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NOTE: CHANGES MADE BY THE COURT

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

FRANCOIS E. DURMAZ (*aka*
MAHMUT E. DURMAZ), ROBERT
C. PRIBILSKI, USA RETIREMENT
MANAGEMENT SERVICES (*aka*
USA FINANCIAL MANAGEMENT
SERVICES, INC.),

Defendants,

and

SIBEL INCE, MEHMET KARAKUS,
MARLALI GAYRIMENKUL
YATIRIMLARI, MARLALI
PROPERTY INVESTMENT
COMPANY, LLC, GULEN
ENTERPRISES, INC.,

Relief Defendants.

Case No. CV 10-1689 JST (AJWx)

**FINAL JUDGMENT OF
PERMANENT INJUNCTION AND
OTHER RELIEF AGAINST
DEFENDANTS FRANCOIS E.
DURMAZ, ROBERT C. PRIBILSKI,
AND USA RETIREMENT
MANAGEMENT SERVICES, AND
RELIEF DEFENDANTS SIBEL
INCE, MEHMET KARAKUS,
MARLALI GAYRIMENKUL
YATIRIMLARI, MARLALI
PROPERTY INVESTMENT
COMPANY, LLC, AND GULEN
ENTERPRISES, INC.**

1 Plaintiff Securities and Exchange Commission (“Commission”) has filed a
2 Complaint and defendant USA Retirement Management Services, a/k/a USA
3 Retirement Financial Services, Inc. (“USARMS”) and relief defendants Marlali
4 Gayrimenkul Yatirimlari (“MGY”), Marlali Property Investment Company, LLC
5 (“Marlali Property”), and Gulen Enterprises, Inc. (“Gulen Enterprises”) have
6 entered general appearances; consented to the Court’s jurisdiction over them and
7 the subject matter of this action; consented to entry of this Final Judgment without
8 admitting or denying the allegations of the Complaint (except as to jurisdiction);
9 waived findings of fact and conclusions of law; and waived any right to appeal
10 from this Final Judgment.

11 In addition, the Commission filed a Motion for Final Judgment By Default
12 Against Defendants Francois E. Durmaz a/k/a Mahmut E. Durmaz (“Durmaz”) and
13 Robert C. Pribilski (“Pribilski”) and Relief Defendants Sibel Ince (“Ince”) and
14 Mehmet Karakus (“Karakus”) (“Motion for Final Judgment”) pursuant to Rule 55
15 of the Federal Rules of Civil Procedure. The Court, having considered the
16 Commission’s motion, the memorandum of points and authorities filed in support
17 of the motion, the declarations, and all other documents filed in support of the
18 motion, and all other evidence and argument presented regarding the motion,
19 enters the following Final Judgment.

20 **I.**

21 IT IS ORDERED that the Commission’s Motion for Final Judgment is
22 hereby GRANTED. The hearing set for April 16, 2012, at 10:00 a.m. is
23 VACATED.

24 **II.**

25 IT IS FURTHER ORDERED that defendants Durmaz, Pribilski, and
26 USARMS, and their agents, servants, employees, attorneys, and all persons in
27 active concert or participation with them who receive actual notice of this Final
28 Judgment by personal service or otherwise are permanently restrained and enjoined

1 from violating Sections 5(a) and 5(c) of the Securities Act of 1933 (“Securities
2 Act”) [15 U.S.C. § 77e] by, directly or indirectly, in the absence of any applicable
3 exemption:

- 4 (a) Unless a registration statement is in effect as to a security, making use
5 of any means or instruments of transportation or communication in
6 interstate commerce or of the mails to sell such security through the
7 use or medium of any prospectus or otherwise;
- 8 (b) Unless a registration statement is in effect as to a security, carrying or
9 causing to be carried through the mails or in interstate commerce, by
10 any means or instruments of transportation, any such security for the
11 purpose of sale or for delivery after sale; or
- 12 (c) Making use of any means or instruments of transportation or
13 communication in interstate commerce or of the mails to offer to sell
14 or offer to buy through the use or medium of any prospectus or
15 otherwise any security, unless a registration statement has been filed
16 with the Commission as to such security, or while the registration
17 statement is the subject of a refusal order or stop order or (prior to the
18 effective date of the registration statement) any public proceeding or
19 examination under Section 8 of the Securities Act [15 U.S.C. § 77h].

