

1 LYNN M. DEAN (Cal. Bar No. 205562)
Email: deanl@sec.gov
2 ROBERTO A. TERCERO (Cal. Bar No. 143760)
Email: terceror@sec.gov

E-FILED 11/4/19

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

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

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

14 **Plaintiff,**

15 **vs.**

16 **DAVID N. OSEGUEDA, ISHMAIL**
17 **CALVIN ROSS, aka CALVIN ROSS,**
18 **ZACHARY R. LOGAN, and JESSICA**
19 **SNYDER, fka JESSICA**
GUTIERREZ,

20 **Defendants.**

Case No. 2:19-cv-04348-PSG-AGR

FINAL JUDGMENT AS TO
DAVID N. OSEGUEDA

1 The Securities and Exchange Commission having filed a Complaint and
2 Defendant David N. Osegueda having entered a general appearance; consented to the
3 Court's jurisdiction over Defendant and the subject matter of this action; consented to
4 entry of this Judgment without admitting or denying the allegations of the Complaint
5 (except as to jurisdiction and except as otherwise provided herein in paragraph VIII);
6 waived findings of fact and conclusions of law; and waived any right to appeal from
7 this Judgment:

8 I.

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

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

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

1 II.

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

7 (a) to employ any device, scheme, or artifice to defraud;

8 (b) to obtain money or property by means of any untrue statement of a
9 material fact or any omission of a material fact necessary in order to make the
10 statements made, in light of the circumstances under which they were made,
11 not misleading; or

12 (c) to engage in any transaction, practice, or course of business which
13 operates or would operate as a fraud or deceit upon the purchaser.

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 Judgment by personal service or
17 otherwise: (a) Defendant’s officers, agents, servants, employees, and attorneys; and
18 (b) other persons in active concert or participation with Defendant or with anyone
19 described in (a).

20 III.

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

25 (a) Unless a registration statement is in effect as to a security, making use of
26 any means or instruments of transportation or communication in interstate
27 commerce or of the mails to sell such security through the use or medium of
28 any prospectus or otherwise;

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

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

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

19 IV.

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

26 V.

27 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, pursuant
28 to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)] and Section 20(e) of

1 the Securities Act [15 U.S.C. § 77t(e)], Defendant is prohibited, for 10 years
2 following the date of entry of this Final Judgment, from acting as an officer or
3 director of any issuer that has a class of securities registered pursuant to Section 12 of
4 the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to
5 Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

6 VI.

7 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant
8 is liable for disgorgement of \$835,941.58, representing profits gained as a result of
9 the conduct alleged in the Complaint, together with prejudgment interest thereon in
10 the amount of \$97,239.43, and a civil penalty in the amount of \$835,941.58 pursuant
11 to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the
12 Exchange Act [15 U.S.C. § 78u(d)(3)]. Defendant shall satisfy this obligation by
13 paying \$1,769,122.59 to the Securities and Exchange Commission within 30 days
14 after entry of this Final Judgment.

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

21 Enterprise Services Center
22 Accounts Receivable Branch
23 6500 South MacArthur Boulevard
24 Oklahoma City, OK 73169

25 and shall be accompanied by a letter identifying the case title, civil action number,
26 and name of this Court; David N. Osegueda as a defendant in this action; and
27 specifying that payment is made pursuant to this Final Judgment.

28 Defendant shall simultaneously transmit photocopies of evidence of payment
and case identifying information to the Commission's counsel in this action. By

1 making this payment, Defendant relinquishes all legal and equitable right, title, and
2 interest in such funds and no part of the funds shall be returned to Defendant. The
3 Commission shall send the funds paid pursuant to this Final Judgment to the United
4 States Treasury.

5 The Commission may enforce the Court's judgment for disgorgement and
6 prejudgment interest by moving for civil contempt (and/or through other collection
7 procedures authorized by law) at any time after 30 days following entry of this Final
8 Judgment. Defendant shall pay post judgment interest on any delinquent amounts
9 pursuant to 28 U.S.C. § 1961.

10 VII.

11 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the
12 Consent is incorporated herein with the same force and effect as if fully set forth
13 herein, and that Defendant shall comply with all of the undertakings and agreements
14 set forth therein.

15 VIII.

16 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, solely for
17 purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code,
18 11 U.S.C. § 523, the allegations in the complaint are true and admitted by Defendant,
19 and further, any debt for disgorgement, prejudgment interest, civil penalty or other
20 amounts due by Defendant under this Judgment or any other judgment, order, consent
21 order, decree or settlement agreement entered in connection with this proceeding, is a
22 debt for the violation by Defendant of the federal securities laws or any regulation or
23 order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy
24 Code, 11 U.S.C. § 523(a)(19).

25 IX.

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

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

X.

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

Dated: November 4, 2019

PHILIP S. GUTIERREZ

UNITED STATES DISTRICT JUDGE

1 **PROOF OF SERVICE**

2 I am over the age of 18 years and not a party to this action. My business address is:

3 U.S. SECURITIES AND EXCHANGE COMMISSION,
4 444 S. Flower Street, Suite 900, Los Angeles, California 90071
Telephone No. (323) 965-3998; Facsimile No. (213) 443-1904.

5 On October 24, 2019, I caused to be served the document entitled **FINAL**
6 **JUDGMENT AS TO DEFENDANT DAVID N. OSEGUEDA** on all the parties
to this action addressed as stated on the attached service list:

7 **OFFICE MAIL:** By placing in sealed envelope(s), which I placed for
8 collection and mailing today following ordinary business practices. I am readily
9 familiar with this agency's practice for collection and processing of correspondence
for mailing; such correspondence would be deposited with the U.S. Postal Service on
the same day in the ordinary course of business.

10 **PERSONAL DEPOSIT IN MAIL:** By placing in sealed envelope(s),
11 which I personally deposited with the U.S. Postal Service. Each such envelope was
12 deposited with the U.S. Postal Service at Los Angeles, California, with first class
postage thereon fully prepaid.

13 **EXPRESS U.S. MAIL:** Each such envelope was deposited in a facility
14 regularly maintained at the U.S. Postal Service for receipt of Express Mail at Los
Angeles, California, with Express Mail postage paid.

15 **HAND DELIVERY:** I caused to be hand delivered each such envelope to the
office of the addressee as stated on the attached service list.

16 **UNITED PARCEL SERVICE:** By placing in sealed envelope(s) designated
17 by United Parcel Service ("UPS") with delivery fees paid or provided for, which I
18 deposited in a facility regularly maintained by UPS or delivered to a UPS courier, at
Los Angeles, California.

19 **ELECTRONIC MAIL:** By transmitting the document by electronic mail to
the electronic mail address as stated on the attached service list.

20 **E-FILING:** By causing the document to be electronically filed via the Court's
21 CM/ECF system, which effects electronic service on counsel who are registered with
the CM/ECF system.

22 **FAX:** By transmitting the document by facsimile transmission. The
23 transmission was reported as complete and without error.

24 I declare under penalty of perjury that the foregoing is true and correct.

25 Date: October 24, 2019

26 /s/ Lynn M. Dean
27 LYNN M. DEAN
28

