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7 UNITED STATES DISTRICT COURT
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9 CENTRAL DISTRICT OF CALIFORNIA

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11 SECURITIES AND EXCHANGE
12 COMMISSION,

13 Plaintiff,

14 vs.

15 GREGORY LAMONT DRAKE, an
16 individual; STEPHEN KENNETH
17 GROSSMAN, an individual;
18 STEPHEN SCOTT MOLESKI, an
19 individual; JASON DAVID ST.
AMOUR, an individual; and DAVID
ALAN WOLFSON, an individual,

20 Defendants.
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Case No.: 2:20-cv-00405-MCS-PLA

**FINAL JUDGMENT AS TO
DEFENDANT DAVID ALAN
WOLFSON**

1 This matter came before the Court on plaintiff United States Securities and
2 Exchange Commission's ("Commission's") Motion for Monetary Remedies as to
3 Defendant David Alan Wolfson. The Court, having considered all the evidence
4 and arguments presented by the parties with regard to the Motion, Plaintiff's
5 Memorandum of Points and Authorities in support of the Motion, all other
6 documents filed in support of the Motion, and the record in this action, finds that:

7 **I.**

8 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the
9 Commission's Motion for Monetary Remedies as to Defendant David Alan
10 Wolfson is GRANTED.

11 **II.**

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

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

20 (b) to make any untrue statement of a material fact or to omit to state a
21 material fact necessary in order to make the statements made, in the light of the
22 circumstances under which they were made, not misleading; or

23 (c) to engage in any act, practice, or course of business which operates or
24 would operate as a fraud or deceit upon any person

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
28 or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys;

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

3 III.

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

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

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

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

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

23 IV.

24 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED
25 that Defendant is permanently restrained and enjoined from violating, directly or
26 indirectly, Section 15(a)(1) of the Exchange Act [15 U.S.C. § 78o(a)(1)] by using
27 any means or instrumentality of interstate commerce, or of the mails, or of any
28 facility of any national securities exchange, to effect transactions in, or induce or

1 attempt to induce the purchase or sale of, securities while not registered with the
2 Commission as a broker or dealer or while not associated with an entity registered
3 with the Commission as a broker or dealer.

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

10 **V.**

11 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED
12 that Defendant is permanently restrained and enjoined from, directly or indirectly,
13 including, but not limited to, through any entity owned or controlled by Defendant,
14 soliciting any person or entity to purchase or sell any security.

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

21 **VI.**

22 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED
23 that Defendant is ordered to pay disgorgement of \$2,490,555.07, representing net
24 profits gained as a result of the conduct alleged in the Complaint, together with
25 prejudgment interest thereon in the amount of \$426,602.09. The Court further
26 imposes a civil penalty in the amount of \$195,047 pursuant to Section 21(d)(3) of
27 the Exchange Act, 15 U.S.C. § 78u(d)(3). Defendant shall satisfy these obligations
28 by paying the amount of disgorgement, pre-judgment interest, and civil penalty,

1 totaling \$ 3,112,204.16 to the Securities and Exchange Commission within 30 days
2 after entry of this Final Judgment.

3 Defendant may transmit payment electronically to the Commission, which
4 will provide detailed ACH transfer/Fedwire instructions upon request. Payment
5 may also be made directly from a bank account via Pay.gov through the SEC
6 website at <http://www.sec.gov/about/offices/ofm.htm>. Defendant may also pay by
7 certified check, bank cashier's check, or United States postal money order payable
8 to the 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; David Alan Wolfson as a defendant in this action; and
15 specifying that payment is made pursuant to this Final Judgment.

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

21 The Commission shall hold the funds (collectively, the "Fund") until further
22 order of this Court. The SEC may propose a plan to distribute the Fund subject to
23 the Court's approval, and the Court shall retain jurisdiction over the administration
24 of any distribution of the Fund.

25 The Commission may enforce the Court's judgment for disgorgement and
26 prejudgment interest by using all collection procedures authorized by law,
27 including, but not limited to, moving for civil contempt at any time after 30 days
28 following entry of this Final Judgment.

1 The Commission may enforce the Court’s judgment for penalties by the use
2 of all collection procedures authorized by law, including the Federal Debt
3 Collection Procedures Act, 28 U.S.C. § 3001 *et seq.*, and moving for civil
4 contempt for the violation of any Court orders issued in this action. Defendant
5 shall pay post judgment interest on any amounts due after 30 days of the entry of
6 this Final Judgment pursuant to 28 U.S.C. § 1961. The Commission shall hold the
7 funds, together with any interest and income earned thereon (collectively, the
8 “Fund”), pending further order of the Court.

9 The Commission may propose a plan to distribute the Fund subject to the
10 Court’s approval. Such a plan may provide that the Fund shall be distributed
11 pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act
12 of 2002. The Court shall retain jurisdiction over the administration of any
13 distribution of the Fund and the Fund may only be disbursed pursuant to an Order
14 of the Court.

15 Regardless of whether any such Fair Fund distribution is made, amounts
16 ordered to be paid as civil penalties pursuant to this Judgment shall be treated as
17 penalties paid to the government for all purposes, including all tax purposes. To
18 preserve the deterrent effect of the civil penalty, Defendant shall not, after offset or
19 reduction of any award of compensatory damages in any Related Investor Action
20 based on Defendant’s payment of disgorgement in this action, argue that he is
21 entitled to, nor shall he further benefit by, offset or reduction of such compensatory
22 damages award by the amount of any part of Defendant’s payment of a civil
23 penalty in this action (“Penalty Offset”). If the court in any Related Investor
24 Action grants such a Penalty Offset, Defendant shall, within 30 days after entry of
25 a final order granting the Penalty Offset, notify the Commission’s counsel in this
26 action and pay the amount of the Penalty Offset to the United States Treasury or to
27 a Fair Fund, as the Commission directs. Such a payment shall not be deemed an
28 additional civil penalty and shall not be deemed to change the amount of the civil

1 penalty imposed in this Judgment. For purposes of this paragraph, a “Related
2 Investor Action” means a private damages action brought against Defendant by or
3 on behalf of one or more investors based on substantially the same facts as alleged
4 in the Complaint in this action.

5 **VII.**

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

16 **VIII.**

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

20 **IX.**

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

24 Dated: October 7, 2021

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26 MARK C. SCARSI
27 UNITED STATES DISTRICT JUDGE
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