

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 21-60589-CIV-SINGHAL/VALLE

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

ANDREW L. WHITE,

Defendant.

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**FINAL JUDGMENT ON CONSENT AS TO DEFENDANT ANDREW L. WHITE**

**THIS CAUSE** is before the Court on Plaintiff Securities and Exchange Commission's Unopposed Motion for Final Judgment against Defendant Andrew L. White ("Motion") (DE [3]). By the Consent of Defendant Andrew L. White to Final Judgment ("Consent") attached hereto, without admitting or denying the allegations of the Complaint (except that White admits the jurisdiction of this Court over him and over the subject matter of this action and as otherwise set forth in Section V below), White has waived service of the summons and the Complaint, entered a general appearance, consented to entry of this Final Judgment, waived findings of fact and conclusions of law, and waived any right to appeal from this Final Judgment. The Court finds that good cause exists for entry of the Final Judgment. Accordingly, the Commission's Motion (DE [3]) is **GRANTED**. The Court further orders as follows:

I.

**PERMANENT INJUNCTIVE RELIEF**

**A. Section 5 of the Securities Act of 1933 (“Securities Act”)**

**IT IS ORDERED AND ADJUDGED** that White is permanently restrained and enjoined from violating Section 5 of the Securities Act, 15 U.S.C. § 77e, by, directly or indirectly, in the absence of any applicable exemption:

- (a) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;
- (b) Unless a registration statement is in effect as to a security, carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale; or
- (c) Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed with the Commission as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or examination under Section 8 of the Securities Act, 15 U.S.C. § 77h.

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

**B. Section 15(a)(1) of the Securities Exchange Act of 1934 ("Exchange Act")**

**IT IS FURTHER ORDERED AND ADJUDGED** that White is permanently restrained and enjoined from violating, directly or indirectly, Section 15(a)(1) of the Exchange Act, 15 U.S.C. § 78o(a)(1), by making use of any means or instrumentality of interstate commerce or of the mails and engaging in the business of effecting transactions in securities for the accounts of others, or inducing or effecting the purchase and sale of securities, while not registered with the Commission in accordance with the provisions of Section 15(b) of the Exchange Act, or while not associated with a broker-dealer that was so registered.

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

**II.**

**DISGORGEMENT, PREJUDGMENT INTEREST, AND CIVIL PENALTY**

**IT IS FURTHER ORDERED AND ADJUDGED** that White is liable to the Commission for disgorgement of \$129,672, representing gains as a result of the conduct

alleged in the Complaint, together with prejudgment interest on disgorgement of \$7,279, and a civil penalty of \$30,000 pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3).

White shall satisfy his disgorgement, prejudgment interest, and civil penalty obligations by paying the total of \$166,951 to the Securities and Exchange Commission within one year of entry of the Final Judgment according to the following payment schedule: (1) \$10,000 within 14 days entry of this Final Judgment; (2) \$30,000 within six months of entry of this Final Judgment; and (3) \$126,951 within one year of entry of this Final Judgment. Payments shall be deemed made on the date they are received by the Commission and shall be applied first to post judgment interest, which accrues pursuant to 28 U.S.C. § 1961 on any unpaid amounts due after 30 days of the entry of Final Judgment. Prior to making the final payment set forth herein, White shall contact the staff of the Commission for the amount due for the final payment.

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

White may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account via Pay.gov through the SEC website at <https://pay.gov/public/form/start/39621196>. White may also pay by certified check, bank

cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to:

Enterprise Services Center  
Accounts Receivable Branch  
6500 South MacArthur Boulevard  
HQ Bldg. Room 265, AMK-326  
Oklahoma City, OK 73169

and shall be accompanied by a letter identifying: the case title, civil action number, and name of this Court; Andrew L. White as a defendant in this action; and specifying that payment is made pursuant to this Final Judgment.

White shall simultaneously transmit photocopies of evidence of payment and case identifying information to the Commission's counsel in this action, Robert K. Levenson, Senior Trial Counsel, Securities and Exchange Commission, 801 Brickell Avenue, Suite 1950, Miami, FL 33131. By making any payment, White relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to him.

