



1 any means or instrumentality of interstate commerce, or of the mails, or of any facility  
2 of any national securities exchange, in connection with the purchase or sale of any  
3 security:

4 (a) to employ any device, scheme, or artifice to defraud;

5 (b) to make any untrue statement of a material fact or to omit to state a material  
6 fact necessary in order to make the statements made, in the light of the  
7 circumstances under which they were made, not misleading; or

8 (c) to engage in any act, practice, or course of business which operates or would  
9 operate as a fraud or deceit upon any person.

10 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided  
11 in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the  
12 following who receive actual notice of this Final Judgment by personal service or  
13 otherwise: (a) Defendants' officers, agents, servants, employees, and attorneys; and  
14 (b) other persons in active concert or participation with Defendants or with anyone  
15 described in (a).

## 16 II.

17 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that  
18 Defendants are permanently restrained and enjoined from violating Sections 206(1)  
19 and (2) of the Investment Advisers Act of 1940 (the "Advisers Act") [15 U.S.C.  
20 §§ 80b-6(1) and 80b-6(2)] by, while acting as an investment adviser and by the use of  
21 any means or instruments of interstate commerce, directly or indirectly:

22 (a) employing any device, scheme, or artifices to defraud any client or  
23 prospective client; or

24 (b) engaging in any transaction, practice, or course of business which operates  
25 as a fraud or deceit upon any client or prospective client.

26 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided  
27 in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the  
28 following who receive actual notice of this Final Judgment by personal service or

1 otherwise: (a) Defendants’ officers, agents, servants, employees, and attorneys; and  
2 (b) other persons in active concert or participation with Defendants or with anyone  
3 described in (a).

4 III.

5 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that,  
6 pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)],  
7 Defendant Kelly is prohibited from acting as an officer or director of any issuer  
8 that has a class of securities registered pursuant to Section 12 of the Exchange Act  
9 [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the  
10 Exchange Act [15 U.S.C. § 78o(d)].

11 IV.

12 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that  
13 Defendant Red Rock is liable for disgorgement of \$50,150,000, representing net  
14 profits gained as a result of the conduct alleged in the Amended Complaint, together  
15 with prejudgment interest thereon in the amount of \$6,110,000, and a civil penalty in  
16 the amount of \$10,000,000 pursuant to Section 21(d)(3) of the Exchange Act [15  
17 U.S.C. § 78u(d)(3)], and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)].  
18 Defendant Red Rock shall satisfy this obligation by paying \$66,260,000 to the SEC  
19 within 30 days after entry of this Final Judgment. Defendant Red Rock shall receive  
20 an offset (“Offset”) equal to the payment made against its monetary payment  
21 obligations under this Judgment for any payments Red Rock makes in satisfaction of  
22 its payment obligations under any final judgment entered against it in *CFTC et al. v.*  
23 *Red Rock Secured, LLC, et al.*, Civil Action No. 2:23-CV-03680-RGK-PVC (C.D.  
24 Cal.) (“CFTC Judgment”). Proof of the amounts of any such Offset shall be provided  
25 by Defendant Red Rock in a manner acceptable to the Commission and filed on the  
26 public docket in this action not later than 14 days after the payment of any such  
27 Offset.

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1 Defendant Red Rock may transmit payment electronically to the SEC, which  
2 will provide detailed ACH transfer/Fedwire instructions upon request. Payment  
3 may also be made directly from a bank account via Pay.gov through the SEC  
4 website at <http://www.sec.gov/about/offices/ofm.htm>. Defendant Red Rock may  
5 also pay by certified check, bank cashier's check, or United States postal money  
6 order payable to the SEC, which shall be delivered or mailed to:

7 Enterprise Services Center

8 Accounts Receivable Branch 6500

9 South MacArthur Boulevard

10 Oklahoma City, OK 73169

11 and shall be accompanied by a letter identifying the case title, civil action number,  
12 and name of this Court; Red Rock as a defendant in this action; and specifying that  
13 payment is made pursuant to this Final Judgment.

14 Defendant Red Rock shall simultaneously transmit photocopies of evidence  
15 of payment and case identifying information to the SEC's counsel in this action for  
16 any payments it makes under this Judgment and under the CFTC Judgment. By  
17 making this payment, Defendant Red Rock relinquishes all legal and equitable  
18 right, title, and interest in such funds and no part of the funds shall be returned to  
19 Red Rock.

20 The SEC may enforce the Court's judgment for disgorgement and  
21 prejudgment interest by using all collection procedures authorized by law,  
22 including, but not limited to, moving for civil contempt at any time after 30 days  
23 following entry of this Final Judgment.

