

AO 245B

(Rev. 10/2011 EDNY) Judgment in a Criminal Case
Sheet 1

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
AUG 28 2012
U.S. DISTRICT COURT E.D.N.Y.
AUG 28 2012
BROOKLYN OFFICE
BROOKLYN OFFICE

UNITED STATES DISTRICT COURT

Eastern District of New York

UNITED STATES OF AMERICA

v.

GARTH PETERSON

JUDGMENT IN A CRIMINAL CASE

Case Number: CR12-224 (JBW)

USM Number: 80341-053

Abigail Rosen 500 5th Ave. NYC 10110
Defendant's Attorney

THE DEFENDANT:

- pleaded guilty to count(s) 1 of the information AUSA- John Nowak
- pleaded nolo contendere to count(s) _____
which was accepted by the court.
- was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 USC 371	Conspiracy to circumvent internal controls		1

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s) _____
- Count(s) _____ is are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

8/16/2012
Date of Imposition of Judgment


Signature of Judge

Jack B. Weinstein Sr. U.S.D.J.
Name of Judge Title of Judge

8/28/2012
Date

DEFENDANT: GARTH PETERSON
CASE NUMBER: CR12-224 (JBW)

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

9 months

The court makes the following recommendations to the Bureau of Prisons:

That the defendant be incarcerated at the facility in Edgefield South Carolina

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at _____ a.m. p.m. on _____

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on _____

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

a _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: GARTH PETERSON
CASE NUMBER: CR12-224 (JBW)Judgment—Page 3 of 5**SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

3 years. The defendant is permitted to serve his supervised release in Singapore. The defendant is to participate in a psychiatric, drug and alcohol treatment program as directed by the probation department.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. *(Check, if applicable.)*
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. *(Check, if applicable.)*
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. *(Check, if applicable.)*
- The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense. *(Check, if applicable.)*
- The defendant shall participate in an approved program for domestic violence. *(Check, if applicable.)*

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment; notification is not possible, then within forty eight hours after such change;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: GARTH PETERSON
CASE NUMBER: CR12-224 (JBW)

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>		<u>Fine</u>		<u>Restitution</u>
TOTALS	\$ 100.00		\$		\$

The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
----------------------	--------------------	----------------------------	-------------------------------

TOTALS	\$	0.00	\$	0.00
---------------	----	------	----	------

Restitution amount ordered pursuant to plea agreement \$ _____

The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

The court determined that the defendant does not have the ability to pay interest and it is ordered that:

the interest requirement is waived for the fine restitution.

the interest requirement for the fine restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: GARTH PETERSON
CASE NUMBER: CR12-224 (JBW)

ADDITIONAL TERMS FOR CRIMINAL MONETARY PENALTIES

SEE FINAL CIVIL JUDGMENT ATTACHED TO THIS JUDGMENT.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ MAY 03 2012 ★
BROOKLYN OFFICE

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

vs.

GARTH RONALD PETERSON,

Defendant.

Civil Action No.

CV12-2033 (JBW)

CR12-224 (JBW)

JRW

[proposed] FINAL JUDGMENT AS TO DEFENDANT GARTH PETERSON

The Securities and Exchange Commission ("Commission") having filed a Complaint and Defendant Garth Peterson having entered a general appearance; consented to the Court's jurisdiction over Defendant and the subject matter of this action; consented to venue in this Court; consented to entry of this Final Judgment; waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section 30A of the Securities Exchange Act ("Exchange Act") [15 U.S.C. §78dd-1], by making use of the mails or any means or instrumentality of interstate commerce corruptly, or by corruptly doing any act outside the United States, in furtherance of an offer, payment, promise to pay, or

SL

authorization of the payment of any money, or offer, gift, promise to give, or authorization or the giving of anything of value to:

- (1) any foreign official for purposes of:
 - (a) influencing any act or decision of such foreign official in his official capacity, (ii) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or (iii) securing any improper advantage; or
 - (b) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person;

- (2) any foreign political party or official thereof or any candidate for foreign political office for purposes of:
 - (a) (i) influencing any act or decision of such party, official, or candidate in its or his official capacity, (ii) inducing such party, official, or candidate to do or omit to do any act in violation of the lawful duty of such party, official, or candidate, or (iii) securing any improper advantage; or
 - (b) inducing such party, official, or candidate to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person; or

(3) any person, while knowing that all or a portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to any foreign official, to any foreign political party or official thereof, or to any candidate for foreign political office for purposes of:

- (a) (i) influencing any act or decision of such foreign official, political party, party official, or candidate in its or his official capacity, (ii) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such party, official, or candidate, or (iii) securing any improper advantage; or
- (b) inducing such foreign official, political party, party official, or candidate to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person.