The Commission may propose a plan to distribute the Fund subject to the Court's approval. Such a plan may provide that the Fund shall be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. The Court shall retain jurisdiction over the administration of any distribution of the Fund. Regardless of whether any such Fair Fund distribution is made, amounts ordered to be paid as civil penalties pursuant to this Final Judgment shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, White shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on his payment of disgorgement in this

action, argue that he is entitled to, nor shall he further benefit by, offset or reduction of such compensatory damages award by the amount of any part of White's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, White shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this Final Judgment. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against White by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.

**III.**

**INCORPORATION OF CONSENT**

**IT IS FURTHER ORDERED AND ADJUDGED** that the Consent filed herewith is incorporated herein with the same force and effect as if fully set forth herein, and White shall comply with all of the undertakings and agreements set forth therein.

**IV.**

**RETENTION OF JURISDICTION**


**IT IS FURTHER ORDERED AND ADJUDGED** that this Court shall retain jurisdiction of this matter and over White in order to implement and carry out the terms of this Final Judgment and all Orders and Decrees that may be entered, to entertain any suitable application or motion for additional relief within the jurisdiction of this Court, and to order any other relief that this Court deems appropriate under the circumstances

V.

**BANKRUPTCY NONDISCHARGEABILITY**

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

**DONE AND ORDERED** in Chambers, Fort Lauderdale, Florida, this 18th day of March 2021.

  
\_\_\_\_\_  
RAAG SINGHAL  
UNITED STATES DISTRICT JUDGE

Copies furnished to counsel via CM/ECF

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.

EXHIBIT

B

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

ANDREW L. WHITE,

Defendant.

**CONSENT OF DEFENDANT ANDREW L. WHITE TO FINAL JUDGMENT**

1. Defendant Andrew L. White waives service of the summons and Complaint in this action, enters a general appearance, and admits the Court's jurisdiction over him and over the subject matter of this action.

2. Without admitting or denying the allegations of the Complaint (except as provided herein in Paragraph 12 and except as to personal and subject matter jurisdiction, which he admits), White hereby consents to the entry of the Final Judgment On Consent As To Defendant Andrew L. White ("Final Judgment") in the form attached hereto and incorporated by reference herein. The Final Judgment, among other things, permanently restrains and enjoins White from violating Section 5 of the Securities Act of 1933 ("Securities Act") and Section 15(a)(1) of the Securities Exchange Act of 1934 ("Exchange Act"), and orders White to pay disgorgement of \$129,672, prejudgment interest on disgorgement of \$7,279, and a civil penalty of \$30,000 within one year of entry of the Final Judgment as described in the payment plan in the Final Judgment.

3. White acknowledges that the civil penalty paid pursuant to the Final Judgment may be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act



of 2002. Regardless of whether any such Fair Fund distribution is made, the civil penalty shall be treated as a penalty paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, White agrees that he shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on White's payment of disgorgement in this action, argue that he is entitled to, nor shall he further benefit by, offset or reduction of such compensatory damages award by the amount of any part of White's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, White agrees that he shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this action. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against White by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.

4. White agrees that he shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made pursuant to any insurance policy, with regard to any civil penalty amounts he may be required to pay pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors. White further agrees that he shall not claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state, or local tax for any penalty amounts that White pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors.

5. White waives the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure.

6. White waives the right, if any, to a jury trial and to appeal from the entry of the Final Judgment.

7. White enters into this Consent voluntarily and represents that no threats, offers, promises, or inducements of any kind have been made by the Commission or any member, officer, employee, agent, or representative of the Commission, to him or to anyone acting on his behalf, to induce him to enter into this Consent.

8. White agrees this Consent shall be incorporated into the Final Judgment with the same force and effect as if fully set forth therein.

9. White will not oppose enforcement of the Final Judgment on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure, and hereby waives any objection based thereon.

10. White waives service of the Final Judgment and agrees that entry of the Final Judgment by the Court and filing with the Clerk of the Court will constitute notice to him of the Final Judgment's terms and conditions.

11. Consistent with 17 C.F.R. 202.5(f), this Consent resolves only the claims asserted against White in this civil proceeding. White acknowledges no promise or representation has been made by the Commission or any member, officer, employee, agent, or representative of the Commission with regard to any criminal liability that may have arisen or may arise from the facts underlying this action or immunity from any such criminal liability. White waives any claim of Double Jeopardy based upon the settlement of this proceeding, including imposition of any remedy or civil penalty herein. White further acknowledges that the Court's entry of a permanent

injunction may have collateral consequences under federal or state law and the rules and regulations of self-regulatory organizations, licensing boards, and other regulatory organizations. Such collateral consequences include, but are not limited to, a statutory disqualification with respect to membership or participation in, or association with a member of, a self-regulatory organization. This statutory disqualification has consequences that are separate from any sanction imposed in an administrative proceeding. In addition, in any disciplinary proceeding before the Commission based on the entry of the injunction in this action, White understands that he shall not be permitted to contest the factual allegations of the Complaint in this action.

