

Up Front



Faith and money converge in Valley movie.
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News & Analysis



Cyber-extortion should be illegal, says Sen. Robert Hertzberg.
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The List

Law firms, ranked by number of Valley attorneys.
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Grounded: Edan Cain of Cheetah Software Systems with company drone.

PHOTO BY DAVID SPRAGUE

TAKING FLIGHT RISK

Insurance broker wings way to drone coverage

By **MARK R. MADLER** Staff Reporter

At Cheetah Software Systems Inc., the future of picking up and dropping off packages is in the sky – drones, specifically.

The Westlake Village company has developed software used by FedEx Corp., Macy's Inc. and other large companies for managing and coordinating deliveries. Now it wants to bring that expertise to unmanned aircraft in warehouse settings to check inventory and track the locations and cargo of shipping containers and truck trailers.

"You can easily fly around and detect the position of a trailer and send that to your management system," said Cheetah Chief Executive Bobby Darroll.

But what might not immediately come to mind for operating such aircraft is the financial risk in the event of an accident or, heaven forbid, they injure someone.

That is where Vikki Stone comes in.

A senior vice president at Woodland Hills insurance brokerage Poms & Associates, Stone

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Ex-Rice Maker Pans Contractor

FOOD: Pine Valley bags court win over loss of Trader Joe's deal.

By **CHAMPAIGN WILLIAMS** Staff Reporter

When Pine Valley Inc. began selling its fried rice product to grocery chain Trader Joe's, the vendor thought it was the start of a long and fruitful relationship. And for 14 years it was.

But things went south when the Sun Valley vendor's contract manufacturer began selling the frozen rice directly to Trader Joe's, eventually forcing Pine Valley out of business.

At least that is how Mike Payton, former owner of Pine Valley, sees it. And in January, a Los Angeles County Superior Court jury agreed.

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Oil, Gas Firms Losing Ground

ENERGY: Companies chop staff, ditch drilling as prices plunge.

By **CAROL LAWRENCE** Staff Reporter

In November 2014 – just as oil and gas prices were cascading down to what would become the sharpest price drop-off since the 1990s – California Resources Corp. struck out on its own.

Since then, the Chatsworth energy and gas company has failed to turn a profit, its share price has fallen nearly 90 percent over the past year and the New York Stock Exchange has warned the company its stock will be delisted unless the share price returns above the \$1 minimum.

California Resources is not alone. Many of its

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MAIL TO:

Security Startup Locked Into Phones

INTERNET: Medical sector-focused mPulse gets healthy investor boost.

By **STEPHANIE HENKEL** Staff Reporter

After less than a year in business, mPulse Mobile Inc. in Encino has raised close to \$12 million in venture capital and is on the fast track to expansion.

The startup provides mobile phone technology to health care companies. Specifically, it has add-ons to mobile apps to enhance security and increase engagement.

For example, an insurance company might have an app that allows customers to log in to their account to search for doctors and make appointments via their phone. While it's convenient, there's a risk in putting personal health information on the Internet; in the event of a breach, the insurer could run afoul of the Health Information Privacy Protection Act.

MPulse software can provide an extra layer of

encryption. The company has other features to make it easier for patients to use medical apps as well.

"We have seen 21 percent month-over-month increases in engagement," said mPulse Chief Executive Chris Nicholson. "Based on these numbers, we could see about 300 percent growth from 2015 to 2016."

Compared to other industries, health care has been slow to adopt mobile technology, partially because of security concerns. MPulse's technology works as an added security feature for existing apps developed for hospitals, insurers, pharmacies and doctor and dental offices.

"Applications must be adequately secured in order for mobile health apps to succeed," said Patrick Kehoe, chief marketing officer for application security company Arxan Technologies Inc. in Bethesda, Md. "There are critical privacy and security risks inherent in how mobile health apps

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PHOTO BY DAVID SPRAGUE

Safely Wireless: mPulse's Chris Nicholson.

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Food: Frozen Rice Fight Boiled Over Into Court

Continued from page 1

finding **Ajinomoto North America Inc.**, a Japanese manufacturer and supplier of food products with U.S. headquarters in Chicago, liable for breach of contract and the willful and malicious misappropriation of Pine Valley's trade secrets. The court awarded \$2.8 million to Pine Valley.

"We were buying (from) Ajinomoto and putting our markup on it, then selling to Trader Joe's. Now they are selling at the exact same price direct to Trader Joe's, which is a significant amount of money," Payton explained. "Basically, I went from their customer to their competitor overnight."

