

1 DONALD W. SEARLES (Cal. Bar No. 135705)  
 Email: [searlesd@sec.gov](mailto:searlesd@sec.gov)  
 2 DOUGLAS M. MILLER (Cal. Bar No. 240398)  
 Email: [millerdou@sec.gov](mailto:millerdou@sec.gov)  
 3 MATTHEW T. MONTGOMERY (Cal. Bar No. 260149)  
 Email: [montgomerym@sec.gov](mailto:montgomerym@sec.gov)

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

JS-6

9  
 10 **UNITED STATES DISTRICT COURT**  
 11 **CENTRAL DISTRICT OF CALIFORNIA**  
 12 **Western Division**

13 **SECURITIES AND EXCHANGE**  
 14 **COMMISSION,**

15 Plaintiff,

16 vs.

17 **DAVID SIMS, MARIO PROCOPIO,**  
 18 **RALPH C. GREAVES, ALC**  
 19 **HOLDINGS, LLC, EL CETHER-**  
**ELYOWN, and SIMS EQUITIES,**  
**INC.,**

20 Defendants.

**Case No. 8:19-cv-00995-RGK-SS**

**[PROPOSED] FINAL JUDGMENT AS  
TO MARIO PROCOPIO, EL  
CETHER ELYOWN, ALC  
HOLDINGS, INC.**

1 The Securities and Exchange Commission having filed a Complaint and  
2 Defendant Mario Procopio (“Procopio”), El Cether Elyown (“ECE”) and ALC  
3 Holdings, LLC (“ALC”), collectively “Defendants”, having entered a general  
4 appearance; consented to the Court’s jurisdiction over them and the subject matter of  
5 this action; consented to entry of this Final Judgment, without admitting or denying  
6 the allegations of the Complaint (except as to jurisdiction); waived findings of fact  
7 and conclusions of law; and waived any right to appeal from this Final Judgment:

8 **I.**

9 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, that Defendants  
10 are permanently restrained and enjoined from, directly or indirectly, in the offer or  
11 sale of any securities, by the use of any means or instruments of transportation or  
12 communication in interstate commerce or by the use of the mails:

- 13 A. employing any device, scheme or artifice to defraud;  
14 B. obtaining money or property by means of any untrue statement of a  
15 material fact or any omission to state a material fact necessary in order to  
16 make the statements made, in light of the circumstances under which  
17 they were made, not misleading; and  
18 C. engaging in any transaction, practice, or course of business which  
19 operates or would operate as a fraud or deceit upon the purchaser;

20 in violation of Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

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

27 **II.**

28 IT IS FURTHER ORDERED that Defendants are permanently restrained and

1 enjoined from, directly or indirectly, in connection with the purchase or sale of any  
2 security, by the use of any means or instrumentality of interstate commerce, or of the  
3 mails, or of any facility of any national securities exchange:

4 A. employing any device, scheme or artifice to defraud;

5 B. making any untrue statement of a material fact or to omit to state a  
6 material fact necessary in order to make the statements made, in the  
7 light of the circumstances under which they were made; and

8 B. engaging in any act, practice, or course of business which operates or  
9 would operate as a fraud or deceit upon any person;

10 in violation of Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5  
11 thereunder, 17 C.F.R. §§ 240.10b-5.

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

### 18 III.

19 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that pursuant to  
20 Section 21(d)(5) of the Exchange Act [15 U.S.C. § 78u(d)(5)], Defendant Procopio is  
21 permanently restrained and enjoined, directly or indirectly, including, but not limited  
22 to, through any entity owned or controlled by him, from participating in the issuance,  
23 purchase, offer, or sale of any security in an unregistered offering by an issuer,  
24 provided, however, that such injunction shall not prevent him from purchasing or  
25 selling securities for his own personal account.

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 Final Judgment by personal

1 service or otherwise: (a) Defendant's officers, agents, servants, employees, and  
2 attorneys; and (b) other persons in active concert or participation with Defendant or  
3 with anyone described in (a).

4 **IV.**

5 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that  
6 Defendants are liable, jointly and severally, for disgorgement of \$597,000.00,  
7 representing profits gained as a result of the conduct alleged in the Complaint,  
8 together with prejudgment interest thereon in the amount of \$90,249.00, for a total of  
9 \$687,249.00. Defendants shall satisfy this obligation by paying \$687,249.00 to the  
10 Securities and Exchange Commission within 30 days after entry of this Final  
11 Judgment.

12 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED, that  
13 Defendant Procopio shall pay a civil penalty in the amount of \$597,000.00 to the  
14 Securities and Exchange Commission pursuant to Section 20(d) of the Securities Act  
15 [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. §  
16 78u(d)(3)]. Defendant Procopio shall make that payment within 30 days after entry of  
17 this Final Judgment.

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

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

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

4 Defendants 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, Defendants relinquish all legal and equitable right, title, and  
7 interest in such funds and no part of the funds shall be returned to Defendants.

8 The Commission shall hold the funds (collectively, the "Fund") and may  
9 propose a plan to distribute the Fund subject to the Court's approval. The Court shall  
10 retain jurisdiction over the administration of any distribution of the Fund. If the  
11 Commission staff determines that the Fund will not be distributed, the Commission  
12 shall send the funds paid pursuant to this Final Judgment to the United States  
13 Treasury.

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

19 **V.**

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

1 **VI.**

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

5 **VII.**

6 IT IS FURTHER ORDERED that this Court shall retain jurisdiction over this  
7 action for the purpose of enforcing the terms of this Judgment and implementing and  
8 carrying out the terms of all orders and decrees which may be entered herein and to  
9 entertain any suitable application or motion for additional relief within the  
10 jurisdiction of this Court.

11 **VIII.**

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

15  
16 IT IS SO ORDERED.

17  
18 Dated: July 2, 2020



19 \_\_\_\_\_  
20 UNITED STATES DISTRICT JUDGE  
21  
22  
23  
24  
25  
26  
27  
28

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