

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**SECURITIES AND EXCHANGE COMMISSION,**

Plaintiff,

v.

**TSUKUDA-AMERICA INC. AND  
JOHN W. PETROS**

Defendants.

Civil Action No. \_\_\_\_\_

**COMPLAINT**

The Securities and Exchange Commission (“Commission”) files this Complaint against Defendants Tsukuda-America Inc. (“Tsukuda”) and John W. Petros (“Petros”) (collectively, “Defendants”). The Commission alleges:

**INTRODUCTION**

1. This is an offering fraud case. On March 27, 2009, Tsukuda filed a Form S-1 registration statement with the Commission registering an offering of \$600,000 worth of its common stock. After amendment, the registration statement was declared effective by the Commission.

2. The registration statement contained false and misleading statements and forged documents. Specifically, the registration statement: (a) contained a forged audit report and consent; (b) falsely identified a stock transfer agent company as being the transfer agent for Tsukuda; (c) included a bogus legal opinion and geologist’s report, and sham consents from an attorney and geologist who do not exist; and (d) contained fictitious financial information.

3. Petros, Tsukuda's sole officer and director, prepared and submitted the false and misleading registration statement to the Commission. The registration statement was submitted to the Commission using the Commission's Electronic Data Gathering, Analysis, and Retrieval system ("EDGAR"), and, once filed, was available for review by the general public.

4. Petros similarly prepared and submitted false and misleading registration and offering statements for Pioneer Capital Associates, Inc. ("Pioneer Capital"), Phoenix Gold Mining Corporation ("Phoenix Gold"), Euro Capital Incorporated ("Euro Capital"), and Lone Mountain Mining Company ("Lone Mountain"). In connection with these false filings, Petros: (a) included bogus audit and legal opinions and consents from nonexistent lawyers and accountants; (b) fabricated corporate financial information; and (c) falsely held himself out to be a lawyer—issuing legal opinions as company counsel.

5. By this conduct, Defendants have offered securities in violation of Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)].

6. The Commission, in the interest of protecting the public from further such fraudulent activities and harm, brings this action seeking permanent injunctive relief, civil money penalties, an officer and director bar, a penny stock bar and additional equitable relief barring Petros, directly or indirectly, from filing or causing the filing of any registration or offering statements with the Commission.

### **JURISDICTION AND VENUE**

7. The investments offered by Defendants are "securities" under Section 2(a)(1) of the Securities Act [15 U.S.C. § 77b(a)(1)].

8. The Commission brings this action under Section 20(b) of the Securities Act [15 U.S.C. § 77t(b)].

9. Defendants, directly or indirectly, made use of the means or instruments of transportation and communication, and the means or instrumentalities of interstate commerce, or of the mails, in connection with the transactions, acts, practices, and courses of business alleged herein. Certain of the transactions, acts, practices, and courses of business alleged herein took place in the Northern District of Texas.

#### **DEFENDANTS**

10. **Tsukuda-America Inc.** is an Indiana corporation based in Rockwall, Texas that purportedly intends to explore and mine for gold in New Mexico.

11. **John W. Petros**, 50, of Richardson, Texas, is Tsukuda's sole officer, director and shareholder. He signed Tsukuda's registration statement. Petros was CEO of Euro Capital when the Commission named it in administrative proceedings that resulted in the temporary suspension and ultimate withdrawal of its misleading Regulation A offering statement. *See In the Matter of Euro Capital Incorporated*, Securities Act Rel. No. 8983 (November 20, 2008) (involving a Regulation A filing related to an earlier attempt to raise funds for a New Mexico mining claim).

#### **OTHER RELEVANT ENTITIES**

12. **Pioneer Capital Associates Inc.; Phoenix Gold Mining Corporation; Euro Capital Incorporated;** and **Lone Mountain Mining Company** are four other issuers for which Petros has signed registration or offering statements. Pioneer supposedly provided financial services. The other issuers (like Tsukuda) purportedly intended to explore and develop New Mexico gold mining claims. All are shell companies that had no or only limited business operations and which have withdrawn their registration or offering statements.