Payton developed a recipe for frozen chicken fried rice that he began selling to Trader Joe's in 1999. In 2002, he added shrimp fried rice and vegetable fried rice. The rice eventually was sold in stores nationally, under the grocer's private label.

In 2012, the Monrovia-based supermarket chain purchased more than \$7 million worth of Pine Valley's frozen-food products in its last full-year relationship with the vendor. But that following year, Payton received notice from **Cara Yokomizo**, a Trader Joe's buyer at the time, that his contract had been terminated. Shortly after, Payton learned that Trader Joe's was purchasing the frozen fried rice products from Ajinomoto instead.

Payton pursued legal action the following year and was represented by attorneys **William Bloch** of **LA Superlawyers Inc.** and **Gary Salomons** of **Gabriel Salomons** in Encino.

"Pine Valley alleges, beginning as early as April 2011, that the Ajinomoto parties began soliciting business from Trader Joe's by offering prices lower than those Pine Valley had sold," the lawsuit states. "Pine Valley further alleges the Ajinomoto parties used Pine Valley's confidential and proprietary information



PHOTO BY DAVID SPRAGUE

Foodies: Mike Payton, left, and attorneys Gary Salomons and William Bloch won a \$2.8 million judgment against Ajinomoto.

proprietary recipe for the product. Neither of these allegations is true," Taylor said in an email to the Business Journal. "While we appreciate the jurors' time and efforts in our trial and respect their decision, we do not agree with the verdict."

Shifting relationship

Pine Valley was founded in 1996 and has sold food products to specialty grocers since its inception. When Payton inked a deal with Trader Joe's in 1999, he contracted with Portland, Ore., manufacturer GranPac Foods Inc. to produce product to supply to Trader Joe's. The arrangement was on good faith alone, and no contracts were signed documenting that Payton's recipe was in fact his own, according to Pine Valley's attorneys.

"We have no documentation that there was any sort of contract entered into with GranPac," attorney Bloch said. "If there was one, we haven't seen it."

GranPac was acquired by **Ajinomoto U.S.A. Inc.**, the parent company of Ajinomoto North America, in June 2000 for \$7.5 million in hopes of accelerating the growth of the Japanese company's frozen-food business in the United States.

With the acquisition came GranPac's 260,000-square-foot manufacturing plant in Portland, where Ajinomoto continued to produce and sell food ingredients in the United States such as flavor enhancers, tannic acid, roasted sesame oil, sweeteners and soy sauces.

After the acquisition, Ajinomoto became the contract manufacturer for Pine Valley's frozen-food products to Trader Joe's.

Though Pine Valley's relationship with GranPac was based on good faith, it entered a mutual confidentiality and nondisclosure agreement with Ajinomoto in 2011.

Pine Valley's relationship with the manufacturer started getting rocky in June 2008, according to Payton. Around that time, Payton was in a major boating accident that resulted in years of reconstructive surgery and recovery. It was during that period that Ajinomoto began reaching out to Trader Joe's directly, according to the attorneys Bloch and Salomons.

"Initially, Cara (Trader Joe's buyer) only wanted to deal with Mike, the vendor of record," attorney Salomons said. "There is sort of this unwritten rule that co-packers are not to contact the customer."

But according to Salomons, that courtesy

did not last long. Soon, emails were being exchanged between the Trader Joe's buyer and Ajinomoto about the frozen fried rice products without Pine Valley's involvement.

In January 2013, Yokomizo reached out to Payton via email about revamping the product to upgrade the look and add more protein. Payton, in turn, reached out to Ajinomoto to create samples for Trader Joe's, which it did. However, the vendor did not hear back from Trader Joe's about the product upgrades until mid-2013.

Around that time, Payton received word from Trader Joe's that it was ending its contract with Pine Valley and working directly with Ajinomoto.

"We believe some agreement was already in place for Ajinomoto to directly sell the chicken fried rice and vegetable fried rice products to Trader Joe's when she sent that email to Mike Payton. Yokomizo testified that only Pine Valley and Ajinomoto submitted samples, but had no documentation or notes from the tasting," Salomons said.

In court, the jury ruled that Ajinomoto was at fault for breach of contract, violation of trade secrets and intentional interference with prospective economic advantage.

Taylor, the counsel at Ajinomoto North America, said both companies participated in a bid process, and the decision was made by Trader Joe's.

