

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

ERIC J. "EJ" DALIUS,
PROFESSIONAL REALTY
ENTERPRISES, INC., SAIVIAN
LLC, SAVINGS NETWORK APP
LLC, SAVING NETWORK APP
LIMITED, SAIVIAN INT LIMITED,
and REALTY SHARE NETWORK
LLC,

Defendants.

Case No. 2:18-cv-08497-FWS-E

Hon. Fred W. Slaughter

**FINAL JUDGMENT AS TO
DEFENDANTS ERIC J. DALIUS AND
SAIVIAN LLC**

///
///
///

1 The Securities and Exchange Commission having filed a Complaint and
2 Defendants Eric J. Dalius and Saivian LLC (together, “Defendants”) having
3 entered a general appearance; consented to the Court’s jurisdiction over
4 Defendants and the subject matter of this action; consented to entry of this Final
5 Judgment without admitting or denying the allegations of the Complaint (except as
6 to jurisdiction and except as otherwise provided herein in paragraph VII); waived
7 findings of fact and conclusions of law; and waived any right to appeal from this
8 Final Judgment:

9 I.

10 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that
11 Defendants are permanently restrained and enjoined from violating, directly or
12 indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange
13 Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R.
14 § 240.10b-5], by using any means or instrumentality of interstate commerce, or of
15 the mails, or of any facility of any national securities exchange, in connection with
16 the purchase or sale of any security:

- 17 (a) to employ any device, scheme, or artifice to defraud;
18 (b) to make any untrue statement of a material fact or to omit to state a
19 material fact necessary in order to make the statements made, in the
20 light of the circumstances under which they were made, not
21 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 Final Judgment by personal
27 service or otherwise: (a) Defendants’ officers, agents, servants, employees, and
28 attorneys; and (b) other persons in active concert or participation with Defendants

1 or with anyone described in (a).

2 II.

3 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED
4 that Defendants are permanently restrained and enjoined from violating Section
5 17(a) of the Securities Act of 1933 (the “Securities Act”) [15 U.S.C. § 77q(a)] in
6 the offer or sale of any security by the use of any means or instruments of
7 transportation or communication in interstate commerce or by use of the mails,
8 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 Final Judgment by personal
19 service or otherwise: (a) Defendants’ officers, agents, servants, employees, and
20 attorneys; and (b) other persons in active concert or participation with Defendants
21 or with anyone described in (a).

22 III.

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

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

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

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

21 IV.

22 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that pursuant
23 to Section 21(d)(5) of the Exchange Act [15 U.S.C. § 78u(d)(5)], Defendants are
24 permanently restrained and enjoined from offering, operating, or participating in a
25 pyramid scheme defined for purposes of this order as any marketing or sales
26 program wherein a participant is compensated or promised compensation solely or
27 primarily (a) for inducing another person to become a participant in the program,
28 or (b) if such induced person induces another to become a participant in the

1 program.¹

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

8 V.

9 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED
10 that Defendants are liable, jointly and severally, for disgorgement of
11 \$20,080,784.41 together with prejudgment interest thereon in the amount of
12 \$919,215.59; Defendant Eric J. Dalius is liable for a civil penalty in the amount of
13 \$1,500,000 pursuant to Section 20(d) of the Securities Act and Section 21(d)(3) of
14 the Exchange Act; and Defendant Saivian LLC is liable for a civil penalty in the
15 amount of \$1,500,000 pursuant to Section 20(d) of the Securities Act and Section
16 21(d)(3) of the Exchange Act. The civil penalties shall be paid to the Securities
17 and Exchange Commission within 30 days after entry of this Final Judgment. The
18 total disgorgement and prejudgment interest of \$21,000,000 shall be paid pursuant
19 to the terms of the payment schedule set forth in Section VI below.

20 Defendants may transmit payment electronically to the Commission, which
21 will provide detailed ACH transfer/Fedwire instructions upon request. Payment
22 may also be made directly from a bank account via Pay.gov through the SEC
23 website at <http://www.sec.gov/about/offices/ofm.htm>. Defendants may also pay by
24 certified check, bank cashier's check, or United States postal money order payable
25 to the Securities and Exchange Commission, which shall be delivered or mailed to
26

27 ¹ See *In re Koscot Interplanetary, Inc.*, 86 F.T.C. 1106 (1975); *SEC v. Glenn W.*
28 *Turner Enterprises, Inc.*, 474 F.2d 476 (9th Cir. 1973); *Webster v. Omnirition*
Int'l, Inc., 79 F.3d 776 (9th Cir. 1996) and subsequent cases.

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

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

8 Defendants shall simultaneously transmit photocopies of evidence of
9 payment and case identifying information to the Commission's counsel in this
10 action. By making this payment, Defendants relinquish all legal and equitable
11 right, title, and interest in such funds and no part of the funds shall be returned to
12 Defendants.

13 The Commission may enforce the Court's judgment for disgorgement and
14 prejudgment interest by using all collection procedures authorized by law,
15 including, but not limited to, moving for civil contempt at any time after 365 days
16 following entry of this Final Judgment.

17 The Commission may enforce the Court's judgment for penalties by the use
18 of all collection procedures authorized by law, including the Federal Debt
19 Collection Procedures Act, 28 U.S.C. § 3001 *et seq.*, and moving for civil
20 contempt for the violation of any Court orders issued in this action.

21 The Commission shall hold the funds, together with any interest and income
22 earned thereon (collectively, the "Fund"), pending further order of the Court. The
23 Commission may propose a plan to distribute the Fund subject to the Court's
24 approval. Such a plan may provide that the Fund shall be distributed pursuant to
25 the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002.
26 The Court shall retain jurisdiction over the administration of any distribution of the
27 Fund, and the Fund may only be disbursed pursuant to an Order of the Court.

28 Regardless of whether any such Fair Fund distribution is made, amounts
ordered to be paid as civil penalties pursuant to this Final Judgment shall be treated

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

17 VI.

18 Defendants shall pay the total of disgorgement and prejudgment interest due
19 of \$21,000,000 within 365 days of entry of this Final Judgment. Defendants shall
20 pay post-judgment interest accrued pursuant to 28 U.S.C. § 1961 on any unpaid
21 amount of the total of disgorgement and prejudgment interest due of \$21,000,000
22 commencing 30 days after the entry of this Final Judgment. Payments shall be
23 deemed made on the date they are received by the Commission. Prior to making
24 the final payment set forth herein, Defendants shall contact the staff of the
25 Commission for the amount due for the final payment.

26 If Defendants fail to make any payment by the date agreed and/or in the
27 amount agreed according to the schedule set forth above, all outstanding payments
28 under this Final Judgment, as well as post-judgment interest, accrued pursuant to

1 28 U.S.C. § 1961 on any unpaid amounts due after 30 days of the entry of Final
2 Judgment, minus any payments made, shall become due and payable immediately
3 at the discretion of the staff of the Commission without further application to the
4 Court.

5 VII.

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

15 VIII.

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

19 IX.

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

23
24
25 Date: February 6, 2023



26 _____
27 Hon. Fred W. Slaughter
28 UNITED STATES DISTRICT JUDGE