statements of a material fact or omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and

(c) engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon other persons, including purchasers and sellers of securities.

74. Van Siclen knowingly provided substantial assistance to violations of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5], and therefore is liable as aiding and abetting pursuant to Section 20(e) of the Exchange Act [15 U.S.C. § 78t(e)].

75. By reason of the foregoing, Van Siclen has violated, and unless restrained and enjoined will continue to violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Rule 10b-5 [17 C.F.R. § 240.10b-5].

SIXTH CLAIM FOR RELIEF

Violations of Section 13(a) of the Exchange Act and Rules 13a-1, and 13a-13 Thereunder by MitoPharm

76. The Commission realleges and incorporates by reference Paragraphs 1 through 59.

77. Based on the conduct alleged above, MitoPharm violated Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)], and Rules 13a-1 and 13a-13 [17 C.F.R. §§ 240.13a-1 and 240.13a-13], which obligate issuers of securities registered pursuant to the Exchange Act to file with the Commission annual and quarterly reports.

78. By reason of the foregoing, MitoPharm has violated, and unless restrained and enjoined will continue to violate, Section 13(a) of the Exchange Act, [15 U.S.C. § 78m(a)], and Rules 13a-1 and 13a-13 [17 C.F.R. §§ 240.13a-1 and 240.13a-13].

SEVENTH CLAIM FOR RELIEF

Violations of Section 16(a) of the Exchange Act and Rule 16a-3 Thereunder by Otto

79. The Commission realleges and incorporates by reference Paragraphs 1 through 59.

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80. Based on the conduct alleged above, by failing to file accurate statements with the Commission regarding his changes in beneficial ownership of MitoPharm shares, Otto violated Section 16(a) of the Exchange Act [15 U.S.C. § 78p(a)], which obligates officers and directors and beneficial owners of more than ten percent of issuers registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78*l*], to file with the Commission statements regarding beneficial ownership of securities of the issuer.

81. By reason of the foregoing Otto has violated, and unless restrained and enjoined will continue to violate, Section 16(a) of the Exchange Act [15 U.S.C. § 78p(a)] and Exchange Act Rule 16a-3 [17 C.F.R. § 240.16a-3].

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

I.

Issue an order permanently restraining and enjoining each defendant and their agents, servants, employees, attorneys, and assigns, and those persons in active concert or participation with them, from violating and/or aiding and abetting the provisions of the federal securities laws each violated, including Sections 5 and 17(a)(1), (2), and (3) of the Securities Act, 15 U.S.C. §§ 77e, 77q(a); Sections 10(b), 13(a), and 16(a) of the Exchange Act, 15 U.S.C. §§ 78j(b), 78m(a), and 78p(a); and Rules 10b-5, 13a-1, 13a-13, and 16a-3, 17 C.F.R. §§ 240.10b-5, 240.13a-1, 240.13a-13, and 240.16a-3.

II.

Issue an order directing defendants Otto, Bingham and Wall Street PR to disgorge all wrongfully obtained benefits in an amount according to proof, plus prejudgment interest thereon.

III.

Issue an order directing defendants to pay civil monetary penalties under Section 20(d) of the Securities Act, 15 U.S.C. §§ 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. §§ 78u(d)(3).

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IV.

Issue an order barring Cheung from serving as an officer or director of any public company, pursuant to Section 21(d)(2) of the Exchange Act, 15 U.S.C. § 78u(d)(2).

V.

Issue an order barring Otto, Van Siclen, and Cheung from participating in an offering of penny stock, pursuant to Section 21(d)(6) of the Exchange Act, 15 U.S.C. § 78u(d)(6)

VI

Retain jurisdiction of this action in accordance with the principles of equity and the Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders and decrees that may be entered, or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

VII.

Grant such other and further relief as this Court may determine to be just and necessary

Dated: July 13, 2009

Respectfully submitted,

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