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SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

JAN 22 2007
[Signature]

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11 **Attorneys for Plaintiffs,**
12 **ANONYMOUS INVESTOR**
13 **[VICKY REISS]**

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15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **IN AND FOR THE COUNTY OF RIVERSIDE**

17 **ANONYMOUS INVESTOR,**
18 **[VICKY REISS],**

CASE NO. 463483

19 **Plaintiff,**

**EX PARTE APPLICATION
FOR INJUNCTIVE RELIEF
PER CALIFORNIA UNFAIR
BUSINESS PRACTICE LAWS &
CONSUMER PROTECTION LAWS;
DECLARATIONS IN
SUPPORT THEREOF; POINTS
& AUTHORITIES; EXHIBITS**

20 vs.

21 **JOVANE INVESTMENTS,**
22 **et al.,**

23 **Defendants.**

DATE : 1/22/07
TIME : 8:15 am
DEPT : 2

24 **Plaintiff hereby applies for an ex parte order granting a temporary restraining**
25 **order as against Defendants PACIFIC WEALTH MANAGEMENT, MAURICE**
26 **McLEOD, and those acting in concert or participation with them (HENDRIX**
27 **MONTECASTRO, HELEN MONTECASTRO, STONEWOOD CONSULTING),**
28 **as follows:**

I.

TRO RELIEF SOUGHT

Plaintiff seeks an order preventing the above mentioned defendants from engaging in the following acts:

1.

- 1 1. Leading any member of the public to believe that said defendants are
- 2 associated in any way with Pacific Wealth Management LLC, the plaintiff
- 3 in Case No. RIC 462505, or any other legally operating California
- 4 investment company associated with or using the name "Pacific Wealth."
- 5 2. From engaging in any "investment" or business activity, of any kind, under
- 6 the name "Pacific Wealth," "Pacific Wealth Management" or "Pacific
- 7 Wealth Management LLC" or any other variation of "Pacific Wealth,"
- 8 including "Corporate Offices formerly Pacific Wealth."

9 II.

10 INTRODUCTION

11 This case relates to Defendants, and their cohorts, who are already the subject of
 12 an unfair business practices injunction leveled against them by this Court in the matter of
 13 *Pacific Wealth Management LLC v. Pacific Wealth Management LLC, RIC 462505*. In
 14 that case, this Court ordered Defendants herein, Pacific Wealth Management and
 15 Maurice McLeod, to cease and desist in all efforts to make use of the name "Pacific
 16 Wealth Management" in the conduct of the Defendants' affairs with the public. (See
 17 Exhibit "1" to Ackerman Declaration). Defendants, or their agents, are intentionally
 18 violating these orders by continuing to do business as "Pacific Wealth" or related/similar
 19 names. Such violations of the injunction occurred just yesterday (1/18/07). (See
 20 Declaration of Laura J. Wilson).

21 Mandatory judicial notice of this Court's own orders are sought herein pursuant to
 22 *California Evidence Code §§ 450-452*. (Exh. "1" to Ackerman Declaration).

23 While Case No. RIC462505 was about the protection of competitors and business
 24 interests hurt by the activities of the Defendants, the instant case is about the financial
 25 harm that is being caused to many consumers as a result of the *continuing* unlicensed and
 26 unfair "investment" activities of the Defendants and those working in concert and
 27 participation with PACIFIC WEALTH, MAURICE McLEOD,

28 Each of the consumer-victims approached by PACIFIC WEALTH, and those acting

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1 in concert and participation with them, as set forth in the declarations filed herewith, were
2 victims of conduct expressly prohibited by *California Civil Code* § 1770
3 [misrepresentation of authority to sell and association] and *California Business &*
4 *Professions Code* §§ 17200, 17500 [engaging in unlawful, misleading, or fraudulent
5 business activities].

6 As the Court can see from the facts set forth in the operative complaint, in the
7 supporting declarations and related exhibits, Defendants are violating California's
8 prohibition on unfair business practices and must be immediately enjoined from prohibited
9 activities in order to protect the general public, Pacific Wealth Management LLC of San
10 Diego, and the "investors" who have been injured by the Defendants' activities. The
11 Defendants are presently engaging in conduct that is injurious to the public and must be
12 stopped immediately. Given the pattern of conduct described in the declarations, the
13 conduct is likely to recur and, frankly, it would be difficult for Defendants to do anything
14 but refer to themselves as "Pacific Wealth" because they have already led hundreds of
15 people to believe that they *are* "Pacific Wealth."

16 III.

17 STATEMENT AS TO URGENCY OF RELIEF

18 First, this Court's prior orders on a related matter are being violated. This Court
19 has the inherent power to enforce its own orders and to ensure that the spirit and the letter
20 of such orders are being carried out. Defendants McLEOD and PACIFIC WEALTH are
21 not complying with this Court's orders and are still operating under the name of "Pacific
22 Wealth" or variants thereof.