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] by knowingly circumventing or knowingly failing to implement a system of internal accounting controls or knowingly falsifying any book, record, or account described in Section 13(b)(2) of the Exchange Act [15 U.S.C. § 78m(b)(2)].

III.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from any violation of Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 ("Advisers Act") [15 U.S.C. §§ 80b-6(1) and 80b-6(2)], by knowing use of the mails or any means or instrumentalities of interstate commerce, directly or indirectly to:

- (1) employ any device, scheme, or artifice to defraud any client or prospective client;
- or
- (2) engage in any transaction, practice, or course of business that operates as a fraud or deceit upon any client or prospective client.

IV.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for \$3,667,713 in disgorgement plus \$154,900.44 prejudgment interest for a total amount of \$3,822,613.44, representing profits gained as a result of the conduct alleged in the Complaint. In particular, this amount represents (i) a \$926,020 kickback to Defendant in Project Beatles plus \$154,900.44 in prejudgment interest thereon (totaling \$1,080,920.44), and (ii) \$2,741,693, representing Defendant's profit on his 5.15% interest in the Jin Lin Tiandi Serviced Apartments in Shanghai, China, on or about the date of the Consent of Garth Peterson ("Consent"). Defendant shall satisfy this liability in full by performing the following:

- (1) Paying \$241,589 within seven (7) days after entry of this Final Judgment to the Clerk of this Court, together with a cover letter identifying Peterson as a defendant in this action; setting forth the title and civil action number of this action and the name of this Court; and specifying that payment is made pursuant to this Final Judgment. Defendant shall simultaneously transmit photocopies of such payment and letter to the Commission's counsel in this action. The Clerk shall deposit the funds into an interest bearing account utilized by the Court. These funds, together with any interest and income earned thereon (collectively, the "Fund"), shall be held in the interest bearing account until further order of the Court. By making this payment, Defendant relinquishes all legal and equitable right, title, and interest in the Fund, and no part of the Fund shall be returned to Defendant. In accordance with 28 U.S.C. § 1914 and the guidelines set by the

Director of the Administrative Office of the United States Courts, the Clerk is directed, without further order of this Court, to deduct from the income earned on the money in the Fund a fee equal to ten percent of the income earned on the Fund. Such fee shall not exceed that authorized by the Judicial Conference of the United States.

- (2) Relinquishing and/or effecting the transfer to the Receiver appointed by this Court, in the manner directed by the Court or the Receiver and within seven (7) days after entry of this Final Judgment or the issuance of a Court order appointing a Receiver, whichever is later, all of his right, title and legal, equitable, or beneficial interest of any kind in the Jin Lin Tiandi Serviced Apartments in Shanghai, China, held alone or with others and whether direct or indirect, including but not limited to any interest through any direct or indirect interest in the following entities: Paraplay (a British Virgin Islands Company); Strong Man Ltd. (a British Virgin Islands Company); Asiasphere Holdings Ltd. (a British Virgin Islands Company); Jin Lin Tiandi Holding Company (a Caymans Island Company); Sky Luck Property Corp. (a British Virgin Islands Company); King Project Limited (a Hong Kong Company); Shanghai Jin Lin Tiandi Serviced Apartment Management Co. Ltd. (a People's Republic of China Company); and/or the Shanghai Jin Lin Tiandi Serviced Apartments in Shanghai, China ("Disgorged Asset"). This Court acknowledges Defendants admission in the Consent that Defendant, directly and/or through his complete ownership control of