## **THE STATEMENT OF FACTS**

### **I. The Fraudulent Tsukuda Registration Statement**

13. Tsukuda filed a Form S-1 registration statement with the Commission on March 27, 2009, which it amended on April 10, 2009, and which was declared effective on April 14, 2009. Tsukuda made its filings electronically, using the Commission's EDGAR system. Once filed, Tsukuda's offering commenced and the registration statement was publicly available on the Commission's website.

14. Petros signed these filings, and also the "Form ID Application Acknowledgement" for the electronic processing of Tsukuda's registration statements and other filings. The form identifies Petros as Tsukuda's Commission contact.

15. Tsukuda's registration statement represented that it sought to raise \$600,000 through the offer and sale of three million shares of common stock at \$0.20 per share to conduct geologic explorations of a New Mexico mining claim.

#### **a. Bogus Audit Report**

16. Tsukuda's registration statement included financial statements purportedly audited by Weinberg & Company, P.A. ("Weinberg"), an accounting firm in Boca Raton, Florida. The registration statement included two documents, purportedly prepared by Weinberg, a "Report of Independent Registered Public Accounting Firm" and a "Consent of Independent Certified Public Accountants." The documents are forgeries.

17. Weinberg did not audit Tsukuda's financial statements, did not prepare the Report of Independent Registered Public Accounting Firm, and did not prepare the Consent of Independent Certified Public Accountants. In fact, Weinberg has never done any work for Tsukuda or Petros.

**b. Fictitious Legal Opinion and Geologist Report**

18. Tsukuda's registration statement contained a purported legal opinion from the law firm of Cassidy & Associates in Indianapolis, Indiana. The legal opinion is bogus, and the purported law firm does not exist.

19. Similarly, the registration statement incorporated a supposed geology report and consent authored by consulting geologist Charlotte Anderson. In reality, the geology report and consent were fabricated by Petros, and Charlotte Anderson, consulting geologist, does not exist.

**c. False Statement Regarding Stock Transfer Agent**

20. Tsukuda's registration statement stated "The company's stock transfer agent is Signature Stock Transfer." This is false. Signature Stock Transfer is not and never has been Tsukuda's stock transfer agent.

**d. Fictitious Financial Statements**

21. Tsukada's registration statement contained fictitious financial statements. The line items, including but not limited to total assets, current liabilities, and cash flows from operating activities, were identical to those listed in Commission registration/offering statements by other Petros controlled companies.

22. Specifically, Tsukada's financial statements were identical to the financial statements of Phoenix Gold (Form 1-A submitted to Commission on or about April 24, 2009), Euro Capital (Form 1-A submitted to Commission on or about March 18, 2009), and Lone Mountain (Forms 1-A and 1-A/A submitted to Commission on or about March 25, 2009 and April 29, 2009, respectively).

**II. Additional Fraudulent Registration and Offering Statements**

23. Four additional companies controlled by Petros – Pioneer Capital, Phoenix Gold,

Euro Capital, and Lone Mountain – filed registration and offering statements that were false, misleading, and contained bogus documents. The offerings are detailed below.

**a. Pioneer Capital**

24. Pioneer Capital filed a Form SB-2 registration statement with the Commission on February 8, 2007, which Petros signed, for the offering of five million shares of common stock at \$0.20 per share.

25. The registration statement included an audit opinion and a consent from a Moto Kuda, CPA of Motokuda Accounting Services, and a legal opinion by Tsuka Kuda, Esq. of Tsukakuda Legal Services. The audit and legal opinions and consents are bogus. Neither of these alleged professionals exists.

**b. Phoenix Gold**

26. Phoenix Gold filed a Regulation A offering statement with the Commission on Form 1-A on or about December 13, 2007, which Petros signed, for the offering of 4.5 million shares of common stock, at \$1.00 per share.

27. The offering statement falsely listed Petros as company counsel. Petros is not a licensed attorney.

28. Phoenix Gold filed a second Regulation A offering statement with the Commission on Form 1-A on or about April 24, 2009, which Petros signed, for the offer of three million shares of common stock, at \$0.20 per share.

29. The offering statement contained a sham legal opinion authored by Petros, supposedly acting as “Counsel for Phoenix Gold Mining Company.”

**c. Euro Capital**

30. Euro Capital filed a Regulation A offering statement with the Commission on

Form 1-A on or about December 17, 2007, which Petros signed, for the offering of five million shares of common stock, at \$0.50 per share.

