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9 UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA
11 SACRAMENTO DIVISION

12 SECURITIES AND EXCHANGE COMMISSION, Case No. 2:09-CV-00665-LKK-DAD

13 Plaintiff,

14 vs.

15 ANTHONY VASSALLO, et al.

16 Defendants.
17

**FINAL JUDGMENT AGAINST ANTHONY
VASSALLO**

18 Plaintiff Securities and Exchange Commission (“Commission”) has moved for
19 issuance of a final judgment against defendant Anthony Vassallo. Having considered the
20 papers submitted in support of and opposing the motion, the Commission’s motion is hereby
21 GRANTED, as follows:

22 I.

23 IT IS ORDERED THAT Vassallo and his agents, servants, employees, attorneys, and
24 those persons in active concert or participation with any of them, who receive actual notice of
25 this Judgment, by personal service or otherwise, and each of them, are permanently restrained
26 and enjoined from, in the offer or sale of any securities, by the use of any means or
27

1 instruments of transportation or communication in interstate commerce or by the use of the
2 mails, directly or indirectly:

- 3 A. employing any device, scheme, or artifice to defraud; or
- 4 B. obtaining money or property by means of any untrue statement of a material
5 fact or any omission to state a material fact necessary in order to make the
6 statements made, in light of the circumstances under which they were made,
7 not misleading; or
- 8 C. engaging in any transaction, practice, or course of business which operates or
9 would operate as a fraud or deceit upon the purchaser;

10 in violation of Section 17(a) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. §
11 77q(a)].

12 II.

13 IT IS FURTHER ORDERED THAT Vassallo and his agents, servants, employees,
14 attorneys, and those persons in active concert or participation with any of them, who receive
15 actual notice of this Judgment, by personal service or otherwise, and each of them, are
16 permanently restrained and enjoined from, directly or indirectly, by the use of any means or
17 instrumentality of interstate commerce, or of the mails, or of any facility of any national
18 securities exchange:

- 19 A. employing any device, scheme, or artifice to defraud;
- 20 B. making any untrue statement of a material fact or omitting to state a material
21 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. engaging in any act, practice, or course of business which operates or would
24 operate as a fraud or deceit upon any person;

1 in connection with the purchase or sale of any security, in violation of Section 10(b) of the
2 Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78j(b)] and Exchange Act
3 Rule 10b-5 [17 C.F.R. § 240.10b-5].

4 III.

5 IT IS FURTHER ORDERED THAT Vassallo and his agents, servants, employees,
6 attorneys, and those persons in active concert or participation with any of them, who receive
7 actual notice of this Judgment, by personal service or otherwise, and each of them, are
8 permanently restrained and enjoined from, directly or indirectly, by use of any means or
9 instrumentality of interstate commerce:

- 10 A. employing any device, scheme, or artifice to defraud any client or prospective
11 client; or
12 B. engaging in any act, practice or course of business which operates or would
13 operate as a fraud or deceit upon any client or prospective client;

14 while engaged in the business of advising others for compensation as to the advisability of
15 investing in, purchasing, or selling securities, in violation of Sections 206(1) and 206(2) of the
16 Investment Advisers Act of 1940 (“Advisers Act”) [15 U.S.C. §§ 80b-6(1) and 80b-6(2)].

17 IV.

18 IT IS FURTHER ORDERED THAT Vassallo and his agents, servants, employees,
19 attorneys, and those persons in active concert or participation with any of them, who receive
20 actual notice of this Judgment, by personal service or otherwise, and each of them, are
21 permanently restrained and enjoined from, directly or indirectly, by use of any means or
22 instrumentality of interstate commerce, engaging in any act, practice, or course of business
23 which is fraudulent, deceptive or manipulative, while acting as an investment adviser to any
24 pooled investment vehicle, in violation of Section 206(4) of the Advisers Act [15 U.S.C. §
25 80b-6(4)] and Advisers Act Rule 206(4)-8 [17 C.F.R. § 275.206(4)-8].

26 V.

1 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Vassallo shall pay
2 disgorgement of his ill-gotten gains in the amount of \$43,288,725.08 plus prejudgment
3 interest of \$874,048.92, for a total of \$44,162,774.00. Defendant shall satisfy this obligation
4 by paying \$44,162,774.00 to the Securities and Exchange Commission within 14 days after
5 entry of this Final Judgment.

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

12 Enterprise Services Center
13 Accounts Receivable Branch
14 6500 South MacArthur Boulevard
15 Oklahoma City, OK 73169

16 and shall be accompanied by a letter identifying the case title, civil action number, and name
17 of this Court; Anthony Vassallo as a defendant in this action; and specifying that payment is
18 made pursuant to this Final Judgment.

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

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

1 The Commission may enforce the Court's judgment for disgorgement and
2 prejudgment interest by moving for civil contempt (and/or through other collection
3 procedures authorized by law) at any time after 14 days following entry of this Final
4 Judgment. Defendant shall pay post judgment interest on any delinquent amounts pursuant to
5 28 U.S.C. § 1961.

6 Defendant is also subject to a restitution order of \$43,288,725.08 in a separate
7 criminal proceeding, *U.S. v. Vassallo*, 2:09-cr-00179-GEB (E.D. Cal.). All payments the
8 Defendant makes pursuant to that restitution order will be credited against his disgorgement
9 obligation under this Final Judgment.

10 VI.

11 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant shall
12 pay a civil penalty in the amount of \$650,000 to the Securities and Exchange Commission
13 pursuant to 15 U.S.C. § 77t(d)(2) (Securities Act); 15 U.S.C. § 78u(d) (Exchange Act); and
14 15 U.S.C. § 80b-9(e) (Advisers Act). Defendant shall make this payment within 14 days after
15 entry of this Final Judgment.

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

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27 of this Court; Anthony Vassallo as a defendant in this action; and specifying that payment is

1 made pursuant to this Final Judgment.

2 Defendant shall simultaneously transmit photocopies of evidence of payment and case
3 identifying information to the Commission's counsel in this action. By making this payment,
4 Defendant relinquishes all legal and equitable right, title, and interest in such funds and no
5 part of the funds shall be returned to Defendant. The Commission shall send the funds paid
6 pursuant to this Final Judgment to the United States Treasury. Defendant shall pay post-
7 judgment interest on any delinquent amounts pursuant to 28 USC § 1961.

8 VII.

9 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent of
10 Defendant Anthony Vassallo to Judgment of Permanent Injunction and Other Relief (Docket
11 No. 220) is incorporated herein with the same force and effect as if fully set forth herein, and
12 that Defendant shall comply with all of the undertakings and agreements set forth therein.


13 VIII.

14 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall
15 retain jurisdiction of this matter for the purposes of enforcing the terms of this Final
16 Judgment.

17 IX.

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

21
22 Date: May 22, 2014.

23
24 
25 LAWRENCE K. KARLTON
26 SENIOR JUDGE
27 UNITED STATES DISTRICT COURT