23 The showing of a traditional "emergency" for purposes of a TRO is not required
24 in cases of unfair business practices. The present or anticipated commission of an illegal
25 act is sufficient to demonstrate a basis for relief. *Cortez v. Purolator Air Filtration*
26 *Products Co.* (2000) 23 Cal.4th 163, 96 Cal.Rptr. 518; [need not show intent to harm];
27 *Brockey v. Moore* (2003) 107 Cal.App.4th 86, 131 Cal.Rptr.2d 746 [court can prevent
28 illegal practice, harm is the illegal practice - granted relief very similar to that sought

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1 herein]; *Kraus v. Trinity Management Services* (2000) 23 Cal.4th 116, 96 Cal.Rptr.2d 485
2 [Court has very broad powers to enjoin illegal conduct].

3 Thirdly, there is a legitimate emergency because the attached declarations show that
4 many consumers are under the impression that they are *presently* doing business with
5 Pacific Wealth Management LLC, a company believed to be operating lawfully in
6 California. This is false and misleading because Pacific Wealth (defendant herein) is not
7 licensed to do investment business here in California and neither are Defendants
8 STONEWOOD, HENDRIX MONTECASTRO, or HELEN MONTECASTRO. This is
9 a per se' violation of the laws pertaining to licensed investment brokers, real estate
10 brokers, and this Court's orders as to Defendants McLEOD and PACIFIC WEALTH.

11 Finally, it is clear from the declarations that consumers believe that they *are* still
12 doing business with "Pacific Wealth" and there are *continuing* obligations owed by
13 "Pacific Wealth" to the declarants. As such, the likelihood of future violations is
14 imminent because of the vast web of deception created by the Defendants who continue
15 to use the name "Pacific Wealth," even as recently as January 18, 2006, the exact same day
16 that the first request for relief was heard by this Court.

17 IV.

18 STATEMENT OF FACTS

19 The Court is respectfully referred to the original and amended complaints filed in
20 this action for the detailed version of the facts that are relevant to the relief sought herein.
21 Verification of the facts alleged therein is set forth below.

22 In sum, however, as can be seen from the declarations filed concurrently herewith,
23 the Defendants are engaged in an investment scheme whereby: a.) Defendants *presently*
24 *continue* to induce victims to invest multiple "investment" real properties that are
25 impossible to afford through PACIFIC WEALTH; b.) Defendants, including McLEOD
26 and PACIFIC WEALTH continue to induce victims to take multiple mortgages out on or
27 transfer "investment" properties without full disclosure as to foreseeable harm to the
28 victims and their ability to pay the mortgage payments associated therewith, and; c.)

1 Defendants demand that the victims forward the money to PACIFIC WEALTH for
2 purposes of "investing."

3 All of the above acts are subject to *immediate* injunctive relief because Defendants
4 are not licensed to do investment advice in California and are in violation of existing Court
5 orders preventing the use of "Pacific Wealth." This Court has already found that
6 PACIFIC WEALTH and McLEOD are not licensed to do "investments" by the State of
7 California. None of the persons alleged to be acting in participation and concert with said
8 Defendants are so licensed either.

9 Furthermore, none of the victims have ever been provided with statements of
10 investment accounts, explanations as to the destination of funds taken from them by the
11 Defendants, or refunds of any monies taken from them (although requested).

12 This Court need only find that the Defendants are not licensed to offer securities
13 or investment advice within the State of California in order to summarily grant the
14 injunctive relief sought herein. *California Business & Professions Code* § 17203
15 [California Unfair Business Practices Act]; *California Civil Code* § 1770 [Consumer
16 Legal Remedies Act]. This Court has already found, and it has been stipulated by counsel
17 for some of the Defendants, that Defendant PACIFIC WEALTH MANAGEMENT does
18 not have the right to do business under this name in the State of California.

19 V.

20 STANDARD OF JUDICIAL REVIEW ON

21 AN APPLICATION FOR INJUNCTIVE RELIEF

22 *California Code of Civil Procedure* § 526 states as follows:

23 (a) An injunction may be granted in the following cases:

24 (1) When it appears by the complaint that the plaintiff is entitled to
25 the relief demanded, and the relief, or any part thereof, consists in
26 restraining the commission or continuance of the act complained of, either
27 for a limited period or perpetually.

28 (2) When it appears by the complaint or affidavits that the

1 commission or continuance of some act during the litigation would produce
2 waste, or great or irreparable injury, to a party to the action.

3 (3) When it appears, during the litigation, that a party to the action
4 is doing, or threatens, or is about to do, or is procuring or suffering to be
5 done, some act in violation of the rights of another party to the action
6 respecting the subject of the action, and tending to render the judgment
7 ineffectual.