24 The SEC may enforce the Court's judgment for penalties by the use of all  
25 collection procedures authorized by law, including the Federal Debt Collection  
26 Procedures Act, 28 U.S.C. § 3001 et seq., and moving for civil contempt for the  
27 violation of any Court orders issued in this action. Defendant Red Rock shall pay  
28 post judgment interest on any amounts due after 30 days of the entry of this Final

1 Judgment pursuant to 28 U.S.C. § 1961. The SEC shall hold the funds, together  
2 with any interest and income earned thereon (collectively with the funds paid by  
3 Defendants Kelly, Spencer, and Ward pursuant to paragraphs V, VI, and VII  
4 below, and any interest and income earned thereon, the “Fund”), pending further  
5 order of the Court.

6 The SEC may propose a plan to distribute the Fund subject to the Court’s  
7 approval. Such a plan may provide that the Fund shall be distributed pursuant to  
8 the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. The  
9 Court shall retain jurisdiction over the administration of any distribution of the  
10 Fund and the Fund may only be disbursed pursuant to an Order of the Court.

11 Regardless of whether any such Fair Fund distribution is made, amounts  
12 ordered to be paid as civil penalties pursuant to this Judgment shall be treated as  
13 penalties paid to the government for all purposes, including all tax purposes. To  
14 preserve the deterrent effect of the civil penalty, Defendant Red Rock shall not,  
15 after offset or reduction of any award of compensatory damages in any Related  
16 Investor Action based on Defendant Red Rock’s payment of disgorgement in this  
17 action, argue that it is entitled to, nor shall it further benefit by, offset or reduction  
18 of such compensatory damages award by the amount of any part of Defendant Red  
19 Rock’s payment of a civil penalty in this action (“Red Rock Penalty Offset”). If the  
20 court in any Related Investor Action grants such a Red Rock Penalty Offset,  
21 Defendant Red Rock shall, within 30 days after entry of a final order granting the  
22 Red Rock Penalty Offset, notify the SEC’s counsel in this action and pay the  
23 amount of the Red Rock Penalty Offset to the United States Treasury or to a Fair  
24 Fund, as the SEC directs. Such a payment shall not be deemed an additional civil  
25 penalty and shall not be deemed to change the amount of the civil penalty imposed  
26 in this Judgment. For purposes of this paragraph, a “Related Investor Action”  
27 means a private damages action brought against Defendant Red Rock by or on

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1 behalf of one or more investors based on substantially the same facts as alleged in  
2 the Amended Complaint in this action.

3 V.

4 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that  
5 Defendant Kelly is liable for disgorgement of \$1,841,727.89, representing net profits  
6 gained as a result of the conduct alleged in the Amended Complaint, together with  
7 prejudgment interest thereon in the amount of \$224,241.37, and a civil penalty in the  
8 amount of \$1,500,000 pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. §  
9 78u(d)(3)], and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)]. Defendant  
10 Kelly shall satisfy this obligation by paying \$3,565,969.26 to the SEC within 30 days  
11 after entry of this Final Judgment. Defendant Kelly shall receive an Offset equal to the  
12 payment made against his monetary payment obligations under this Judgment for any  
13 payments Defendant Kelly makes in satisfaction of his payment obligations under the  
14 CFTC Judgment. Proof of the amounts of any such Offset shall be provided by  
15 Defendant Kelly in a manner acceptable to the Commission and filed on the public  
16 docket in this action not later than 14 days after the payment of any such Offset.

17 Defendant Kelly may transmit payment electronically to the SEC, which will  
18 provide detailed ACH transfer/Fedwire instructions upon request. Payment may  
19 also be made directly from a bank account via Pay.gov through the SEC website at  
20 <http://www.sec.gov/about/offices/ofm.htm>. Defendant Kelly may also pay by  
21 certified check, bank cashier's check, or United States postal money order payable  
22 to the SEC, which shall be delivered or mailed to:

23 Enterprise Services Center  
24 Accounts Receivable Branch 6500  
25 South MacArthur Boulevard  
26 Oklahoma City, OK 73169

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1 and shall be accompanied by a letter identifying the case title, civil action number,  
2 and name of this Court; Kelly as a defendant in this action; and specifying that  
3 payment is made pursuant to this Final Judgment.

4 Defendant Kelly shall simultaneously transmit photocopies of evidence of  
5 payment and case identifying information to the SEC's counsel in this action for  
6 any payments he makes under this Judgment and under the CFTC Judgment. By  
7 making this payment, Defendant Kelly relinquishes all legal and equitable right,  
8 title, and interest in such funds and no part of the funds shall be returned to Kelly.

9 The SEC may enforce the Court's judgment for disgorgement and  
10 prejudgment interest by using all collection procedures authorized by law,  
11 including, but not limited to, moving for civil contempt at any time after 30 days  
12 following entry of this Final Judgment.

