

1 ALAN S. WEINGER
Deputy Commissioner
2 ALEX M. CALERO (SBN 238389)
Senior Corporations Counsel
3 AFSANEH EGHBALDARI (SBN 250107)
Corporations Counsel
4 DEPARTMENT OF CORPORATIONS
5 1350 Front Street, #2034
San Diego, California 92101
6 Telephone: (619) 645-3166

7 Attorneys for the People of the State of California
8

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF SAN DIEGO

11 THE PEOPLE OF THE STATE OF
12 CALIFORNIA, by and through the
California Corporations Commissioner,

13 Plaintiff,

14 vs.

15 RMC CAPITAL MANAGEMENT, INC., a
California corporation; BURGESS
16 NATHANIEL HALLUMS, an individual;
INNOVATION FUND 2000, LLC, a
17 California limited liability company; SEGUE
CAPITAL, INC., a California corporation;
18 PACIFIC PHOENIX COMMUNITIES, LLC,
a California limited liability company; and
DOES 1-10, inclusive,

19 Defendants,

20 and

21 IMMCAPNMOTION, INC., a Delaware
corporation; MISTNET MEDICAL
22 DEVICES, INC., a Delaware corporation;
MAGNETO INERTIAL SENSING
23 TECHNOLOGY, INC., aka, MIST, a Nevada
corporation; MIST NET, INC., an entity of
24 unknown form; MIST, INC., an entity of
unknown form; TWIN DEVELOPMENT,
25 LLC, a California limited liability company;
THORNTON CAPITAL ADVISORS, INC.,
26 a California corporation; DONALD J.
COURTNEY, an individual; WALLACE
27 BENWARD, an individual; and RELIEF
DOES 1-10, inclusive,

28 Relief Defendants.

FILED

Clerk of the Superior Court

APR 27 2012

By: L SAN NICOLAS, Deputy

Case No.: 37-2011-00103198-CU-MC-CTL

**STIPULATION TO ENTRY OF
PRELIMINARY INJUNCTION**

IMAGED FILE

Judge: Hon. William S. Dato
Dept: C-67

Date Action Filed: December 30, 2011

1 Plaintiff, the California Corporations Commissioner, in the name of the People of the State
2 of California, and Defendants RMC CAPITAL MANAGEMENT, INC., a California corporation;
3 INNOVATION FUND 2000, LLC, a California limited liability company; SEGUE CAPITAL,
4 INC., a California corporation; PACIFIC PHOENIX COMMUNITIES, LLC, a California limited
5 liability company, by and through the Court-Appointed Receiver, hereby stipulate as follows:

6 **I.**

7 **PRELIMINARY INJUNCTION**

8 1. Defendants RMC CAPITAL MANAGEMENT, INC., and INNOVATION FUND
9 2000, LLC, and their agents, partners, representatives, servants and employees, and all persons in
10 active concert or participation with them hereby stipulate to entry of an order issuing a preliminary
11 injunction enjoining them from directly or indirectly:

12 a. Violating Corporations Code section 25235 by directly or indirectly, engaging in
13 any act, practice, or course of business which is fraudulent, deceptive, or manipulative, including
14 but not limited to, operating a Ponzi scheme, misusing clients funds, and employing fraudulent
15 practices and engaging in transactions that operate as a fraud to the detriment of clients;

16 b. Violating Corporations Code section 25238 and California Code of Regulations
17 section 260.238 by engaging in investment advisory activities in an unfair, inequitable and
18 unethical manner, including but not limited to failing to disclose material facts about their
19 representative, and misrepresenting or omitting to state a material fact about fees for the advisory
20 services;

21 c. Violating Corporations Code section 25241 and California Code of Regulations
22 section 260.241.3 by maintaining false and inaccurate books and records;

23 d. Violating Corporations Code section 25404 by knowingly making an untrue
24 statement to the Commissioner during the course of her investigation and examination, with the
25 intent to impede, obstruct, or influence the administration or enforcement of CSL;

26 e. Violating California Code of Regulations section 260.237, by failing to have
27 clients' funds and securities audited and failing to provide itemized statements to clients;

28 f. Removing, destroying, mutilating, concealing, altering, transferring, or otherwise
disposing of, in any manner, any books, records, computer programs, computer files, computer

1 printouts, correspondence, brochures, manuals, or any other “writing” or “document” of any kind
2 as defined under California Evidence Code section 250, relating to the transactions and course of
3 conduct as alleged in the First Amended Complaint, unless authorized by this Court; and

4 g. Withdrawing from any bank account or disposing of any real or personal property,
5 derived or purchased from clients’ funds, in their possession, custody, or control, without leave of
6 the Court.

7 2. Defendants INNOVATION FUND 2000, LLC, SEGUE CAPITAL, INC., and
8 PACIFIC PHOENIX COMMUNITIES, LLC, and their agents, partners, representatives, servants
9 and employees, and all persons in active concert or participation with them hereby stipulate to
10 entry of an order issuing a preliminary injunction enjoining them from:

11 a. Violating Corporations Code section 25401 by offering to sell or selling any
12 security of any kind, including, but not limited to, membership interests in a limited liability
13 company, by means of any written or oral communication which includes any untrue statement of
14 material fact or omits or fails to state any material fact necessary in order to make the statements
15 made, in the light of the circumstances under which they are made, not misleading;

16 b. Removing, destroying, mutilating, concealing, altering, transferring, or
17 otherwise disposing of, in any manner, any books, records, computer programs, computer files,
18 computer printouts, correspondence, brochures, manuals, or any other “writing” or “document” of
19 any kind as defined under California Evidence Code section 250, relating to the transactions and
20 course of conduct as alleged in the First Amended Complaint, unless authorized by this Court; and

21 c. Withdrawing from any bank account or disposing of any real or personal
22 property, derived or purchased from clients’ funds, in their possession, custody, or control,
23 without leave of the Court.

24 SO STIPULATED.

25 ///
26 ///
27 ///
28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COURT-APPOINTED RECEIVER

Dated: April 26, 2012

By:

ERIC J. BENINK
On behalf of RMC Capital Management, Inc.,
Innovation Fund 2000, LLC, Segue Capital, Inc., and
Pacific Phoenix Communities, LLC,

JAN LYNN OWEN
California Corporations Commissioner

Dated: April 26, 2012

By:

AFSANEH EGHBALDARI
Corporations Counsel
Attorney for the People of California