12. White understands and agrees to comply with the terms of 17 C.F.R. § 202.5(e), which provides in part that it is the Commission's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings," and "a refusal to admit the allegations is equivalent to a denial, unless the defendant or respondent states that he neither admits nor denies the allegations." As part of White's agreement to comply with the terms of Section 202.5(e), he: (a) will not take any action or make or permit to be made any public statement denying, directly or indirectly, any allegation in the Complaint or creating the impression that the Complaint is without factual basis; (b) will not make or permit to be made any public statement to the effect that he does not admit the allegations of the Complaint, or that this Consent contains no admission of the allegations, without also stating he does not deny the allegations; (c) upon filing of this Consent, hereby withdraws any papers filed in this action to the extent they deny any allegation in the Complaint; and (d) stipulates solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, that the allegations in the Complaint are true, and further, any debt for disgorgement, prejudgment interest, or civil penalty or other amounts due by White under



this Final Judgment or any other judgment, order, consent order, decree, or settlement agreement entered in connection with this proceeding, is a debt for the violation by White of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19). If White breaches this agreement, the Commission may petition the Court to vacate the Final Judgment and restore this action to its active docket. Nothing in this paragraph affects White's: (i) testimonial obligations; or (ii) the right to take legal or factual positions in litigation or other legal proceedings in which the Commission is not a party.

13. White hereby waives any rights under the Equal Access to Justice Act, the Small Business Regulatory Enforcement Fairness Act of 1996, or any other provision of law to seek from the United States, or any agency, or any official of the United States acting in his or her official capacity, directly or indirectly, reimbursement of attorneys' fees or other fees, expenses, or costs expended by White to defend against this action. For these purposes, White agrees he is not the prevailing party in this action, since the parties have reached a good faith settlement.

14. White agrees that the Commission may present the Final Judgment to the Court for signature and entry without further notice.

15. White agrees that this Court shall retain jurisdiction over him and over this matter for the purpose of enforcing the terms of the Final Judgment.

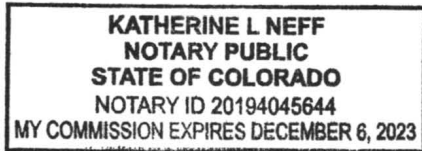
September 11, 2020

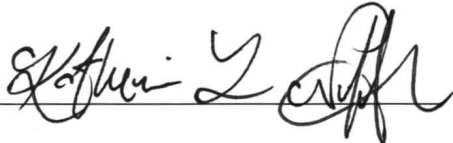
By: \_\_\_\_\_

  
Andrew L. White

STATE OF COLORADO                     )  
   )  
COUNTY OF LARIMER                     )

On this 11<sup>TH</sup> day of SEPTEMBER 2020, before me personally appeared Andrew L. White, who \_\_\_\_\_ is personally known to me or X produced a driver's license bearing his name and photograph as identification, and who executed this Consent, and he acknowledged to me that he executed the same.



  
Notary Public

Approved as to Form:


By: \_\_\_\_\_  
Paul Schwartz, Esq.  
Shoemaker Ghiselli + Schwartz  
1811 Pearl Street  
Boulder, Colorado 80302  
*Counsel to Andrew L. White*

On this \_\_\_\_ day of \_\_\_\_\_ 2020, before me personally appeared Andrew L. White, who \_\_\_\_ is personally known to me or \_\_\_\_ produced a driver's license bearing his name and photograph as identification, and who executed this Consent, and he acknowledged to me that he executed the same.

\_\_\_\_\_  
Notary Public

Approved as to Form:

By: \_\_\_\_\_

  
Paul Schwartz, Esq.  
Shoemaker Ghiselli + Schwartz  
1811 Pearl Street  
Boulder, Colorado 80302  
*Counsel to Andrew L. White*

  
\_\_\_\_\_  
RAAG SINGHAL  
UNITED STATES DISTRICT JUDGE

March 18, 2021