

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

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

vs.

RMR Asset Management Company,  
Bruce A. Broekhuizen, Douglas J.  
Derryberry, David R. Frost, Richard C.  
Gounaud, Neil P. Kelly, John M.  
Kirschenbaum, David S. Luttbeg,  
Timothy J. McAloon, Jocelyn M.  
Murphy, Michael Sean Murphy, Ralph  
M. Riccardi, Dewey T. Tran, and  
Philip A. Weiner,

Defendants.

Case No. 3:18-cv-01895-AJB-JMA

**ORDER GRANTING CONSENT  
JUDGMENT**

**(Doc. No. 8)**

**FINAL JUDGMENT AS TO DEFENDANT DAVID S. LUTTBEG**

The Securities and Exchange Commission (“Commission”) having filed a Complaint and Defendant David S. Luttbeg (“Defendant”) having entered a general appearance; consented to the Court’s jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction and except as otherwise provided herein in paragraph V); waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating, directly or indirectly, Section

1 15(a)(1) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. §  
2 78o(a)(1)], by making use of the mails or the means or instrumentalities of interstate  
3 commerce to effect transactions in, or to induce or attempt to induce the purchase or  
4 sale of, a security without being registered in accordance with Section 15(a)(1) of the  
5 Exchange Act while engaged in the business of effecting transactions in securities for  
6 the account of others.

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

13 **II.**

14 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendant is  
15 enjoined for a period of five (5) years from the date of this Final Judgment from,  
16 directly or indirectly, opening or maintaining any brokerage account(s) without  
17 providing the relevant brokerage firm(s) a copy of the Complaint and a copy of this  
18 Final Judgment.

19 **III.**

20 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Defendant  
21 is liable for disgorgement of \$9,114, representing profits gained as a result of the  
22 conduct alleged in the Complaint, together with prejudgment interest thereon in the  
23 amount of \$1,196, and a civil penalty in the amount of \$7,500 pursuant to Section  
24 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. Defendant shall satisfy this  
25 obligation pursuant to the terms of the payment schedule set forth in paragraph IV  
26 below.

27 Defendant may transmit payment electronically to the Commission, which will  
28 provide detailed ACH transfer/Fedwire instructions upon request. Payment may also

1 be made directly from a bank account via Pay.gov through the SEC website at  
2 <http://www.sec.gov/about/offices/ofm.htm>. Defendant may also pay by certified  
3 check, bank cashier's check, or United States postal money order payable to the  
4 Securities and Exchange Commission, which shall be delivered or mailed to  
5 Enterprise Services Center  
6 Accounts Receivable Branch  
7 6500 South MacArthur Boulevard  
8 Oklahoma City, OK 73169

8 and shall be accompanied by a letter identifying the case title, civil action number,  
9 and name of this Court; David S. Luttbeg as a defendant in this action; and specifying  
10 that payment is made pursuant to this Final Judgment.

11 Defendant shall simultaneously transmit photocopies of evidence of payment  
12 and case identifying information to the Commission's counsel in this action. By  
13 making this payment, Defendant relinquishes all legal and equitable right, title, and  
14 interest in such funds and no part of the funds shall be returned to Defendant. The  
15 Commission shall send the funds paid pursuant to this Final Judgment to the United  
16 States Treasury.

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

#### 22 IV.

23 Defendant shall pay the total of disgorgement, prejudgment interest, and  
24 penalty due of \$17,810 in four (4) installments to the Commission according to the  
25 following schedule: (1) \$4,452.50 within 14 days of entry of this Final Judgment; (2)  
26 \$4,452.50 within four months of entry of this Final Judgment; (3) \$4,452.50 within  
27 eight months of entry of this Final Judgment; and (4) \$4,452.50 within 364 days of  
28 entry of this Final Judgment. Payments shall be deemed made on the date they are

1 received by the Commission and shall be applied first to post judgment interest,  
2 which accrues pursuant to 28 U.S.C. § 1961 on any unpaid amounts due after 14 days  
3 of the entry of Final Judgment. Prior to making the final payment set forth herein,  
4 Defendant shall contact the staff of the Commission for the amount due for the final  
5 payment.

6 If Defendant fails to make any payment by the date agreed and/or in the  
7 amount agreed according to the schedule set forth above, all outstanding payments  
8 under this Final Judgment, including post-judgment interest, minus any payments  
9 made, shall become due and payable immediately at the discretion of the staff of the  
10 Commission without further application to the Court.

11 V.

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

21 VI.

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

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VII.

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

IT IS SO ORDERED.

Dated: August 17, 2018

  
Hon. Anthony J. Battaglia  
United States District Judge

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