

JUDGE RAMOS

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

JOSEPH M. JASON, Individually And On
Behalf Of All Others Similarly Situated,

Plaintiff,

vs.

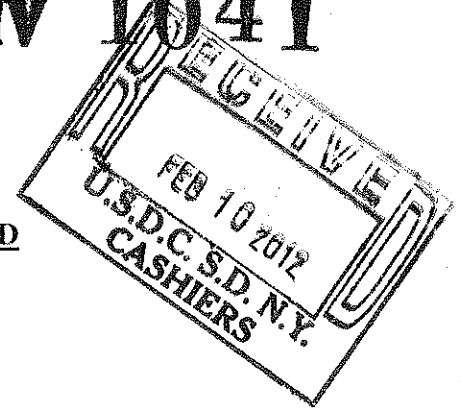
JUNFENG CHEN, FUSHUN LI, NIAN CHEN,
WEIHU YU, and NEW ENERGY SYSTEMS
GROUP,

Defendants.

Civil Action:

12 CV 1041

JURY DEMANDED



Plaintiff alleges the following based upon the investigation by Plaintiff's counsel, which includes, among other things: a review of the Defendants' public documents, media interviews and reports, United States Securities and Exchange Commission ("SEC") filings, wire and press releases published by and regarding New Energy Systems Group ("New Energy" or the "Company"), securities analysts' reports and advisories about the Company, and information readily available on the Internet. Plaintiff believes that substantial additional evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

NATURE OF THE ACTION AND OVERVIEW

1. This is a federal class action on behalf of purchasers (the "Class") of the common stock of New Energy, who purchased or otherwise acquired the Company's common stock between April 15, 2010 and November 14, 2011, inclusive (the "Class Period"), seeking to pursue remedies under the Securities Exchange Act of 1934 (the "Exchange Act").

JURISDICTION AND VENUE

2. The claims asserted herein arise under and pursuant to Sections 10(b) and 20(a) of the Exchange Act, (15 U.S.C. §§ 78j(b) and 78t(a)), and Rule 10b-5 promulgated under Section 10(b) of the Exchange Act (17 C.F.R. § 240.10b-5).

3. This Court has jurisdiction over the subject matter of this action pursuant to Section 27 of the Exchange Act (15 U.S.C. § 78aa), and 28 U.S.C. § 1331.

4. Venue is proper in this Judicial District pursuant to Section 27 of the Exchange Act, 15 U.S.C. § 78aa and 28 U.S.C. § 1391(b). Many of the acts and transactions alleged herein, including the preparation and dissemination of materially false and misleading information, occurred in substantial part in this Judicial District. Further, New Energy's principal executive office is located at 116 West 23rd Street, 5th Floor, New York, NY 10011.

5. In connection with the acts, conduct and other wrongs alleged in this Complaint, Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including but not limited to, the United States mails, interstate telephone communications and the facilities of the national securities exchange.

PARTIES

6. ***Plaintiff Joseph M. Jason*** purchased New Energy common stock at artificially inflated prices during the Class Period and has been damaged thereby.

7. ***Defendant New Energy*** was incorporated under the laws of the State of Nevada on March 27, 2001 and maintains its principle place of business at 116 West 23rd Street, 5th Floor, New York, NY 10011. New Energy operates its business through its wholly owned subsidiaries E'Jenie Technology Development Co., Ltd ("E'Jenie"), Shenzhen Anytone Technology Co., Ltd. ("Shenzhen Anytone"), Shenzhen NewPower Technology Development

Co., Ltd. (“NewPower”), Shenzhen Kim Fai Solar Energy Technology Co., Ltd. (“Kim Fai”), companies incorporated under the laws of the People’s Republic of China (“PRC”). Through its subsidiaries, the Company manufactures and distributes lithium battery, battery shells and related application products primarily in China.

8. *Defendant Junfeng Chen* (“J. Chen”) was, at all relevant times, Chief Financial Officer of the Company.

9. *Defendant Fushun Li* (“Li”) was, during part of the Class Period, the Chief Executive Officer of the Company. Defendant Li also served as a director from May 11, 2009 to March 18, 2011.

10. *Defendant Nian Chen* (“N. Chen”) was, during part of the Class Period, the Chief Executive Officer of the Company.

11. *Defendant Weihu Yu* (“Yu”) was, at all relevant times, the Chairman of Board of Directors.

