

1 DAVID J. VAN HAVERMAAT, Cal. Bar No. 175761
 Email: vanhavermaatd@sec.gov
 2 LUCEE S. KIRKA, Cal. Bar No. 121685
 Email: kirkal@sec.gov

3 Attorneys for Plaintiff
 4 Securities and Exchange Commission
 Michele Wein Layne, Regional Director
 5 John W. Berry, Associate Regional Director
 444 S. Flower Street, Suite 900
 6 Los Angeles, California 90071
 Telephone: (323) 965-3998
 7 Facsimile: (213) 443-1904

8 **UNITED STATES DISTRICT COURT**
 9 **CENTRAL DISTRICT OF CALIFORNIA**
 10 **WESTERN DIVISION**

11 **SECURITIES AND EXCHANGE**
 12 **COMMISSION,**

13 Plaintiff,

14 vs.

15 **MARCUS A. LUNA, NORRELL L.**
 16 **WALKER, PAUL L. GOMEZ, and**
 17 **DUSTIN S. SMITH,**

18 Defendants.

Case No.: CV-16-07333 BRO (SKx)

JUDGMENT AS TO DEFENDANT
PAUL L. GOMEZ

1 The Securities and Exchange Commission (“SEC” or “Commission”) having
2 filed a Complaint and Defendant Paul L. Gomez (“Defendant”) having entered a
3 general appearance; consented to the Court’s jurisdiction over Defendant and the
4 subject matter of this action; consented to entry of this Judgment; waived findings of
5 fact and conclusions of law; and waived any right to appeal from this Judgment; and
6 Defendant having admitted the facts set forth in Annex A to the Consent of
7 Defendant Paul L. Gomez to Entry of Judgment and the Consent of Defendant Paul
8 L. Gomez to Entry of Judgment and Annex A thereto being hereby incorporated by
9 reference with the same force and effect as if fully set forth herein:

10 **I.**

11 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is
12 permanently restrained and enjoined from violating, directly or indirectly, Section
13 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. §
14 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using
15 any means or instrumentality of interstate commerce, or of the mails, or of any
16 facility of any national securities exchange, in connection with the purchase or sale of
17 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 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 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as
25 provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also
26 binds the following who receive actual notice of this Judgment by personal service or
27 otherwise: (a) Defendant’s officers, agents, servants, employees, and attorneys; and
28

1 (b) other persons in active concert or participation with Defendant or with anyone
2 described in (a).

3 **II.**

4 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
5 Defendant is permanently restrained and enjoined from violating Section 17(a) of the
6 Securities Act of 1933 (the “Securities Act”) [15 U.S.C. § 77q(a)] in the offer or sale
7 of any security by the use of any means or instruments of transportation or
8 communication in interstate commerce or by use of the mails, directly or indirectly:

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

16 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as
17 provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also
18 binds the following who receive actual notice of this Judgment by personal service or
19 otherwise: (a) Defendant’s officers, agents, servants, employees, and attorneys; and
20 (b) other persons in active concert or participation with Defendant or with anyone
21 described in (a).

22 **III.**

23 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
24 Defendant is permanently restrained and enjoined from violating Section 5 of the
25 Securities Act [15 U.S.C. § 77e] by, directly or indirectly, in the absence of any
26 applicable exemption:

- 27 (a) Unless a registration statement is in effect as to a security, making use of
28 any means or instruments of transportation or communication in

1 interstate commerce or of the mails to sell such security through the use
2 or medium of any prospectus or otherwise;

3 (b) Unless a registration statement is in effect as to a security, carrying or
4 causing to be carried through the mails or in interstate commerce, by any
5 means or instruments of transportation, any such security for the purpose
6 of sale or for delivery after sale; or

7 (c) Making use of any means or instruments of transportation or
8 communication in interstate commerce or of the mails to offer to sell or
9 offer to buy through the use or medium of any prospectus or otherwise
10 any security, unless a registration statement has been filed with the
11 Commission as to such security, or while the registration statement is the
12 subject of a refusal order or stop order or (prior to the effective date of
13 the registration statement) any public proceeding or examination under
14 Section 8 of the Securities Act [15 U.S.C. § 77h].

