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

13 SECURITIES AND EXCHANGE
 14 COMMISSION,

15 Plaintiff,

16 vs.

17 ALETHEIA RESEARCH AND
 18 MANAGEMENT, INC., and PETER J.
 EICHLER, JR.,

19 Defendants.

Case No. CV12-10692 JFW (RZx)

**JUDGMENT AS TO DEFENDANT
 ALETHEIA RESEARCH AND
 MANAGEMENT, INC.**

1 The Securities and Exchange Commission having filed a Complaint and
2 Defendant Aletheia Research and Management, Inc. having entered a general
3 appearance; consented to the Court's jurisdiction over Defendant and the subject
4 matter of this action; consented to entry of this Final Judgment without admitting
5 or denying the allegations of the Complaint (except as to jurisdiction); waived
6 findings of fact and conclusions of law; and waived any right to appeal from this
7 Final Judgment:

8 I.

9 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant
10 and Defendant's agents, servants, employees, attorneys, and all persons in active
11 concert or participation with them who receive actual notice of this Final Judgment
12 by personal service or otherwise are permanently restrained and enjoined from
13 violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of
14 1934 (the "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 light
21 of the circumstances under which they were made, not misleading; or
- 22 (c) to engage in any act, practice, or course of business which operates or
23 would operate as a fraud or deceit upon any person.

24 II.

25 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant
26 and Defendant's agents, servants, employees, attorneys, and all persons in active
27 concert or participation with them who receive actual notice of this Final Judgment
28 by personal service or otherwise are permanently restrained and enjoined from

1 violating, directly or indirectly, Sections 206(1), 206(2) and 206(4) of the
2 Investment Advisers Act (“Advisers Act”), 15 U.S.C. § 80b-6(1), (2) and (4), and
3 Rules 206(4)-7(a) and 206(4)-8(a) promulgated thereunder, 17 C.F.R. §§
4 275.206(4)-7(a) and 275.206(4)-8(a), by using the mails or any means of
5 instrumentality of interstate commerce:

- 6 (a) to employ any device, scheme, or artifice to defraud any client or
7 prospective client;
- 8 (b) to engage in any transaction, practice, or course of business which
9 operates as a fraud or deceit upon any client or prospective client; or
- 10 (c) to engage in any act, practice, or course of business which is
11 fraudulent, deceptive, or manipulative.

12 III.

13 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant
14 and Defendant’s agents, servants, employees, attorneys, and all persons in active
15 concert or participation with them who receive actual notice of this Final Judgment
16 by personal service or otherwise are permanently restrained and enjoined from
17 violating, directly or indirectly, Section 207 of the Advisers Act, 15 U.S.C. § 80b-
18 7, and Rule 204-1(a)(2) promulgated thereunder, 17 C.F.R. § 275.204-1(a)(2), by:

- 19 (a) willfully making any untrue statement of a material fact in any
20 registration application or report filed with the Commission under
21 Section 203 or Section 204 of the Advisers Act, 15 U.S.C. §§ 80b-3
22 and 80b-4; or
- 23 (b) willfully omitting to state in any such application or report any
24 material fact which is required to be stated therein.

25 IV.

26 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant
27 and Defendant’s agents, servants, employees, attorneys, and all persons in active
28 concert or participation with them who receive actual notice of this Final Judgment

1 by personal service or otherwise are permanently restrained and enjoined from
2 violating, directly or indirectly, Section 204A of the Advisers Act, 15 U.S.C. §
3 80b-4A, and Rule 204A-1(a) promulgated thereunder, 17 C.F.R. § 275.204A-1(a).

4 V.

5 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED
6 that Defendant shall pay disgorgement of ill-gotten gains, prejudgment interest
7 thereon, and a civil penalty pursuant to Section 21(d)(3) of the Exchange Act, 15
8 U.S.C. § 78u(d)(3), and Section 209(e) of the Advisers Act, 15 U.S.C. § 80b-9(e).
9 The Court shall determine the amounts of the disgorgement and civil penalty upon
10 motion of the Commission. Prejudgment interest shall be calculated from August
11 15, 2009, based on the rate of interest used by the Internal Revenue Service for the
12 underpayment of federal income tax as set forth in 26 U.S.C. § 6621(a)(2). In
13 connection with the Commission's motion for disgorgement and/or civil penalties,
14 and at any hearing held on such a motion: (a) Defendant will be precluded from
15 arguing that it did not violate the federal securities laws as alleged in the
16 Complaint; (b) Defendant may not challenge the validity of the Consent or this
17 Final Judgment; (c) solely for the purposes of such motion, the allegations of the
18 Complaint shall be accepted as and deemed true by the Court; and (d) the Court
19 may determine the issues raised in the motion on the basis of affidavits,
20 declarations, excerpts of sworn deposition or investigative testimony, and
21 documentary evidence, without regard to the standards for summary judgment
22 contained in Rule 56(c) of the Federal Rules of Civil Procedure. In connection
23 with the Commission's motion for disgorgement and/or civil penalties, the parties
24 may take discovery, including discovery from appropriate non-parties.

25 VI.

26 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED
27 that the judgment for disgorgement and penalties, if any, in favor of the
28 Commission shall not be an allowed claim in the Defendant's bankruptcy case,

1 pending before the Bankruptcy Court for the Central District of California (the
2 “Bankruptcy Court”), Case No. 2:12-BK-47718-BR (the “Bankruptcy Case”),
3 unless and until, the Bankruptcy Court enters an order after the Defendant and the
4 Commission provide notice and an opportunity for hearing to all parties in interest
5 in the Bankruptcy Case to object to the claim. In addition, the rights of the
6 Defendant and parties in interest to the Bankruptcy Case to assert that the
7 Commission’s Claim is subject to section 726(a)(4) of title 11 of the United States
8 Code (the “Bankruptcy Code”) are preserved.

9 VII.

10 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this
11 Court shall retain jurisdiction of this matter for the purposes of enforcing the terms
12 of this Final Judgment.

13 VIII.

14 There being no just reason for delay, pursuant to Rule 54(b) of the Federal
15 Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment
16 forthwith and without further notice.

17 Dated: September 16, 2013

18 
19 UNITED STATES DISTRICT
20 JUDGE JOHN F. WALTER

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25 cc: bankruptcy court
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