12. Defendants J. Chen, Li, N. Chen and Yu are herein collectively referred to as the “Individual Defendants.”

13. The Individual Defendants and New Energy are collectively referred to herein as “Defendants.”

THE MATERIALLY FALSE AND MISLEADING STATEMENTS

14. On April 15, 2010, New Energy filed its Form 10-K for the year ended December 31, 2009 with the SEC. This document, which was signed by Defendants Li and J. Chen, touted the fact that New Energy manufactured customized products to the specifications of its customers and that New Energy would “continually receive orders” from its “loyal customers” because of New Energy’s reputation and its manufacture of “quality” products.

Through E'Jenie, we manufacture and distribute lithium battery shells and related products primarily in China. Based upon specifications from its customers E'Jenie develops, customizes and produces steel, aluminum battery shells and aluminum caps. Currently, E'Jenie produces fourteen steel battery shell lines, nine aluminum battery shell lines, three aluminum battery cap lines and three steel battery cap lines.

* * *

E'Jenie has maintained long-term relationships with its principal customers which are large lithium battery manufacturers. We believe that we continually receive orders from our loyal customers because of E'Jenie's reputation and quality of the products. Our professional marketing team maintains relationships with our current customers and at the same time searches for other potential new customers.

* * *

We manufacture and distribute battery shells and covers for cellular phones. We maintain long-term relationships with large lithium battery manufacturers. We believe we will continually receive orders from our loyal customers because of our reputation and quality of the products. Our professional marketing team maintains relationships with our current customers and at the same time searches for other potential new customers. We seek to maintain and strengthen our position as a provider of battery shells and caps while increasing the breadth of our product line and improving the quality of our products.

15. New Energy's Form 10-K for the year ended December 31, 2009 also touted the profitability of New Energy's battery business, which commenced in August 2008, as follows:

Having engaged in the battery business for years, management of the Company accumulated abundant knowledge about the battery industry, established a strong network among many battery companies which are on both lower and upper position of the battery distribution flow, and gained a lot of experience in battery distribution; therefore, we believe the Company is in a more favorable position than other companies in distributing finished batteries. Assembling and distributing finished batteries has a higher profit margin than manufacturing battery accessories, so management of the Company is confident the battery distribution business will be profitable due to the outstanding battery quality

and the strong distribution network the Company has been building for years.

16. These representations were incorporated into New Energy's 2010 first quarter Form 10-Q, second quarter Form 10-Q, and third quarter Form 10-Q by reference ("These financial statements should be read in conjunction with the audited financial statements and footnotes included in the Company's 2009 audited financial statements included in the Company's Annual Report on Form 10-K.").

17. The foregoing statements were materially false and misleading because New Energy did not have loyal customers; and there was no basis for the statements that New Energy would continually receive orders from its customers, that its battery business would be profitable, or that New Energy's batteries were of outstanding quality.

18. On March 28, 2011, New Energy filed its Form 10-K for the year ended December 31, 2010 with the SEC. This document stated:

During the early stage of our business, we began to manufacture and distribute lithium battery shells and related products primarily in China. Based on customer specifications we develop, customize and produce steel, aluminum battery shells and aluminum caps. Currently, we produce fourteen steel battery shell lines, nine aluminum battery shell lines, three aluminum battery cap lines and three steel battery cap lines. We maintain long-term relationships with large lithium battery manufacturers. We believe we will continually receive orders from our loyal customers because of our reputation and quality of the products. Our professional marketing team maintains relationships with our current customers and at the same time searches for other potential new customers. We seek to maintain and strengthen our position as a provider of battery shells and caps while increasing the breadth of our product line and improving the quality of our products.

* * *

E'Jenie has maintained long-term relationships with its principal customers which are large lithium battery manufacturers. We believe that we continually receive orders from our loyal

customers because of E'Jenie's reputation and quality of the products. Our professional marketing team maintains relationships with our current customers and at the same time searches for other potential new customers

* * *

We manufacture and distribute battery shells and covers for cellular phones. We maintain long-term relationships with large lithium battery manufacturers. We believe we will continue to receive orders from our loyal customers because of our reputation and quality of the products. Our professional marketing team maintains relationships with our current customers and at the same time searches for potential new customers. We seek to maintain and strengthen our position as a provider of battery shells and caps while increasing the breadth of our product line and improving the quality of our products.

* * *

Beginning in 2011, through a business switch with NewPower, NewPower took over E'Jenie's finished battery pack business and transferred its battery cell business to E'Jenie. This transition will complete the transformation of E'Jenie as a complete battery component manufacturer which produces battery shells, caps, and cells. We anticipate that the original customers of NewPower for battery cells will become E'Jenie's customers.