13 The SEC may enforce the Court's judgment for penalties by the use of all  
14 collection procedures authorized by law, including the Federal Debt Collection  
15 Procedures Act, 28 U.S.C. § 3001 et seq., and moving for civil contempt for the  
16 violation of any Court orders issued in this action. Defendant Kelly shall pay post  
17 judgment interest on any amounts due after 30 days of the entry of this Final  
18 Judgment pursuant to 28 U.S.C. § 1961. The SEC shall hold the funds, together  
19 with any interest and income earned thereon, pending further order of the Court.

20 Regardless of whether a Fair Fund distribution is made (as described in  
21 paragraph IV above), amounts ordered to be paid as civil penalties pursuant to this  
22 Judgment shall be treated as penalties paid to the government for all purposes,  
23 including all tax purposes. To preserve the deterrent effect of the civil penalty,  
24 Defendant Kelly shall not, after offset or reduction of any award of compensatory  
25 damages in any Related Investor Action based on Kelly's payment of  
26 disgorgement in this action, argue that he is entitled to, nor shall he further benefit  
27 by, offset or reduction of such compensatory damages award by the amount of any  
28 part of Kelly's payment of a civil penalty in this action ("Kelly Penalty Offset"). If

1 the court in any Related Investor Action grants such a Kelly Penalty Offset, Kelly  
2 shall, within 30 days after entry of a final order granting the Kelly Penalty Offset,  
3 notify the SEC's counsel in this action and pay the amount of the Kelly Penalty  
4 Offset to the United States Treasury or to a Fair Fund, as the SEC directs. Such a  
5 payment shall not be deemed an additional civil penalty and shall not be deemed to  
6 change the amount of the civil penalty imposed in this Judgment. For purposes of  
7 this paragraph, a "Related Investor Action" means a private damages action  
8 brought against Kelly by or on behalf of one or more investors based on  
9 substantially the same facts as alleged in the Amended Complaint in this action.

10 VI.

11 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED  
12 that Defendant Spencer is liable for disgorgement of \$2,156,905.15, representing  
13 net profits gained as a result of the conduct alleged in the Amended Complaint,  
14 together with prejudgment interest thereon in the amount of \$262,616.15, and a  
15 civil penalty in the amount of \$580,478.70 pursuant to Section 21(d)(3) of the  
16 Exchange Act [15 U.S.C. § 78u(d)(3)], and Section 209(e) of the Advisers Act [15  
17 U.S.C. § 80b-9(e)]. Defendant Spencer shall satisfy this obligation by paying  
18 \$3,000,000 to the SEC within 30 days after entry of this Final Judgment.  
19 Defendant Spencer shall receive an Offset equal to the payment made against his  
20 monetary payment obligations under this Judgment for any payments Defendant  
21 Spencer makes in satisfaction of his payment obligations under the CFTC  
22 Judgment. Proof of the amounts of any such Offset shall be provided by Defendant  
23 Spencer in a manner acceptable to the Commission and filed on the public docket  
24 in this action not later than 14 days after the payment of any such Offset.

25 Defendant Spencer may transmit payment electronically to the SEC, which  
26 will provide detailed ACH transfer/Fedwire instructions upon request. Payment  
27 may also be made directly from a bank account via Pay.gov through the SEC  
28 website at <http://www.sec.gov/about/offices/ofm.htm>. Defendant Spencer may also



1 pay by certified check, bank cashier's check, or United States postal money order  
2 payable to the SEC, which shall be delivered or mailed to:

3       Enterprise Services Center  
4       Accounts Receivable Branch 6500  
5       South MacArthur Boulevard  
6       Oklahoma City, OK 73169

7 and shall be accompanied by a letter identifying the case title, civil action number,  
8 and name of this Court; Spencer as a defendant in this action; and specifying that  
9 payment is made pursuant to this Final Judgment.

10       Defendant Spencer shall simultaneously transmit photocopies of evidence of  
11 payment and case identifying information to the SEC's counsel in this action for  
12 any payments he makes under this Judgment and under the CFTC Judgment. By  
13 making this payment, Defendant Spencer relinquishes all legal and equitable right,  
14 title, and interest in such funds and no part of the funds shall be returned to  
15 Spencer.

16       The SEC may enforce the Court's judgment for disgorgement and  
17 prejudgment interest by using all collection procedures authorized by law,  
18 including, but not limited to, moving for civil contempt at any time after 30 days  
19 following entry of this Final Judgment.

20       The SEC may enforce the Court's judgment for penalties by the use of all  
21 collection procedures authorized by law, including the Federal Debt Collection  
22 Procedures Act, 28 U.S.C. § 3001 et seq., and moving for civil contempt for the  
23 violation of any Court orders issued in this action. Defendant Spencer shall pay  
24 post judgment interest on any amounts due after 30 days of the entry of this Final  
25 Judgment pursuant to 28 U.S.C. § 1961. The SEC shall hold the funds, together  
26 with any interest and income earned thereon, pending further order of the Court.