20 **III.**

21 IT IS FURTHER ORDERED that defendants Durmaz, Pribilski, and
22 USARMS, and their agents, servants, employees, attorneys, and all persons in
23 active concert or participation with them who receive actual notice of this Final
24 Judgment by personal service or otherwise are permanently restrained and enjoined
25 from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)] in the offer
26 or sale of any security by the use of any means or instruments of transportation or
27 communication in interstate commerce or by use of the mails, directly or
28 indirectly:

- 1 (a) to employ any device, scheme, or artifice to defraud;
- 2 (b) to obtain money or property by means of any untrue statement of a
- 3 material fact or any omission of a material fact necessary in order to
- 4 make the statements made, in light of the circumstances under which
- 5 they were made, not misleading; or
- 6 (c) to engage in any transaction, practice, or course of business which
- 7 operates or would operate as a fraud or deceit upon the purchaser.

8 **IV.**

9 IT IS FURTHER ORDERED that defendants Durmaz, Pribilski, and

10 USARMS, and their agents, servants, employees, attorneys, and all persons in

11 active concert or participation with them who receive actual notice of this Final

12 Judgment by personal service or otherwise are permanently restrained and enjoined

13 from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act

14 of 1934 (“Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated

15 thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of

16 interstate commerce, or of the mails, or of any facility of any national securities

17 exchange, in connection with the purchase or sale of any security:

- 18 (a) to employ any device, scheme, or artifice to defraud;
- 19 (b) to make any untrue statement of a material fact or to omit to state a
- 20 material fact necessary in order to make the statements made, in the
- 21 light of the circumstances under which they were made, not
- 22 misleading; or
- 23 (c) to engage in any act, practice, or course of business which operates or
- 24 would operate as a fraud or deceit upon any person.

25 **V.**

26 IT IS FURTHER ORDERED that defendants Durmaz and Pribilski, and

27 their agents, servants, employees, attorneys, and all persons in active concert or

28 participation with them who receive actual notice of this Final Judgment by

1 personal service or otherwise are permanently restrained and enjoined from
2 violating Section 15(a) of the Exchange Act [15 U.S.C. § 78o(a)] by making use of
3 the mails or any means or instrumentality of interstate commerce to effect any
4 transaction in, or to induce or attempt to induce the purchase or sale of, any
5 security, without being registered as a broker or dealer in accordance with Section
6 15(b) of the Exchange Act, 15 U.S.C. § 78o(b).

7 **VI.**

8 IT IS FURTHER ORDERED that: (a) defendants Durmaz, Pribilski, and
9 USARMS are jointly and severally liable for disgorgement of \$32,282,791,
10 representing ill-gotten gains derived from the conduct alleged in the Complaint,
11 together with prejudgment interest thereon in the amount of \$216,878, for a total of
12 \$32,499,669; (b) relief defendant Ince is liable, jointly and severally with
13 USARMS, for disgorgement of \$306,800, representing ill-gotten gains received as
14 a result of the conduct alleged in the Complaint for which Ince gave no
15 consideration and to which she has no legitimate claim, together with prejudgment
16 interest thereon in the amount of \$2,061, for a total of \$308,861; (c) relief
17 defendant Karakus is liable, jointly and severally with USARMS, for disgorgement
18 of \$925,000, representing ill-gotten gains received as a result of the conduct
19 alleged in the Complaint for which Karakus gave no consideration and to which he
20 has no legitimate claim, together with prejudgment interest thereon in the amount
21 of \$6,214, for a total of \$931,214; (d) relief defendant MGY is liable, jointly and
22 severally with USARMS, for disgorgement in the amount of \$6,020,000,
23 representing ill-gotten gains received as a result of the conduct alleged in the
24 Complaint for which MGY gave no consideration and to which it has no legitimate
25 claim, together with prejudgment interest thereon in the amount of \$40,442, for a
26 total of \$6,060,442; (e) relief defendant Marlali Property is liable, jointly and
27 severally with USARMS, for disgorgement in the amount of \$5,108,076,
28 representing ill-gotten gains received as a result of the conduct alleged in the

