

JS-6

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
SOUTHERN DIVISION**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

CAPITAL COVE BANCORP LLC;
CHRISTOPHER M. LEE aka
RASHID K. KHALFANI,

Defendants.

Case No. 8:15-cv-00980-JLS-JC

**FINAL JUDGMENT AGAINST
DEFENDANTS CAPITAL COVE
BANCORP LLC AND
CHRISTOPHER M. LEE AKA
RASHID K. KHALFANI**

1 provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also
2 binds the following who receive actual notice of this Final Judgment by personal
3 service or otherwise: (a) CCB's and/or Khalfani's officers, agents, servants,
4 employees, and attorneys; and (b) other persons in active concert or participation with
5 CCB and/or Khalfani or with anyone described in (a).

6 **II.**

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

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

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

25 **III.**

26 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
27 CCB and Khalfani are permanently restrained and enjoined from violating Section 5
28 of the Securities Act [15 U.S.C. § 77e] by, directly or indirectly, in the absence of any

1 applicable exemption:

- 2 (a) Unless a registration statement is in effect as to a security, making use of
3 any means or instruments of transportation or communication in
4 interstate commerce or of the mails to sell such security through the use
5 or medium of any prospectus or otherwise;
- 6 (b) Unless a registration statement is in effect as to a security, carrying or
7 causing to be carried through the mails or in interstate commerce, by any
8 means or instruments of transportation, any such security for the purpose
9 of sale or for delivery after sale; or
- 10 (c) Making use of any means or instruments of transportation or
11 communication in interstate commerce or of the mails to offer to sell or
12 offer to buy through the use or medium of any prospectus or otherwise
13 any security, unless a registration statement has been filed with the
14 Commission as to such security, or while the registration statement is the
15 subject of a refusal order or stop order or (prior to the effective date of
16 the registration statement) any public proceeding or examination under
17 Section 8 of the Securities Act [15 U.S.C. § 77h].

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

24 **IV.**

25 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
26 CCB and Khalfani are permanently restrained and enjoined from violating Section
27 207 of the Investment Advisers Act of 1940 ("Advisers Act") [15 U.S.C. §80b-7], by,
28 in any registration application or report filed with the Securities and Exchange

1 Commission under 15 U.S.C. § 80b-3 or 15 U.S.C. § 80b-4:

- 2 (a) making any untrue statement of a material fact or omitting to state in any
3 such application or report any material fact which is required to be stated
4 therein.

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

11 **V.**

12 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
13 CCB is permanently restrained and enjoined from violating, and that Khalfani is
14 permanently restrained and enjoined from aiding and abetting violations of, Section
15 203A of the Advisers Act [15 U.S.C. §80b-3a], which provides, among other things,
16 that no investment adviser that is regulated or required to be regulated as an
17 investment adviser in the State in which it maintains its principal office and place of
18 business shall register under Section 203 [Section 80b-3], unless the investment
19 adviser (A) has assets under management of not less than \$25,000,000, or such higher
20 amount as the Commission may, by rule, deem appropriate in accordance with the
21 purposes of this subchapter; or (B) is an adviser to an investment company registered
22 under subchapter I of 15 U.S.C. § 80b.

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

1 **VI.**

2 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that CCB and
3 Khalfani are permanently restrained and enjoined from soliciting, accepting, or
4 depositing any monies from actual or prospective investors in connection with any
5 offering of securities; provided, however, that such injunction shall not prevent CCB
6 and/or Khalfani from purchasing or selling securities listed on a national securities
7 exchange for its own accounts.

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

14 **VII**

15 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
16 CCB and Khalfani are, jointly and severally, liable for disgorgement of \$1,829,868,
17 representing profits gained as a result of the conduct alleged in the Complaint,
18 together with prejudgment interest thereon in the amount of \$181,565.92, for a total
19 of \$2,011,433.92.

20 CCB's obligation shall be deemed satisfied by the Receiver's final distribution
21 to investors of funds collected during the course of the receivership.

22 Khalfani shall satisfy this obligation by paying \$2,011,433.92 to the Securities
23 and Exchange Commission within thirty (30) days after entry of this Final Judgment.
24 Khalfani may transmit payment electronically to the SEC, which will provide detailed
25 ACH transfer/Fedwire instructions upon request. Payment may also be made directly
26 from a bank account via Pay.gov through the SEC website at
27 <http://www.sec.gov/about/offices/ofm.htm>. Khalfani may also pay by certified
28 check, bank cashier's check, or United States postal money order payable to the

1 Securities and Exchange Commission, which shall be delivered or mailed to
2 Enterprise Services Center 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
6 number, and name of this Court; the defendant as a defendant in this action; and
7 specifying that payment is made pursuant to this Final Judgment.

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

12 The SEC may enforce the Court's judgment for disgorgement and
13 prejudgment interest by moving for civil contempt (and/or through other collection
14 procedures authorized by law) at any time after 14 days following entry of this Final
15 Judgment. Defendants shall pay post judgment interest on any delinquent amounts
16 pursuant to 28 U.S.C. § 1961.

17 **VIII.**

18 In addition to his obligation to pay disgorgement and prejudgment interest,
19 Khalfani shall pay a civil penalty in the amount of \$1,829,868.00. Khalfani's civil
20 penalty is ordered pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d),
21 Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3), and Section
22 209(e)(2)(A) of the Advisers Act.

23 Khalfani may transmit payment electronically to the SEC, which will provide
24 detailed ACH transfer/Fedwire instructions upon request. Payment may also be made
25 directly from a bank account via Pay.gov through the SEC website at
26 <http://www.sec.gov/about/offices/ofm.htm>. Khalfani may also pay by certified
27 check, bank cashier's check, or United States postal money order payable to the
28

1 Securities and Exchange Commission, which shall be delivered or mailed to
2 Enterprise Services Center 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; Khalfani as a defendant in this action; and specifying that
7 payment is made pursuant to this Final Judgment.

8 Khalfani shall simultaneously transmit photocopies of evidence of payment
9 and case identifying information to the SEC's counsel in this action. By making this
10 payment, Khalfani relinquishes all legal and equitable right, title, and interest in such
11 funds and no part of the funds shall be returned to any of the defendant. Pursuant to
12 15 U.S.C. § 7246, the SEC shall hold the funds and may propose a plan to distribute
13 the Fund subject to the Court's approval. The Court shall retain jurisdiction over the
14 administration of any distribution of the Fund. If the SEC staff determines that the
15 Fund will not be distributed, the SEC shall send the funds paid pursuant to this Final
16 Judgment to the United States Treasury.

17 **IX.**

18 Solely for purposes of exceptions to discharge set forth in Section 523 of the
19 Bankruptcy Code, 11 U.S.C. §523, any debt for disgorgement, prejudgment interest,
20 civil penalty or other amounts due by any of the Defendant under this Final Judgment
21 is a debt for the violation by Khalfani of the federal securities laws or any regulation
22 or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy
23 Code, 11 U.S.C. § 523(a)(19).

24 **X.**

25 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the SEC
26 has determined to forgo seeking a civil penalty against CCB, and the claim for a civil
27 penalty against CCB is hereby DISMISSED.
28

XI.

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 Final Judgment.

IT IS SO ORDERED.

Dated: March 22, 2018



HONORABLE JOSEPHINE L. STATON
UNITED STATES DISTRICT JUDGE

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