

United States District Court
Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

ENTHOLPY EMC, INC., et al.,

Defendants.

Case No. [15-cv-03101-CRB](#)

**ORDER GRANTING IN PART AND
DENYING IN PART CROSS-
MOTIONS FOR SUMMARY
JUDGMENT**

Plaintiff Securities and Exchange Commission (“SEC”) moved for summary judgment against defendant Lei (Lily) Lei for allegedly violating Sections 5(a) and 5(c) of the Securities Act of 1933, 15 U.S.C. §§ 77e(a), (c), and Section 15(a) of the Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. § 78o(a). See Pl. MSJ (dkt. 186) at 1. Lei conceded violating these securities laws. See Lei Opp’n (dkt. 202) at 1. The SEC additionally moved for summary judgment against defendants Yong (Michael) Chen and Entholpy EMC, Inc. (collectively, the “Chen Parties”) for allegedly violating Section 15(a) of the Exchange Act. See Pl. MSJ at 1. The Chen Parties cross-moved for summary judgment, requesting dismissal of the SEC’s claims against them. See Chen MSJ (dkt. 193) at 1. The Court held a motion hearing on August 31, 2018. See Min. Entry (dkt. 219).

1 On summary judgment, a movant must demonstrate “that there is no genuine
2 dispute as to any material fact and the movant is entitled to judgment as a matter of law.”
3 Fed. R. Civ. P. 56(a). A fact is material if it could affect the outcome of the case under
4 governing law. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). A dispute of
5 material fact is genuine if the evidence, viewed in light most favorable to the nonmoving
6 party, “is such that a reasonable jury could return a verdict for the nonmoving party.” Id.
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8 The Court concludes that there is a genuine dispute of material fact as to the Chen
9 Parties’ conduct that prevents the Court from determining whether the Chen Parties acted
10 as brokers as contemplated by Section 15(a) of the Exchange Act. Accordingly, while the
11 Court GRANTS the SEC’s undisputed motion as to defendant Lei, it DENIES the SEC’s
12 and the Chen Parties’ cross-motions. The Court will address remedies as to defendant Lei
13 at a later date.
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16 **IT IS SO ORDERED.**

17 Dated: September 6, 2018



18 CHARLES R. BREYER
19 United States District Judge
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