



link to dkt. 49

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

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

vs.

DAVID N. OSEGUEDA, ISHMAIL  
CALVIN ROSS, aka CALVIN ROSS,  
ZACHARY R. LOGAN, and JESSICA  
SNYDER, fka JESSICA  
GUTIERREZ,

Defendants.

Case No. 2:19-cv-04348-PSG-AGR

**FINAL JUDGMENT AS TO  
ISHMAIL CALVIN ROSS**

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

1 II.

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

7 (a) to employ any device, scheme, or artifice to defraud;

8 (b) to obtain money or property by means of any untrue statement of a  
9 material fact or any omission of a material fact necessary in order to make the  
10 statements made, in light of the circumstances under which they were made,  
11 not misleading; or

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

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

20 III.

21 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that  
22 Defendant is permanently restrained and enjoined from violating Section 5 of the  
23 Securities Act [15 U.S.C. § 77e] by, directly or indirectly, in the absence of any  
24 applicable exemption:

25 (a) Unless a registration statement is in effect as to a security, making use of  
26 any means or instruments of transportation or communication in interstate  
27 commerce or of the mails to sell such security through the use or medium of  
28 any prospectus or otherwise;

1 (b) Unless a registration statement is in effect as to a security, carrying or  
2 causing to be carried through the mails or in interstate commerce, by any  
3 means or instruments of transportation, any such security for the purpose of  
4 sale or for delivery after sale; or

5 (c) Making use of any means or instruments of transportation or  
6 communication in interstate commerce or of the mails to offer to sell or offer to  
7 buy through the use or medium of any prospectus or otherwise any security,  
8 unless a registration statement has been filed with the Commission as to such  
9 security, or while the registration statement is the subject of a refusal order or  
10 stop order or (prior to the effective date of the registration statement) any  
11 public proceeding or examination under Section 8 of the Securities Act [15  
12 U.S.C. § 77h].

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

19 IV.

20 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that  
21 Defendant is permanently barred from participating in an offering of penny stock,  
22 including engaging in activities with a broker, dealer, or issuer for purposes of  
23 issuing, trading, or inducing or attempting to induce the purchase or sale of any penny  
24 stock. A penny stock is any equity security that has a price of less than five dollars,  
25 except as provided in Rule 3a51-1 under the Exchange Act [17 C.F.R. § 240.3a51-1].

26 V.

27 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, pursuant  
28 to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)] and Section 20(e) of

1 the Securities Act [15 U.S.C. § 77t(e)], Defendant is prohibited, for 10 years  
2 following the date of entry of this Final Judgment, from acting as an officer or  
3 director of any issuer that has a class of securities registered pursuant to Section 12 of  
4 the Exchange Act [15 U.S.C. § 781] or that is required to file reports pursuant to  
5 Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

6 VI.

7 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant  
8 is liable for disgorgement of \$781,868.81, representing profits gained as a result of  
9 the conduct alleged in the Complaint, together with prejudgment interest thereon in  
10 the amount of \$56,469.93, and a civil penalty in the amount of \$400,000 pursuant to  
11 Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the  
12 Exchange Act [15 U.S.C. § 78u(d)(3)]. Defendant shall satisfy this obligation by  
13 paying \$1,238,338.74 to the Securities and Exchange Commission within 30 days  
14 after entry of this Final Judgment.

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

21 Enterprise Services Center  
22 Accounts Receivable Branch  
23 6500 South MacArthur Boulevard  
24 Oklahoma City, OK 73169

25 and shall be accompanied by a letter identifying the case title, civil action number,  
26 and name of this Court; Ishmail Calvin Ross as a defendant in this action; and  
27 specifying that payment is made pursuant to this Final Judgment.

28 Defendant shall simultaneously transmit photocopies of evidence of payment  
and case identifying information to the Commission's counsel in this action. By

1 making this payment, Defendant relinquishes all legal and equitable right, title, and  
2 interest in such funds and no part of the funds shall be returned to Defendant. The  
3 Commission shall send the funds paid pursuant to this Final Judgment to the United  
4 States Treasury.

5 The Commission may enforce the Court's judgment for disgorgement and  
6 prejudgment interest by using all collection procedures authorized by law, including,  
7 but not limited to, moving for civil contempt at any time after 30 days following entry  
8 of this Final Judgment.

9 The Commission may enforce the Court's judgment for penalties by the use of  
10 all collection procedures authorized by law, including the Federal Debt Collection  
11 Procedures Act, 28 U.S.C. § 3001 et seq., and moving for civil contempt for the  
12 violation of any Court orders issued in this action. Defendant shall pay post  
13 judgment interest on any amounts due after 30 days of the entry of this Final  
14 Judgment pursuant to 28 U.S.C. § 1961. The Commission shall hold the funds,  
15 together with any interest and income earned thereon (collectively, the "Fund"),  
16 pending further order of the Court.

17 The Commission may propose a plan to distribute the Fund subject to the  
18 Court's approval. Such a plan may provide that the Fund shall be distributed  
19 pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of  
20 2002. The Court shall retain jurisdiction over the administration of any distribution  
21 of the Fund and the Fund may only be disbursed pursuant to an Order of the Court.

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

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

12 VII.

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

17 VIII.

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

IX.

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 Judgment.

X.

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 Judgment forthwith and without further notice.

Dated: March 22, 2021



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PHILIP S. GUTIERREZ  
UNITED STATES DISTRICT JUDGE