* * *

In 2010, through acquisitions, there is only one customer who accounted for more than 10% of the Company's total sales. China Electronic Shenzhen Company was the only customer who accounted for 13% of the Company's total sales. This customer primarily purchased finished battery packs from E'Jenie and Mobile power backup devices from Anytone. The second largest customer is Shenzhen Hua Yin Tong Battery Electronic Tech. Co., Ltd. which accounted for 6% of the Company's total sales. The rest [sic] customers accounted less than 5% for each. Through acquisitions, the Company has diversified its customers.

* * *

Having engaged in the battery business for years, management of the Company has accumulated abundant knowledge about the battery industry, established a strong network among battery

companies which are on the both upstream and downstream of the battery distribution flow, and gained a lot of experience in battery distribution; therefore, we believe the Company is in a more favorable position than other companies in distributing finished batteries. Assembling and distributing finished batteries has a higher profit margin than manufacturing battery accessories, so management of the Company is confident the battery distribution business will be profitable due to the outstanding battery quality and strong distribution network the Company has.

19. The foregoing statements were materially false and misleading because a significant portion of New Energy's products had become obsolete; New Energy did not have loyal customers; New Energy did not manufacture quality battery products; and there was no basis for the statements that New Energy would continually receive orders from its customers or that its battery business would be profitable due to an outstanding battery quality and strong distribution network.

20. On May 18, 1989, the SEC issued an interpretive release (Securities Act Release No. 6835), which stated, in relevant part:

The MD&A requirements are intended to provide, in one section of a filing, material historical and prospective textual disclosure enabling investors and other users to assess the financial condition and results of operations of the registrant, with particular emphasis on the registrant's prospects for the future. As the Concept Release states:

The Commission has long recognized the need for a narrative explanation of the financial statements, because a numerical presentation and brief accompanying footnotes alone may be insufficient for an investor to judge the quality of earnings and the likelihood that past performance is indicative of future performance. MD&A is intended to give the investor an opportunity to look at the company through the eyes of management by providing both a short and long-term analysis of the business of the company. The Item asks management to discuss the dynamics of the business and to analyze the financials.

As the Commission has stated, "[i]t is the responsibility of management to identify and address those key variables and other

qualitative and quantitative factors which are peculiar to and necessary for an understanding and evaluation of the individual company.”

21. SEC Staff Accounting Bulletin No. 104, drawing from Regulation S-K, Article 303, and Financial Reporting Release No. 36, also reiterated the importance of MD&A in financial statements:

Management’s Discussion & Analysis (MD&A) requires a discussion of liquidity, capital resources, results of operations and other information necessary of a registrant’s financial condition, changes in financial condition and results of operations. This includes unusual or infrequent transactions, known trends, or uncertainties that have had, or might reasonably be expected to have, a favorable or unfavorable material effect on revenue, operating income or net income and the relationship between revenue and the costs of the revenue. Changes in revenue should not be evaluated solely in terms of volume and price changes, but should also include an analysis of the reasons and factors contributing to the increase or decrease. The Commission stated in Financial Reporting Release No. 36 that MD&A should “give investors an opportunity to look at the registrant through the eyes of management by providing a historical and prospective analysis of the registrant’s financial condition and results of operations, with a particular emphasis on the registrant’s prospects for the future.”

22. Thus, the management of a public corporation must disclose in its periodic reports filed with the SEC, “known trends or any known demands, commitments, events or uncertainties” that are reasonably likely to have a material impact on a company’s sales revenues, income or liquidity, or cause previously reported financial information not to be indicative of future operating results. 17 C.F.R. § 229.303(a)(1)-(3) and Instruction 3.

23. The MD&A which was contained within the 2010 Form 10-K was materially false and misleading because it failed to disclose that a significant portion of New Energy’s battery products were obsolete; that the quality of New Energy’s battery products had declined; that increased competition and counterfeit battery products were materially cutting into New

Energy's sales; and that, as a result of the foregoing, New Energy's battery business was certain to sustain massive losses in the near future.

24. On April 6, 2011, New Energy filed an amended Form 10-Q for the quarterly period ended March 31, 2010. This document also touted New Energy's "long-term relationships with large lithium battery manufacturers" stating that it believed that it "will continually receive orders from our loyal customers because of our reputation and quality of the products":

We manufacture and distribute battery shells and covers for cellular phones. We maintain long-term relationships with large lithium battery manufacturers. We believe we will continually receive orders from our loyal customers because of our reputation and quality of the products. Our professional marketing team maintains relationships with our current customers and at the same time searches for other potential new customers. We seek to maintain and strengthen our position as a provider of battery shells and caps while increasing the breadth of our product line and improving the quality of our products.