27       Regardless of whether a Fair Fund distribution is made (as described above  
28 in paragraph IV), amounts ordered to be paid as civil penalties pursuant to this

1 Judgment shall be treated as penalties paid to the government for all purposes,  
2 including all tax purposes. To preserve the deterrent effect of the civil penalty,  
3 Defendant Spencer shall not, after offset or reduction of any award of  
4 compensatory damages in any Related Investor Action based on Spencer's  
5 payment of disgorgement in this action, argue that he is entitled to, nor shall he  
6 further benefit by, offset or reduction of such compensatory damages award by the  
7 amount of any part of Spencer's payment of a civil penalty in this action ("Spencer  
8 Penalty Offset"). If the court in any Related Investor Action grants such a Spencer  
9 Penalty Offset, Spencer shall, within 30 days after entry of a final order granting  
10 the Spencer Penalty Offset, notify the SEC's counsel in this action and pay the  
11 amount of the Spencer Penalty Offset to the United States Treasury or to a Fair  
12 Fund, as the SEC directs. Such a payment shall not be deemed an additional civil  
13 penalty and shall not be deemed to change the amount of the civil penalty imposed  
14 in this Judgment. For purposes of this paragraph, a "Related Investor Action"  
15 means a private damages action brought against Spencer by or on behalf of one or  
16 more investors based on substantially the same facts as alleged in the Amended  
17 Complaint in this action.

## 18 VII.

19 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED  
20 that Defendant Ward is liable for disgorgement of \$1,224,215.28, representing net  
21 profits gained as a result of the conduct alleged in the Amended Complaint,  
22 together with prejudgment interest thereon in the amount of \$149,055.46, a civil  
23 penalty in the amount of \$230,464 pursuant to Section 21(d)(3) of the Exchange  
24 Act [15 U.S.C. § 78u(d)(3)], and Section 209(e) of the Advisers Act [15 U.S.C. §  
25 80b-9(e)], and post-judgment interest (if accrued). Defendant Ward shall satisfy  
26 this obligation by paying \$1,603,734.74 to the SEC within 30 days after entry of  
27 this Final Judgment.

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1 Defendant Ward may transmit payment electronically to the SEC, which will  
2 provide detailed ACH transfer/Fedwire instructions upon request. Payment may  
3 also be made directly from a bank account via Pay.gov through the SEC website at  
4 <http://www.sec.gov/about/offices/ofm.htm>. Defendant Ward may also pay by  
5 certified check, bank cashier's check, or United States postal money order payable  
6 to the SEC, which shall be delivered or mailed to:

7 Enterprise Services Center  
8 Accounts Receivable Branch 6500  
9 South MacArthur Boulevard  
10 Oklahoma City, OK 73169

11 and shall be accompanied by a letter identifying the case title, civil action number,  
12 and name of this Court; Ward as a defendant in this action; and specifying that  
13 payment is made pursuant to this Final Judgment.

14 Defendant Ward shall simultaneously transmit photocopies of evidence of  
15 payment and case identifying information to the SEC's counsel in this action. By  
16 making this payment, Defendant Ward relinquishes all legal and equitable right,  
17 title, and interest in such funds and no part of the funds shall be returned to Ward.

18 The SEC may enforce the Court's judgment for disgorgement and  
19 prejudgment interest by using all collection procedures authorized by law,  
20 including, but not limited to, moving for civil contempt at any time after 30 days  
21 following entry of this Final Judgment.

22 The SEC may enforce the Court's judgment for penalties by the use of all  
23 collection procedures authorized by law, including the Federal Debt Collection  
24 Procedures Act, 28 U.S.C. § 3001 et seq., and moving for civil contempt for the  
25 violation of any Court orders issued in this action. Defendant Ward shall pay post  
26 judgment interest on any amounts due after 30 days of the entry of this Final  
27 Judgment pursuant to 28 U.S.C. § 1961. The SEC shall hold the funds, together  
28 with any interest and income earned thereon, pending further order of the Court.



1 interest, civil penalty or other amounts due by Defendants under this Final  
2 Judgment or any other judgment, order, consent order, decree or settlement  
3 agreement entered in connection with this proceeding, is a debt for the violation by  
4 Defendants of the federal securities laws or any regulation or order issued under  
5 such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C.  
6 § 523(a)(19).

7 X.

8 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this  
9 Court shall retain jurisdiction of this matter for the purposes of enforcing the terms  
10 of this Final Judgment. Because the parties have resolved this matter in its entirety,  
11 the Court VACATES all future dates associated with this case and INSTRUCTS  
12 the Clerk to close the case.

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14 Dated: 4/23/2024



15 HON. R. GARY KLAUSNER  
16 UNITED STATES DISTRICT JUDGE  
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