31. On or about January 4, 2008, the Commission temporarily suspended Euro Capital's Regulation A exemption, because of questions over its representations regarding mineral claims and revenues, and omissions regarding the value and ownership of the claims and the background of the company's management.

32. On August 26, 2008, pursuant to a settlement negotiated with Petros on behalf of Euro Capital, the Commission entered an order in which Euro Capital undertook to withdraw its offering statement voluntarily.

33. On or about March 18, 2009, Euro Capital filed another Regulation A offering statement with the Commission on Form 1-A, which Petros signed, for the offer of three million shares of common stock, at \$0.20 per share.

34. In the offering statement, Petros again falsely held himself out to be a licensed attorney, signing the offering statement's legal opinion as "Counsel for Euro Capital Incorporated."

**d. Lone Mountain**

35. Lone Mountain filed a Regulation A offering statement with the Commission on Form 1-A on or about March 25, 2009, which Petros signed, for the offer of three million common stock, at \$0.20 per share.

36. This offering statement again contained a bogus legal opinion by Petros, in which he signed the legal opinion as "Counsel for Lone Mountain Mining Company."

37. Petros signed and filed an amended offering statement on or about April 29, 2009. The amended offering statement contained a legal opinion supposedly issued by a *bona fide* law

firm, Dill, Dill, Carr, Stonbraker & Hutchings, PC. The legal opinion is a forgery. The law firm did not issue the legal opinion.

**III. Defendants Refuse to Comply with Investigatory Subpoenas**

38. In connection with Commission's investigation into Defendants, Commission staff subpoenaed Defendants to produce documents and for Petros to provide sworn testimony. To date, Defendants have not produced documents and Petros has also refused to testify.

**CLAIM**

**Fraud in the Offer of Securities  
Violations of Section 17(a) of the Securities Act**

39. Plaintiff Commission repeats and incorporates paragraphs 1 through 38 of this Complaint by reference as if set forth *verbatim*.

40. Defendants, directly or indirectly, singly or in concert with others, in the offer or sale of securities, by use of the means and instrumentalities of interstate commerce and by use of the mails have: (a) employed devices, schemes, and artifices to defraud; (b) obtained money or property by means of untrue statements of a material fact and omitted to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaged in transactions, practices, and courses of business which operate or would operate as a fraud and deceit upon the purchasers.

41. As a part of and in furtherance of their scheme, Defendants, directly and indirectly, prepared, disseminated, or used contracts, written offering documents, promotional materials, investor and other correspondence, and oral presentations, which contained untrue statements of material facts and misrepresentations of material facts, and which omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.



42. With respect to violations of Sections 17(a)(2) and (3) of the Securities Act, Defendants were negligent in their actions regarding the representations and omissions alleged herein. With respect to violations of Section 17(a)(1) of the Securities Act, Defendants made the above-referenced misrepresentations and omissions knowingly or with severe recklessness regarding the truth.

43. By reason of the foregoing, Defendants have violated and, unless enjoined, will continue to violate Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

**RELIEF REQUESTED**

**THEREFORE**, Plaintiff respectfully requests that this Court:

**I.**

Permanently enjoin Defendants from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

**II.**

Order Defendants to pay civil monetary penalties in an amount determined as appropriate by the Court pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] for the violations alleged herein.

**III.**

Enter an order barring Petros from acting as an officer or director of any issuer required to file reports pursuant to Sections 12 or 15(d) of the Securities Exchange Act of 1934 [15 U.S.C. §§ 78l and 78o(d)] (“Exchange Act”), pursuant to Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)].

**IV.**

Enter an order barring Petros from participating in an offering of penny stock, pursuant to Section 20(g) of the Securities Act [15 U.S.C. § 77t(g)].

**V.**

Enter an order barring Petros from, directly or indirectly, filing or causing the filing of any registration or offering statements with the Commission, pursuant to Section 21(d)(5) of the Exchange Act [15 U.S.C. § 78u(d)(5)].

**VI.**

Order such further relief as this Court may deem just and proper.

Dated: January 26, 2010.

Respectfully submitted,

s/ Robert Long  
ROBERT LONG  
Arizona Bar No. 019180  
R. JOANN HARRIS  
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