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 10 **UNITED STATES DISTRICT COURT**
 11 **CENTRAL DISTRICT OF CALIFORNIA**
 12 **Western Division**

14 **SECURITIES AND EXCHANGE**
 15 **COMMISSION,**

16 Plaintiff,

17 vs.

18 **MOTTY MIZRAHI AND MBIG**
 19 **COMPANY,**

20 Defendants.

Case No. 2:19-cv-02284-PA-JEM

FINAL JUDGMENT AS TO
DEFENDANTS MOTTY MIZRAHI
AND MBIG COMPANY

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1 This matter came before the Court on plaintiff Securities and Exchange
2 Commission's ("SEC" or "Commission") Motion for Monetary Relief against
3 Defendant Motty Mizrahi ("Mizrahi"). The Court, having considered all of the
4 evidence and arguments presented by the parties with regard to the SEC's Motion for
5 Monetary Relief, the Memorandum of Points and Authorities and the other
6 documents filed in support of the Motion for Monetary Relief, and having considered
7 all of the evidence and arguments presented by the parties with regard to the SEC's
8 Motion for Relief, finds that:

9 **I.**

10 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the SEC's
11 Motion for Monetary Relief against Defendant Mizrahi is GRANTED.

12 **II.**

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

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

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

5 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendants
6 are permanently restrained and enjoined from:

7 A. employing any device, scheme or artifice to defraud any client or
8 prospective client; and

9 B. engaging in any transaction, practice, or course of business which
10 operates or would operate as a fraud or deceit upon any client or
11 prospective client;

12 in violation of Sections 206(1) and (2) of the Investment Advisers Act of 1940
13 (“Advisers Act”), 15 U.S.C. §§ 80b-6(1) & 80b-6(2).

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

20 **IV.**

21 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant
22 Mizrahi is liable for disgorgement of \$2,408,351, representing profits gained as a
23 result of the conduct alleged in the Complaint, together with prejudgment interest
24 thereon in the amount of \$519,077, which shall be offset in an amount equal to the
25 Order of Restitution that may be entered in *U.S. v. Motty Mizrahi, et al.*, Case No.
26 2:19-cr-00415-CJC (C.D. Cal.), and a civil penalty in the amount of \$192,768
27 pursuant to Section 21(d)(3) of the Exchange Act and Section 209(e)(1) of the
28 Advisers Act .

1 Defendant shall satisfy this obligation by paying \$3,120,196 to the Securities
2 and Exchange Commission within 30 days after entry of this Final Judgment.

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

9 Enterprise Services Center
10 Accounts Receivable Branch
11 6500 South MacArthur Boulevard
12 Oklahoma City, OK 73169

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

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

20 The Commission may enforce the Court's judgment for disgorgement and
21 prejudgment interest by moving for civil contempt (and/or through other collection
22 procedures authorized by law) at any time after 30 days following entry of this Final
23 Judgment. Defendant shall pay post judgment interest on any delinquent amounts
24 pursuant to 28 U.S.C. § 1961. The Commission shall hold the funds, together with
25 any interest and income earned thereon (collectively, the "Fund"), pending further
26 order of the Court.

27 The Commission may propose a plan to distribute the Fund subject to the
28 Court's approval. Such a plan may provide that the Fund shall be distributed
pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of

INSTITUTION	ACCOUNT NAME/OWNER	ACCOUNT NO.
Bank of America	Motty Mizrahi	xxxxxxxx4113
JPMorgan Chase	Motty Mizrahi, co-signer	xxxxx4049
TD Ameritrade	Motty Mizrahi	xxxxx2652
Wells Fargo	Motty Mizrahi, co-signer	xxxxxx8935

Bank of America, TD Ameritrade, JP Morgan Chase Bank, and Wells Fargo Bank may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>. Bank of America, TD Ameritrade, JP Morgan Chase Bank, and Wells Fargo Bank also may transfer these funds by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to

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

VI.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the SEC has forewent its claims for monetary relief against Defendant MBIG.

VII.


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

VIII.

There being no just reason for delay, pursuant to Rule 54(b) of the Federal

1 Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith
2 and without further notice.

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4 Dated: October 6, 2020



PERCY ANDERSON
UNITED STATES DISTRICT JUDGE

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