25. On May 19, 2011, New Energy filed a Form 10-Q for the quarterly period ended March 31, 2011. This document also stated:

Based on customer specifications E'Jenie develops, customizes and produces steel, aluminum battery shells and aluminum caps. Currently, E'Jenie produces steel battery shell, aluminum battery shell, aluminum battery cap and steel battery cap.

We manufacture and distribute battery shells and covers for cellular phones. We maintain long-term relationships with large lithium battery manufacturers. We believe we will continue to receive orders from our customers because of our reputation and quality of our products.

26. On June 6, 2011, New Energy filed an amended Form 10-Q for the quarterly period ended June 30, 2010. This document, once again, touted New Energy's "long-term relationships with large lithium battery manufacturers" stating that it believed that it "will

continually receive orders from our loyal customers because of our reputation and quality of the products.” It stated in pertinent part:

We manufacture and distribute battery shells and covers for cellular phones. We maintain long-term relationships with large lithium battery manufacturers. We believe we will continually receive orders from our loyal customers because of our reputation and quality of the products. Our professional marketing team maintains relationships with our current customers and at the same time searches for other potential new customers. We seek to maintain and strengthen our position as a provider of battery shells and caps while increasing the breadth of our product line and improving the quality of our products.

27. On June 6, 2011, New Energy filed an amended Form 10-Q for the quarterly period ended September 30, 2010. This document also stated:

We manufacture and distribute battery shells and covers for cellular phones. We maintain long-term relationships with large lithium battery manufacturers. We believe we will continually receive orders from our loyal customers because of our reputation and quality of the products. Our professional marketing team maintains relationships with our current customers and at the same time searches for other potential new customers. We seek to maintain and strengthen our position as a provider of battery shells and caps while increasing the breadth of our product line and improving the quality of our products.

28. New Energy’s amended Form 10-Q for the quarterly period ended March 31, 2010, New Energy’s Form 10-Q for the quarterly period ended March 31, 2011, New Energy’s amended Form 10-Q for the quarterly period ended June 30, 2010, and New Energy’s amended Form 10-Q for the quarterly period ended September 30, 2010 and the MD&A’s contained therein were each materially false and misleading because New Energy did not have loyal customers; New Energy did not manufacture quality products; and there was no basis for the statements that New Energy would continually receive orders from its customers or that its battery business will be profitable due to an outstanding battery quality and the strong

distribution network. In addition, these SEC filings were materially false and misleading because they failed to disclose that a significant portion of New Energy's battery products were obsolete; that the quality of New Energy's battery products had declined; that increased competition and counterfeit battery products were materially cutting into New Energy's sales; and that, as a result of the foregoing, New Energy's battery business had materially declined and the goodwill associated with New Energy's battery business had become worthless.

29. On August 15, 2011, New Energy filed a Form 10-Q for the quarterly period ended June 30, 2011, which stated that sales of New Energy batteries decreased by \$5.26 million due to the fact that New Energy reduced production and sales of batteries, battery shells, and battery covers and "lowered certain products' selling price to keep competitive as a result of piracy products in the market, including our products, which Management is rigorously combating."

30. On August 16, 2011, New Energy filed a Form 8-K with the SEC which reported financial results for the quarterly period ended June 30, 2011. It purportedly disclosed a counterfeiting problem that was resolved, a July 2011 increase in sales, and an anticipated increase in sales for August and September:

Mr. Yu, Chairman of New Energy stated, "Like many other electronic brands, counterfeiting of our products has been an unwanted distraction to our operations and negatively affected sales volumes and margins during the quarter. We have promptly and aggressively addressed the issue with the authorities, while pinpointing culprits who have subsequently been notified by our attorneys and local authorities By acting quickly to address the commercial needs of our distribution base, we have built trust and ensured the integrity of our brand.