8 More important to the present case is the fact that *California Business &*
9 *Professions Code* § 17203 states:

10 "Any person who engages, has engaged, or proposes to engage in
11 unfair competition may be enjoined in any court of competent jurisdiction.
12 The court may make such orders or judgments, including the appointment
13 of a receiver, as may be necessary to prevent the use or employment by any
14 person of any practice which constitutes unfair competition, as defined in
15 this chapter, or as may be necessary to restore to any person in interest any
16 money or property, real or personal, which may have been acquired by
17 means of such unfair competition."

18 In the instant case, Defendants continue to use the term "Pacific Wealth" in
19 violation of this Court's orders, consumers still believe that they are *presently* doing
20 business with "Pacific Wealth," the Defendants are stealing money from "Pacific Wealth
21 investors," and Defendants are failing to comply with any reasonably expected conduct
22 of a person lawfully engaging in "investment" advice.

23 Moreover, the conduct is injurious to Pacific Wealth Management LLC of San
24 Diego because victims are likely to be misled into believing that they are doing legitimate
25 investment business with Pacific Wealth, when, in fact, they are doing business with a
26 completely unlicensed "investments" advisor. (See Declarations filed Herewith).

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VI.

BALANCING OF HARMS

There is very little to analyze in this case as to the balancing of harms since Defendants McLEOD and PACIFIC WEALTH MANAGEMENT LLC, have already been ordered to cease and desist in the conduct complained of herein and established by affidavit. Defendants cannot claim to be harmed by being requested abide by what they have already agreed to or not do. Moreover, bond should not be required since it was waived in the related case.

Finally, those acting in concert or participation with Defendants McLEOD and PACIFIC WEALTH, including the Stonewood-related Defendants, cannot claim any harm either since they are not licensed to offer investment advice in California in the first place. The attached declarations show that Defendants are still offering what appears to be "investment" related advice.

VII.

CONCLUSION

PACIFIC WEALTH MANAGEMENT LLC, MAURICE McCLEOD, and those acting in concert and participation with them (including HENDRIX MONTECASTRO, HELEN MONTECASTRO, and STONEWOOD CONSULTING) as employees, representatives, assignees, principals, contractors, independent contractors, or any other related persons should be restrained from:

1. Leading any member of the public to believe that said defendants are associated in any way with Pacific Wealth Management LLC, the plaintiff in Case No. RIC 462505, or any other legally operating California investment company associated with or using the name "Pacific Wealth."
2. From engaging in any "investment" or business activity, of any kind, under the name "Pacific Wealth," "Pacific Wealth Management" or "Pacific Wealth Management LLC" or any other variation of "Pacific Wealth." including "Corporate Offices formerly Pacific Wealth."

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Dated: 1/19/07

Most respectfully submitted,

ACKERMAN, COWLES & LINDSLEY

A handwritten signature in black ink, appearing to read "Richard D. Ackerman", is written over a horizontal line. The signature is enclosed within a large, hand-drawn oval.

RICHARD D. ACKERMAN, ESQ.,
Attorneys for Plaintiffs.

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PROOF OF SERVICE
(Pursuant to CCP § § 1013a(1) and 2015.5)

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STATE OF CALIFORNIA)
) ss.
COUNTY OF RIVERSIDE)

I am employed in the County of Riverside, State of California. I am over the age of eighteen years and not a party to the within entitled action. My business address is 41690 Enterprise Circle North, Suite 216, Temecula, CA 92590.

On January 19, 2007, I served the foregoing documents(s) described as **EX PARTE APPLICATION FOR INJUNCTIVE RELIEF PER CALIFORNIA UNFAIR BUSINESS PRACTICE LAWS & CONSUMER PROTECTION LAWS; DECLARATIONS IN SUPPORT THEREOF; POINTS & AUTHORITIES; EXHIBITS** on the below interested parties in this action by placing copies thereof enclosed in a sealed envelope and addressed as follows:

| | | |
|--|---|--|
| Keith Ogburn, Esq. Ogburn Law Office 3 Hutton Centre Dr., #680 Santa Ana, CA 92707 Fax: (714) 424-0081 | William H. Sauls, Esq. Law Offices of W.H. Sauls 427 C Street, Ste. 416 San Diego, CA 92101 Fax: (619) 239-8096 | Daniel E. Katz, Esq. Reid & Hellyer 3880 Lemon Street, 5 th Floor Riverside, CA 92502 Fax: (951) 686-2415 |
|--|---|--|

I declare that I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business.

(By Mail) I caused to be deposited such envelope in the mail at Temecula, California. The envelope was mailed with postage thereon fully prepaid on January 19, 2007.


(By Facsimile) I sent this document via facsimile as listed on the attached service list, on January 19, 2007.

(By Overnight Courier) Such envelope was delivered by an agent of Federal Express to the offices states on the attached service list. It was requested by the person executing this Proof of Service that the envelope be delivered the next business day.

(By Personal Service) Such envelope was delivered by an agent of One Legal, Inc., by hand as stated on the attached service list. Executed on _____, at Temecula, California.

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service is made.


LAURA J. WILSON
Declarant