Paraplay, owns and controls 81% of Strongman, which owns and controls 53% of Asiasphere, which owns and controls 12% of Jin Lin Tiandi Holding Company. This Court also acknowledges Defendant's understanding, as provided in the Consent, that Jin Lin Tiandi Holding Company owns 100% of and controls Sky Luck Property Corp., which owns 100% of and controls King Project Limited, which owns 100% of and controls Shanghai Jin Lin Tiandi Serviced Apartment Management Co. Ltd., which owns 100% of and controls the Shanghai Jin Lin Tiandi Serviced Apartments in Shanghai, China. Defendant relinquishes all legal and equitable right, title, and interest in the Disgorged Asset, and no part of the Disgorged Asset or any proceeds therefrom, shall be returned to Defendant. Defendant shall cooperate fully with any Receiver in all matters related to: (i) the relinquishment/transfer of the Disgorged Asset as described herein; and (ii) the administration, management, and sale or other disposition of The Disgorged Asset. This cooperation shall include, but not be limited to, using his best efforts to provide any original signatures, letters, directions, authorizations, information, documents, powers of attorney, and assignments as the Receiver may require in order to carry out its duties.

V.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that the determination not to impose a civil penalty, and to deem the payment of disgorgement and pre-judgment interest satisfied and paid in full by the steps set forth in Section IV above, is

contingent upon the accuracy and completeness of Defendant's Statement of Financial Condition dated February 27, 2012, and other documents and information submitted to the Commission. If at any time following the entry of this Final Judgment the Commission obtains information indicating that Defendant's representations to the Commission concerning his assets, income, liabilities, or net worth were fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such representations were made, the Commission may, at its sole discretion and without prior notice to Defendant, petition the Court for an order requiring Defendant to pay unpaid disgorgement, plus pre-judgment and post-judgment interest thereon, and the maximum civil penalty allowable under the law. In connection with any such petition, the only issue shall be whether the financial information provided by Defendant was fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such representations were made. In any such petition, the Commission may move this Court to consider all available remedies, including, but not limited to, ordering Defendant to pay funds or assets, directing the forfeiture of any assets, or sanctions for contempt of this Final Judgment. The Commission may also request additional discovery. Defendant may not, by way of defense to such petition: (1) challenge the validity of the Consent or this Final Judgment; (2) contest the allegations in the Complaint filed by the Commission; (3) assert that payment of disgorgement, pre-judgment and post-judgment interest or a civil penalty should not be ordered; (4) contest the amount of disgorgement and pre-judgment and post-judgment interest; (5) contest the imposition of the maximum civil penalty allowable under the law; or (6) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

VI.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that another basis upon which the Court is declining to order Defendant to pay a civil penalty is the Defendant's agreement to cooperate in a Commission investigation and/or related enforcement action, including cooperating with the Receiver as provided in Section IV above. If at any time following the entry of the Final Judgment the Commission obtains information indicating that Defendant knowingly provided materially false or misleading information or materials to the Commission, the Receiver, or in a related proceeding, the Commission may, at its sole discretion and without prior notice to the Defendant, petition the Court for an order requiring Defendant to pay a civil penalty. In connection with any such petition and at any hearing held on such a motion: (a) Defendant will be precluded from arguing that he did not violate the federal securities laws as alleged in the Complaint; (b) Defendant may not challenge the validity of the Judgment, this Consent, or any related undertakings; (c) the allegations of the Complaint, solely for the purposes of such motion, shall be accepted as and deemed true by the Court; and (d) the Court may determine the issues raised in the motion on the basis of affidavits, declarations, excerpts of sworn deposition or investigative testimony, and documentary evidence without regard to the standards for summary judgment contained in Rule 56(c) of the Federal Rules of Civil Procedure. Under these circumstances, the parties may take discovery, including discovery from appropriate non-parties.

VII.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent is incorporated herein with the same force and effect as if fully set forth herein, and that Defendant shall comply with all of the undertakings and agreements set forth therein.

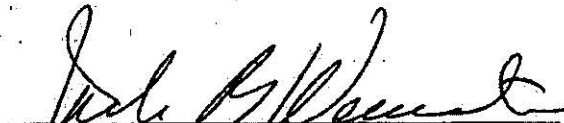
IX.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

X.

There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is hereby ordered to enter this Final Judgment forthwith and without further notice.

Dated: _____, 2012


UNITED STATES DISTRICT JUDGE

5/2/12