* * *

Revenues declined 1% year-over-year to \$23.1 million for the quarter. Revenue growth was primarily affected by the Company's

battery sales divisions which include Anytone battery recharging and remote power consumer products, NewPower battery packs and E'Jenie battery components. As reported on the Company's first quarter 2011 conference call, counterfeiting of certain Anytone products caused a temporary slowdown in sales. The Company is pleased to report that a combination of legal action and sales efforts with distributor partners to identify counterfeits have gradually restored distributor confidence. Sales of Anytone products were down 15% to 670,000 units from 730,000 in the first quarter of 2011. In July, the Company witnessed an increase in sales as distributors began placing restocking orders. As of July 31, the Company reported 200,000 units were purchased and anticipates higher figures for August and September. Anytone R&D departments are aggressively repacking certain SKU's with different designs and introducing new models to distributors to further differentiate original, Anytone-branded products to their distributors and consumers.

31. The August 16, 2011 Form 8-K also disclosed that:

Also contributing to the downturn in sales growth in the segment were product line rationalizations in both NewPower and E'Jenie product lines, where legacy products were voluntarily delisted due to margin profiles below the Company's targets. While the Company will continue to service its long-standing customers with these two product categories, management anticipates lower sales in future quarters as it focuses resources on higher margin Anytone, MeePower and Kim Fai solar products.

32. The June 30, 2011 Form 10-Q and the August 16, 2011 Form 8-K were materially false and misleading because they failed to disclose that a significant portion of New Energy's battery products were obsolete; that the quality of New Energy's battery products had declined; and that counterfeit products were materially and adversely impacting New Energy's sales; that New Energy's actions to halt the counterfeiting of its products were ineffective and did not build trust and ensure the integrity of New Energy's brand; that increased competition had caused a permanent (not a temporary) slowdown in sales which neither New Energy's attorneys nor Chinese authorities could halt; and that, as a result of the foregoing, New Energy's battery

business was materially impaired and the goodwill associated with New Energy's battery business had become worthless.

33. The financial statements within the June 30, 2011 Form 10-Q were materially false and misleading because they failed to recognize a \$13.5 million goodwill impairment loss in conformity with SFAS 142 (as codified in FASB ASC Topic 350).

34. On November 14, 2011, after the markets closed, New Energy filed a Form 10-Q for the quarterly period ended September 30, 2011. This document disclosed a 42% decrease in revenue, a decrease in selling prices "to keep competitive as a result of pirated products in the market", the sale of batteries, battery shells and battery covers below cost (resulting in negative margins), and a \$13,564,691 write-off of goodwill "due to the continued slow-down of the battery industry in China, increased competition resulting from counterfeit products and decreased selling price from other manufacturers." New Energy also stated that it "expected" continued losses in the battery business "for the foreseeable future:

Net revenue for the three months ended September 30, 2011 was \$15.25 million compared to \$26.36 million for the comparable period of 2010, a decrease of \$11.11 million, or 42%. The decrease was primarily due to (1) the entire battery industry being depressed; (2) we integrated the business section in each subsidiary, and as a result, reduced the production and sales of batteries and battery shells and covers due to decreased demand, (3) we lowered certain products' selling prices to keep competitive as a result of pirated products in the market, which Management is rigorously combating. Sales of our batteries decreased by \$14.31 million to \$9.78 million, compared to \$24.08 million in the third quarter of 2010.

* * *

For our major business, the sales of Anytone's branded products for the nine months ended September 30, 2011 was \$28.83 million compared to \$33.12 million for the 2010 period, a decrease of \$4.29 million or 13%. The decrease was due to (1) the entire battery industry being depressed; and (2) the impact of pirated

products in the market, including our products, which Management is vigorously combating.

35. This Form 10-Q also disclosed the fact that New Energy had been sued by a customer for selling \$1.66 million of defective products, and that New Energy had accrued a liability for repayment of this amount, plus the customer's legal fees:

On November 9, 2011, Shenzhen NewPower Technology Co., Ltd. was served notice of a lawsuit filed in Longgang District People's Court in Shenzhen, China on October 24, 2011. In the complaint filed in the lawsuit, Shenzhen Zhongte Industry and Trade Co., Ltd. (SZIT), alleges, among other things, that NewPower breached a Sales Agreement, dated May 9, 2011 between NewPower and SZIT, by not accepting returns of purported faulty products. The plaintiff has claimed a full credit for \$1.66 million (RMB 10.56 million) of sales, of which, \$1.15 million (RMB 7.34 million) was for products shipped prior to September 30, 2011 and \$0.51 million (RMB 3.24 million) was shipped after September 30, 2011. In addition, the plaintiff is seeking damages of \$0.31 million (RMB 2.00 million) for the loss incurred from faulty products.

Accordingly, at September 30, 2011, the Company reversed sales of \$1.15 million (RMB 7.34 million) and accrued an expense of \$0.31 million (RMB 2.00 million), which is the entire amount claimed by the plaintiff.

