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

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

EMILIO FRANCISCO, et al.,

Defendants.

Case No. 8:16-cv-02257-CJC-DFM

**FINAL JUDGMENT AS TO
DEFENDANT EMILIO
FRANCISCO**

1 The Securities and Exchange Commission having filed a First Amended
2 Complaint and Defendant Emilio Francisco having entered a general appearance;
3 consented to the Court's jurisdiction over Defendant and the subject matter of this
4 action; consented to entry of this Final Judgment without admitting or denying the
5 allegations of the First Amended Complaint (except as to jurisdiction and except as
6 otherwise provided herein in paragraph VIII); waived findings of fact and conclusions
7 of law; and waived any right to appeal from this Final 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 any
13 means or instrumentality of interstate commerce, or of the mails, or of any facility of
14 any national securities exchange, in connection with the purchase or sale of any
15 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
19 of the 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 provided
23 in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the
24 following who receive actual notice of this Final 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).

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II.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from, directly or indirectly, controlling any person who violates Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5] by knowingly or recklessly providing substantial assistance to an issuer that uses any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- 22 (a) to employ any device, scheme, or artifice to defraud;
- 23 (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light 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 would operate as a fraud or deceit upon any person.

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

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III.

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

- 29 (a) to employ any device, scheme, or artifice to defraud;
- 30 (b) to obtain money or property by means of any untrue statement of a

1 material fact or any omission of a material fact necessary in order to make
2 the statements made, in light of the circumstances under which they were
3 made, not misleading; or

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

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

12 IV.

13 IT IS FURTHER ORDERED that Defendant is permanently restrained and
14 enjoined from, directly or indirectly, including but not limited to, through an entity
15 owned or controlled by Defendant, participating in the issuance, purchase, offer, or
16 sale of any security, provided, however, that such injunction shall not prevent
17 Defendant from purchasing or selling securities for his own personal account.

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

24 V.

25 IT IS FURTHER ORDERED that Defendant is permanently restrained and
26 enjoined from, directly or indirectly, participating in the offer or sale of any security
27 which constitutes an investment in a "commercial enterprise" under the United States
28 Government EB-5 visa program administered by the United States Citizenship and

1 Immigration Service (“USCIS”), including engaging in activities with a broker, dealer,
2 or issuer, or a Regional Center designated by the USCIS, for purposes of issuing,
3 offering, trading, or inducing or attempting to induce the purchase or sale of any such
4 EB-5 investment.

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

11 **VI.**

12 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
13 Defendant is liable for disgorgement of \$1,826,976.52, representing profits gained as a
14 result of the conduct alleged in the First Amended Complaint, together with
15 prejudgment interest thereon in the amount of \$116,866.83, and a civil penalty in the
16 amount of \$369,534.00 pursuant to Section 20(d) of the Securities Act, 15 U.S.C. §
17 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3). Defendant
18 shall satisfy this obligation by paying \$2,313,377.35 to the Securities and Exchange
19 Commission within 14 days after entry of this Final Judgment.

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

26 Enterprise Services Center
27 Accounts Receivable Branch
28 6500 South MacArthur Boulevard
Oklahoma City, OK 73169

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

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

8 The Commission may enforce the Court's judgment for disgorgement and
9 prejudgment interest by moving for civil contempt (and/or through other collection
10 procedures authorized by law) at any time after 14 days following entry of this Final
11 Judgment. Defendant shall pay post judgment interest on any delinquent amounts
12 pursuant to 28 U.S.C. § 1961. The Commission shall hold the funds, together with any
13 interest and income earned thereon (collectively, the "Fund"), pending further order of
14 the Court.

15 The Commission may propose a plan to distribute the Fund subject to the
16 Court's approval. Such a plan may provide that the Fund shall be distributed pursuant
17 to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. The
18 Court shall retain jurisdiction over the administration of any distribution of the Fund.
19 If the Commission staff determines that the Fund will not be distributed, the
20 Commission shall send the funds paid pursuant to this Final Judgment to the United
21 States Treasury.

22 Regardless of whether any such Fair Fund distribution is made, amounts ordered
23 to be paid as civil penalties pursuant to this Judgment shall be treated as penalties paid
24 to the government for all purposes, including all tax purposes. To preserve the
25 deterrent effect of the civil penalty, Defendant shall not, after offset or reduction of any
26 award of compensatory damages in any Related Investor Action based on Defendant's
27 payment of disgorgement in this action, argue that he is entitled to, nor shall he further
28 benefit by, offset or reduction of such compensatory damages award by the amount of

1 any part of Defendant’s payment of a civil penalty in this action (“Penalty Offset”). If
2 the court in any Related Investor Action grants such a Penalty Offset, Defendant shall,
3 within 30 days after entry of a final order granting the Penalty Offset, notify the
4 Commission’s counsel in this action and pay the amount of the Penalty Offset to the
5 United States Treasury or to a Fair Fund, as the Commission directs. Such a payment
6 shall not be deemed an additional civil penalty and shall not be deemed to change the
7 amount of the civil penalty imposed in this Judgment. For purposes of this paragraph,
8 a “Related Investor Action” means a private damages action brought against Defendant
9 by or on behalf of one or more investors based on substantially the same facts as
10 alleged in the Complaint in this action.

11 **VII.**

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

16 **VIII.**

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

26 **IX.**

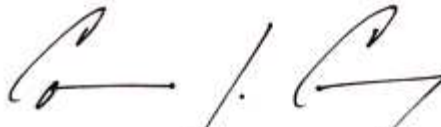
27 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court
28 shall retain jurisdiction of this matter for the purposes of enforcing the terms of this

1 Final Judgment.

2 X.

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

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7 Dated: October 4, 2018

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10 HON. CORMAC J. CARNEY
11 UNITED STATES DISTRICT JUDGE
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