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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 SECURITIES AND EXCHANGE
11 COMMISSION,

12 Plaintiff,

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14 v.

15 LAMBERT VANDER TUIG et al.,

16 Defendants.
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Case No. 2:21-cv-05381-MCS-E

**FINAL JUDGMENT BY DEFAULT
AS TO DEFENDANT BEN
SCHACHTSCHNEIDER**

1 Pursuant to the Court's Order Re: Motion for Default Judgment, the Court orders
2 as follows:

3 **I.**

4 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant Ben
5 Schachtschneider ("Defendant") is permanently restrained and enjoined from violating,
6 directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the
7 "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17
8 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or
9 of the mails, or of any facility of any national securities exchange, in connection with
10 the purchase or sale of any security:

- 11 (a) to employ any device, scheme, or artifice to defraud;
12 (b) to make any untrue statement of a material fact or to omit to state a material
13 fact necessary in order to make the statements made, in the light of the
14 circumstances under which they were made, not misleading; or
15 (c) to engage in any act, practice, or course of business which operates or
16 would operate as a fraud or deceit upon any person.

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

23 **II.**

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

- 1 (a) to employ any device, scheme, or artifice to defraud;
- 2 (b) to obtain money or property by means of any untrue statement of a material
- 3 fact or any omission of a material fact necessary in order to make the
- 4 statements made, in light of the circumstances under which they were
- 5 made, not misleading; or
- 6 (c) to engage in any transaction, practice, or course of business which operates
- 7 or would operate as a fraud or deceit upon the purchaser.

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

14 III.

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

- 19 (a) Unless a registration statement is in effect as to a security, making use of
- 20 any means or instruments of transportation or communication in interstate
- 21 commerce or of the mails to sell such security through the use or medium
- 22 of any prospectus or otherwise;
- 23 (b) Unless a registration statement is in effect as to a security, carrying or
- 24 causing to be carried through the mails or in interstate commerce, by any
- 25 means or instruments of transportation, any such security for the purpose
- 26 of sale or for delivery after sale; or
- 27 (c) Making use of any means or instruments of transportation or
- 28 communication in interstate commerce or of the mails to offer to sell or

1 offer to buy through the use or medium of any prospectus or otherwise any
2 security, unless a registration statement has been filed with the
3 Commission as to such security, or while the registration statement is the
4 subject of a refusal order or stop order or (prior to the effective date of the
5 registration statement) any public proceeding or examination under
6 Section 8 of the Securities Act [15 U.S.C. § 77h].

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

13 IV.

14 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that pursuant to
15 Section 21(d)(5) of the Exchange Act [15 U.S.C. § 78u(d)(5)], Defendant
16 Schachtschneider is permanently restrained and enjoined from directly or indirectly,
17 including, but not limited to, through any entity owned or controlled by Defendant,
18 participating in the issuance, purchase, offer, or sale of any security in an unregistered
19 offering by an issuer.

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

26 V.

27 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
28 Defendant is liable for disgorgement of \$70,730, representing net profits gained as a

1 result of the conduct alleged in the Complaint, together with prejudgment interest
2 thereon in the amount of \$11,594, and a civil penalty in the amount of \$207,183
3 pursuant to Section 20(d) of the Securities Act of 1933 [15 U.S.C. § 77t(d)] and Section
4 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. Defendant shall satisfy this
5 obligation by paying \$289,507 to the Securities and Exchange Commission within 30
6 days after entry of this Final Judgment.

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

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

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

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

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

28 The Commission may enforce the Court's judgment for penalties by the use of

1 all collection procedures authorized by law, including the Federal Debt Collection
2 Procedures Act, 28 U.S.C. § 3001 *et seq.*, and moving for civil contempt for the
3 violation of any Court orders issued in this action. Defendant shall pay post judgment
4 interest on any amounts due after 30 days of the entry of this Final Judgment pursuant
5 to 28 U.S.C. § 1961. The Commission shall hold the funds, together with any interest
6 and income earned thereon (collectively, the “Fund”), pending further order of the
7 Court.

8 The Commission may propose a plan to distribute the Fund subject to the Court’s
9 approval. Such a plan may provide that the Fund shall be distributed pursuant to the
10 Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. The Court
11 shall retain jurisdiction over the administration of any distribution of the Fund and the
12 Fund may only be disbursed pursuant to an Order of the Court.

13 Regardless of whether any such Fair Fund distribution is made, amounts ordered
14 to be paid as civil penalties pursuant to this Final Judgment shall be treated as penalties
15 paid to the government for all purposes, including all tax purposes. To preserve the
16 deterrent effect of the civil penalty, Defendant shall not, after offset or reduction of any
17 award of compensatory damages in any Related Investor Action based on Defendant’s
18 payment of disgorgement in this action, argue that he is entitled to, nor shall he further
19 benefit by, offset or reduction of such compensatory damages award by the amount of
20 any part of Defendant’s payment of a civil penalty in this action (“Penalty Offset”). If
21 the court in any Related Investor Action grants such a Penalty Offset, Defendant shall,
22 within 30 days after entry of a final order granting the Penalty Offset, notify the
23 Commission’s counsel in this action and pay the amount of the Penalty Offset to the
24 United States Treasury or to a Fair Fund, as the Commission directs. Such a payment
25 shall not be deemed an additional civil penalty and shall not be deemed to change the
26 amount of the civil penalty imposed in this Final Judgment. For purposes of this
27 paragraph, a “Related Investor Action” means a private damages action brought against
28 Defendant by or on behalf of one or more investors based on substantially the same

1 facts as alleged in the Complaint in this action.

2 **VI.**

3 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court
4 shall retain jurisdiction of this matter for the purposes of enforcing the terms of this
5 Judgment.

6 **VII.**

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

10
11 **IT IS SO ORDERED.**

12
13 Dated: April 19, 2022



MARK C. SCARSI
UNITED STATES DISTRICT JUDGE