36. On November 15, 2011, New Energy filed a Form 8-K with the SEC which reported financial results for the quarterly period ended September 30, 2011. It quoted Defendant Yu as stating:

We had a challenging quarter in several subsidiaries, including E'Jenie and Anytone. The weak overall battery pack market forced other companies to seek more profitable products such as mobile power products. This resulted in a significant increase in the number of competitors for Anytone's products, including a few large competitors with greater scale than Anytone. We have lost some orders to these competitors, resulting in reduced sales starting near the end of second quarter. We also made a strategic decision to selectively reduce prices of several Anytone products in order to be combat pirated products.

37. Upon disclosure of the foregoing facts via issuance of the September 30, 2011 Form 10-Q and the November 15, 2011 Form 8-K, the market price of New Energy's common stock dropped to 93 cents from a closing price of \$1.81 November 14, 2011 on an inordinate trading volume of 1,344,200 shares.

PLAINTIFF'S CLASS ACTION ALLEGATIONS

38. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a Class, consisting of all those who purchased or otherwise acquired New Energy's securities between April 15, 2010 and November 14, 2011, inclusive, seeking to pursue remedies under the Exchange Act.

39. The members of the Class are so numerous that joinder of all members is impracticable. As of October 20, 2011, there were 14,551,731 shares of New Energy common stock outstanding. While the exact number of Class members is unknown to Plaintiff at this time and can only be ascertained through appropriate discovery, Plaintiff believes that there are hundreds or thousands of members in the proposed Class. Record owners and other members of the Class may be identified from records maintained by New Energy or its transfer agent and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions.

40. Plaintiff's claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by Defendants' wrongful conduct in violation of federal law that is complained of herein.

41. Plaintiff will fairly and adequately protect the interests of the members of the Class and have retained counsel competent and experienced in class and securities litigation.

42. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

(a) whether the federal securities laws were violated by Defendants' acts as alleged herein;

(b) whether statements made by Defendants to the investing public during the Class Period misrepresented material facts about the business, operations and management of New Energy; and

(c) whether the members of the Class have sustained damages and, if so, the proper measure of damages.

43. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation make it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

LOSS CAUSATION

44. Defendants' wrongful conduct, as alleged herein, directly and proximately caused the economic loss suffered by Plaintiff and the Class.

45. During the Class Period, Plaintiff and the Class purchased common stock of New Energy at artificially inflated prices and were damaged thereby. The price of New Energy's common stock significantly declined when the misrepresentations made to the market, and/or the information alleged herein to have been concealed from the market, and/or the effects thereof, were revealed, causing investors' losses.

SCIENTER ALLEGATIONS

46. Defendants acted with scienter because they: (i) knew that the public statements issued or disseminated by Defendants in the name of the Company were materially false and misleading; (ii) knew that such statements would be issued or disseminated to the investing public; and (iii) knowingly and substantially participated or acquiesced in the issuance or dissemination of such statements or documents as primary violations of the federal securities laws.

47. As set forth herein, the Individual Defendants, by virtue of their receipt of information reflecting the true facts regarding New Energy, their control over, receipt and/or modification of New Energy's allegedly materially misleading statements and omissions, and/or their positions with the Company which made them privy to confidential information concerning New Energy, participated in the fraudulent scheme alleged herein.

48. Defendants knew, or recklessly disregarded, that (i) New Energy did not have loyal customers, (ii) New Energy did not manufacture quality products, and (iii) there was no basis for the statements that New Energy would continually receive orders from its customers or that its battery business will be profitable due to an outstanding battery quality and a strong distribution network. In addition, Defendants failed to disclose that a significant portion of New Energy's battery products were obsolete; that the quality of New Energy's battery products had declined; that increased competition and counterfeit battery products were materially cutting into New Energy's sales; and that, as a result of the foregoing, New Energy's battery business had materially declined and the goodwill associated with New Energy's battery business had become worthless.

**Applicability of Presumption of Reliance:
Fraud On The Market Doctrine**

49. At all relevant times, the market for New Energy's securities was an efficient market for the following reasons, among others:

- (a) New Energy's stock trades on AMEX with trading volume of in the hundreds of thousands and millions of shares throughout the Class Period;
- (b) As a regulated issuer, New Energy filed periodic public reports with the SEC;
- (c) New Energy regularly communicated with public investors via established market communication mechanisms, including through regular disseminations of press releases on the national circuits of major newswire services and through other wide-ranging public disclosures, such as communications with the financial press and other similar reporting services; and
- (d) New Energy was followed by several securities analysts during the Class Period which were publicly available and entered the public marketplace.