15 **IV.**

16 **IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED** that
17 Defendant is permanently restrained and enjoined from violating, directly or
18 indirectly, Section 15(a) of the Exchange Act, 15 U.S.C. § 78o(a), which makes it
19 unlawful for any broker or dealer which is either a person other than a natural person
20 or a natural person, to make use of the mails or any means or instrumentality of
21 interstate commerce to effect any transactions in, or to induce or attempt to induce the
22 purchase or sale of, any security (other than an exempted security or commercial
23 paper, bankers' acceptances, or commercial bills) unless such broker or dealer is
24 registered in accordance with Section 15(b) of the Exchange Act, 15 U.S.C. § 78o(b).

25 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that, as
26 provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also
27 binds the following who receive actual notice of this Judgment by personal service or
28 otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and

1 (b) other persons in active concert or participation with Defendant or with anyone
2 described in (a).

3 **V.**

4 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
5 Defendant is permanently barred from participating in an offering of penny stock,
6 including engaging in activities with a broker, dealer, or issuer for purposes of
7 issuing, trading, or inducing or attempting to induce the purchase or sale of any penny
8 stock. A penny stock is any equity security that has a price of less than five dollars,
9 except as provided in Rule 3a51-1 under the Exchange Act [17 C.F.R. 240.3a51-1].

10 **VI.**

11 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
12 Defendant shall pay disgorgement of ill-gotten gains, prejudgment interest thereon,
13 and a civil penalty pursuant to Section 20(d) of the Securities Act [15 U.S.C. §
14 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. The Court
15 shall determine the amounts of the disgorgement and civil penalty upon motion of the
16 SEC. Prejudgment interest shall be calculated from April 1, 2013, based on the rate
17 of interest used by the Internal Revenue Service for the underpayment of federal
18 income tax as set forth in 26 U.S.C. § 6621(a)(2). In connection with the SEC's
19 motion for disgorgement and/or civil penalties, and at any hearing held on such a
20 motion: (a) Defendant will be precluded from arguing that he did not violate the
21 federal securities laws as alleged in the Complaint; (b) Defendant may not challenge
22 the validity of the Consent or this Judgment; (c) solely for the purposes of such
23 motion, the allegations of the Complaint shall be accepted as and deemed true by the
24 Court; and (d) the Court may determine the issues raised in the motion on the basis of
25 affidavits, declarations, excerpts of sworn deposition or investigative testimony, and
26 documentary evidence, without regard to the standards for summary judgment
27 contained in Rule 56(c) of the Federal Rules of Civil Procedure. In connection with
28

1 the Commission's motion for disgorgement and/or civil penalties, the parties may
2 take discovery, including discovery from appropriate non-parties.

3 **VII.**

4 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the
5 Consent of Defendant Paul L. Gomez to Entry of Judgment is incorporated herein
6 with the same force and effect as if fully set forth herein, and that Defendant shall
7 comply with all of the undertakings and agreements set forth therein.

8 **VIII.**

9 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, for
10 purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code,
11 11 U.S.C. §523, the allegations in the complaint are true and admitted by Defendant,
12 and further, any debt for disgorgement, prejudgment interest, civil penalty or other
13 amounts due by Defendant under this Judgment or any other judgment, order, consent
14 order, decree or settlement agreement entered in connection with this proceeding, is a
15 debt for the violation by Defendant of the federal securities laws or any regulation or
16 order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy
17 Code, 11 U.S.C. §523(a)(19).

18 **IX.**

19 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court
20 shall retain jurisdiction of this matter for the purposes of enforcing the terms of this
21 Judgment.

22 **X.**

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

26
27 Dated: December 12, 2016



HON. BEVERLY REID O'CONNELL
UNITED STATES DISTRICT JUDGE