1 Complaint for which Marlali Property gave no consideration and to which it has no
2 legitimate claim, together with prejudgment interest thereon in the amount of
3 \$34,316, for a total of \$5,142,392; and (f) relief defendant Gulen Enterprises is
4 liable, jointly and severally with USARMS, for disgorgement in the amount of
5 \$969,788, representing ill-gotten gains received as a result of the conduct alleged
6 in the Complaint for which Gulen Enterprises gave no consideration and to which
7 it has no legitimate claim, together with prejudgment interest thereon in the amount
8 of \$6,515, for a total of \$976,303.

9 Defendants Durmaz and Pribilski and relief defendants Ince and Karakus
10 shall satisfy their obligations by paying the total amounts of disgorgement and
11 prejudgment interest owed, as set forth above, within 14 days after entry of this
12 Final Judgment by certified check, bank cashier's check, or United States postal
13 money order payable to the Securities and Exchange Commission. The payment
14 shall be delivered or mailed to the Office of Financial Management, Securities and
15 Exchange Commission, 100 F Street, NE, Stop 6042, Washington DC 20549, and
16 shall be accompanied by a letter identifying the remitter as a defendant in this
17 action; setting forth the title and civil action number of this action and the name of
18 this Court; and specifying that payment is made pursuant to this Final Judgment.
19 Defendants Durmaz and Pribilski and relief defendants Ince and Karakus shall pay
20 post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.
21 The Commission shall remit the funds paid pursuant to this paragraph to the United
22 States Treasury.

23 The obligations of defendant USARMS and relief defendants MGY, Marlali
24 Property, and Gulen Enterprises shall be deemed satisfied by the amount the Court-
25 appointed permanent receiver collects, as reflected in the receiver's reports and
26 final accounting to the Court.

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1 **VII.**

2 IT IS FURTHER ORDERED that, pursuant to Section 20(d) of the
3 Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15
4 U.S.C. § 78u(d)(3), defendants Dumaz and Pribilski are jointly and severally liable
5 for a civil penalty in the amount of \$6,073,322. Defendants Durmaz and Pribilski
6 shall make the payments within 14 days after entry of this Final Judgment by
7 certified check, bank cashier's check, or United States postal money order payable
8 to the Securities and Exchange Commission. The payments shall be delivered or
9 mailed to the Office of Financial Management, Securities and Exchange
10 Commission, 100 F Street, NE, Stop 6042, Washington DC 20549, and shall be
11 accompanied by a letter identifying the remitter as a defendant in this action;
12 setting forth the title and civil action number of this action and the name of this
13 Court; and specifying that payment is made pursuant to this Final Judgment.
14 Defendants Durmaz and Pribilski shall pay post-judgment interest on any
15 delinquent amounts pursuant to 28 U.S.C. § 1961. The Commission shall remit the
16 funds paid pursuant to this paragraph to the United States Treasury.

17 **VIII.**

18 IT IS FURTHER ORDERED that the Consent of Defendant USA
19 Retirement Management Services and Relief Defendants Marlali Gayrimenkul
20 Yatirimlari, Marlali Property Investment Company, LLC, and Gulen Enterprises,
21 Inc. is incorporated herein with the same force and effect as if fully set forth
22 herein, and that the parties thereto shall comply with all of the undertakings and
23 agreements set forth therein.

24 **IX.**

25 IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this
26 matter for the purposes of enforcing the terms of this Judgment.
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1 **X.**

2 There being no just reason for delay, pursuant to Rules 54(b) and 55 of the
3 Federal Rules of Civil Procedure, the Clerk is ordered to enter this Judgment
4 forthwith and without further notice.

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6 Dated: April 12, 2012

7 **JOSEPHINE STATON TUCKER**
8 HON. JOSEPHINE STATON TUCKER
9 UNITED STATES DISTRICT JUDGE
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