50. As a result of the foregoing, the market for New Energy's common stock promptly digested current information regarding New Energy from all publicly-available sources and reflected such information in New Energy's stock price. Under these circumstances, all purchasers of New Energy's common stock during the Class Period suffered similar injury through their purchase of New Energy's common stock at artificially inflated prices and a presumption of reliance applies.

NO SAFE HARBOR

51. The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the allegedly false statements pleaded in this Complaint.

Many of the specific statements pleaded herein were not identified as “forward-looking statements” when made. To the extent there were any forward-looking statements, there were no meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements. Alternatively, to the extent that the statutory safe harbor does apply to any forward-looking statements pleaded herein, Defendants are liable for those false forward-looking statements because at the time each of those forward-looking statements was made, the particular speaker knew that the particular forward-looking statement was false, and/or the forward-looking statement was authorized and/or approved by an executive officer of New Energy who knew that those statements were false when made.

FIRST CLAIM

Violation of Section 10(b) Of The Exchange Act And Rule 10b-5 Promulgated Thereunder Against All Defendants

52. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein.

53. During the Class Period, Defendants carried out a plan, scheme and course of conduct which was intended to and, throughout the Class Period, did: (i) deceive the investing public, including Plaintiff and other Class members, as alleged herein; and (ii) cause Plaintiff and other members of the Class to purchase New Energy’s common stock at artificially inflated prices. In furtherance of this unlawful scheme, plan and course of conduct, Defendants, and each of them, took the actions set forth herein.

54. Defendants (i) employed devices, schemes, and artifices to defraud; (ii) made untrue statements of material fact and/or omitted to state material facts necessary to make the statements not misleading; and (iii) engaged in acts, practices, and a course of business which

operated as a fraud and deceit upon the purchasers of the Company's common stock in an effort to maintain artificially high market prices for New Energy common stock in violation of Section 10(b) of the Exchange Act and Rule 10b-5. All Defendants are sued either as primary participants in the wrongful and illegal conduct charged herein or as controlling persons as alleged below.

55. Defendants, individually and in concert, directly and indirectly, by the use, means or instrumentalities of interstate commerce and/or of the mails, engaged and participated in a continuous course of conduct to conceal adverse material information about New Energy's financial well-being, business relationships, and prospects, as specified herein.

56. Defendants employed devices, schemes and artifices to defraud, while in possession of material, adverse, non-public information and engaged in acts, practices, and a course of conduct as alleged herein in an effort to assure investors of New Energy's value and performance and continued substantial growth, which included the making of, or the participation in the making of, untrue statements of material facts and omitting to state material facts necessary in order to make the statements made about New Energy and its business operations and future prospects in light of the circumstances under which they were made, not misleading, as set forth more particularly herein, and engaged in transactions, practices and a course of business which operated as a fraud and deceit upon the purchasers of New Energy's common stock during the Class Period.

57. Defendants had actual knowledge of the misrepresentations and omissions of material facts set forth herein, or acted with reckless disregard for the truth in that they failed to ascertain and to disclose such facts, even though such facts were available to them. Such

Defendants' material misrepresentations and/or omissions were done knowingly or recklessly and for the purpose and effect of supporting the artificially inflated price of its common stock.

58. As a result of the dissemination of the materially false and misleading information and failure to disclose material facts, as set forth above, the market price of New Energy's common stock was artificially inflated during the Class Period. In ignorance of the fact that market prices of New Energy's common stock were artificially inflated, and relying directly or indirectly on the false and misleading statements made by Defendants, or upon the integrity of the market in which the common stock trades, and/or in the absence of material, adverse information that was known to or recklessly disregarded by Defendants, but not disclosed in public statements by Defendants during the Class Period, Plaintiff and the other members of the Class acquired New Energy's common stock during the Class Period at artificially high prices and were damaged thereby.

59. At the time of said misrepresentations and omissions, Plaintiff and other members of the Class were ignorant of their falsity, and believed them to be true. Had Plaintiff and the other members of the Class and the marketplace known the truth regarding that (i) New Energy did not have loyal customers; (ii) New Energy did not manufacture quality products, and (iii) there was no basis for the statements that New Energy would continually receive orders from its customers or that the battery business will be profitable due to an outstanding battery quality and the strong distribution network, which were not disclosed by Defendants, Plaintiff and other members of the Class would not have purchased or otherwise acquired their New Energy common stock, or, if they had acquired such common stock during the Class Period, they would not have done so at the artificially inflated prices which they paid.