"With all due respect to Pine Valley, Ajinomoto is a global leader in manufacturing frozen-food products, including fried rice, and has been selling these products to customers all across the globe for many decades. We have our own very well-developed fried rice recipes," he said in his email to the Business Journal.

Michael Chester, president of International Manufacturing Consultants in Framingham, Mass., said supplier contracts usually have two parts that together define the relationship.

"One is a nondisclosure agreement in which (vendors say) before we give you our customer's name, we want you to sign this saying for these products we're discussing you will not go directly to them, you'll go with us. (The agreement) also says that we're not going to share recipes or other intellectual property," he explained.

This is not the first time a contract manufacturer has been accused of elbowing a vendor out of a deal to sell direct to the customers, particularly for Trader Joe's.

In 2014, Trader Joe's was involved in a

high-profile lawsuit with peanut butter-flavored pretzel maker **Maxim Marketing Corp.** in Aliso Viejo. The plaintiff, which supplied to Trader Joe's for more than 25 years and sold under the grocer's private label, claims that the supermarket switched suppliers to food giant **ConAgra Foods Inc.** in Compton, cutting it out of its own deal.

Maxim claims it sold Trader Joe's \$9 million annually in peanut butter pretzels, according to NPR.

"Yes, it is common and does happen in all industries," Chester said. "What's unusual here is that it happened with a Japanese company. ... The Far East is run not just by relationships but by Confucian values. Confucian values mean you have your network of friends and companies and you treat them extremely well. But if they're outside of your network, it doesn't matter that much."

Future litigation?

Pine Valley's attorneys have made preparations for arbitration with Trader Joe's, which will take place later this year.

On March 11, the Los Angeles County Superior Court will have a hearing to determine possible punitive damages and entry of a permanent injunction, stopping Ajinomoto from selling its frozen fried rice products. That would be in addition to the \$2.8 million already awarded.

"I was nervous (about the case). This was my whole life since I was a little kid and I feel very grateful," Payton said. "Still, I know Ajinomoto always has a game plan. They don't want to cooperate. Their attorney even wanted them to settle with us but they refused. They just want to win."

Taylor said Ajinomoto is looking in to both appealing the verdict and filing a lawsuit of its own to reclaim \$405,000 in unpaid invoices from Pine Valley. After the termination of Pine Valley's contract with Trader Joe's, Ajinomoto said it shipped the vendor's remaining inventory to Trader Joe's but was never paid in return.

Taylor said in an email that Ajinomoto wants to clear its name and could appeal the verdict. And the company might not stop there.

"Pine Valley still owes us \$405,000 plus interest for the product we sold to them back in 2013," he said. "We intend to file a new lawsuit against Pine Valley for this money in the near future."

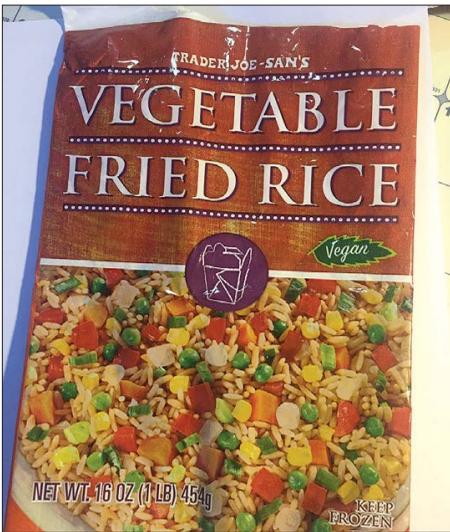


Exhibit: Package of Trader Joe's rice.

... to undersell Pine Valley and to wrongfully prohibit Pine Valley from obtaining purchase orders for (its product) while counterfeiting and imitating samples provided by Pine Valley to the Ajinomoto parties to unlawfully compete with Pine Valley."

The complaint was filed in July 2014 against both Ajinomoto and Trader Joe's. The case went to trial Jan. 11 against Ajinomoto and nearly two weeks later the jury ruled in Pine Valley's favor. The suit against Trader Joe's will proceed to arbitration.

Trader Joe's declined to comment on the litigation, but **Paul Taylor**, Ajinomoto North America's vice president and general counsel, said the company is reviewing post-verdict options with its legal team, including a possible appeal.

"This lawsuit is about a former food distributor who is upset that he lost a competitive, open-bid contest for one of our customers. He alleged that we conspired with the customer to cut him out and that we stole his