60. By virtue of the foregoing, Defendants have violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder.

61. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and the other members of the Class suffered damages in connection with their respective purchases and sales of the Company's common stock during the Class Period.

SECOND CLAIM

Violation Of Section 20(a) Of The Exchange Act Against The Individual Defendants

62. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein.

63. The Individual Defendants acted as controlling persons of New Energy within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their high-level positions, and awareness of the Company's operations and/or intimate knowledge of the false statements described herein that were disseminated to the investing public, the Individual Defendants had the power to influence and control and did influence and control, directly or indirectly, the decision-making of the Company, including the content and dissemination of the various statements which Plaintiff contends are false and misleading. The Individual Defendants were provided with or had unlimited access to the Company's internal controls, and the financial condition of the Company, issued the statements that Plaintiff alleges are materially false and misleading, and/or shortly after these statements were issued and had the ability to cause the statements to be corrected.

64. In particular, the Individual Defendants had direct and supervisory involvement in the day-to-day operations of the Company and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same.

65. As set forth above, the Individual Defendants violated Section 10(b) and Rule 10b-5 by his acts and omissions as alleged in this Complaint. By virtue of their positions as controlling persons, the Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of the Individual Defendants' wrongful conduct, Plaintiff and other members of the Class suffered damages in connection with their purchases of the Company's common stock during the Class Period.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

(a) Determining that this action is a proper class action under Rule 23 of the Federal Rules of Civil Procedure;

(b) Awarding damages in favor of Plaintiff and the other Class members against all Defendants for all damages sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;

(c) Awarding Plaintiff and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and

(d) Such other and further relief as the Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury.

Dated: February 10, 2012

GAINEY & McKENNA

By: 

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Attorneys for Plaintiff

CERTIFICATION OF NAMED PLAINTIFF

To: Gregory M. Egleston, Esq. Tel: 212-683-3400
 Egleston Law Firm Fax: 212-683-3402
 440 Park Avenue South, 5th Fl. e-mail: egleston@gme-law.com
 New York, New York 10016

I, JOSEPH M. JASON ("Plaintiff") hereby retain the Egleston Law Office and such co-counsel it deems appropriate to associate with, subject to their investigation, to pursue my claims on a contingent fee basis and for counsel to advance the costs of the case, with no attorneys fee owing except as may be awarded by the court at the conclusion of the matter and paid out of any recovery obtained and I also hereby declare the following as to the claims asserted under the law that:

Plaintiff did not purchase the security that is the subject of this action at the direction of Plaintiff's counsel or in order to participate in this private action.

Plaintiff is willing to serve as a representative party on behalf of the class, including providing testimony at deposition and trial, if necessary.

Plaintiff's transactions in *New Energy Systems Group* security that is subject of this action during the Class Period are as follows:

<u>No. of Shares</u>	<u>Stock Symbol</u>	<u>Buy/Sell</u>	<u>Date</u>	<u>Price Per Share</u>
<i>See Attached Rider A</i>				

Please list other transactions on a separate sheet of paper, if necessary.

Plaintiff has sought to serve as a class representative in the following cases within the last three years: Yes. *Joseph Jason v. China Organic, et al.*, 11cv8623 (S.D.N.Y.).

Plaintiff will not accept any payment serving as a representative party on behalf of the class beyond Plaintiff's *pro rata* share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the class as ordered or approved by the court.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 16th day of January, 2012


 Signature

Joseph M. Jason, MST, CPA
 Print Name (& Title if applicable)

New Energy Systems Group

Rider A to the Joseph Jason Certification

No. of Shares	Stock Symbol	Buy/Sell	Date	Price Per Share
1000	NEWN	Buy	07/01/2010	\$5.7850
1000	NEWN	Buy	09/16/2010	\$5.0350
500	NEWN	Buy	09/21/2010	\$4.9198
1000	NEWN	Buy	03/03/2011	\$5.5898
1000	NEWN	Buy	03/15/2011	\$4.7096
900	NEWN	Buy	04/04/2011	\$4.5510
100	NEWN	Buy	04/04/2011	\$4.54
650	NEWN	Buy	04/04/2011	\$4.5252
350	NEWN	Buy	04/04/2011	\$4.51
1000	NEWN	Buy	07/01/2011	\$2.2199