

1 NANCY J. GEGENHEIMER
2 DUGAN BLISS
3 U.S. SECURITIES AND EXCHANGE COMMISSION
4 Denver Regional Office
5 1801 California Street Suite 1500
6 Denver, CO 80202
7 (303) 844-1000
8 E-mail: gegenheimern@sec.gov
9 E-mail: blissd@sec.gov

10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA**

12 SECURITIES AND EXCHANGE COMMISSION,

13
14 Plaintiff,

Case No.
2:09-cv-02213-JCM-LRL

15
16 R. BROOKE DUNN
17 and NICHOLAS P. HOWEY,

18 Defendants.

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20 **FINAL JUDGMENT AS TO DEFENDANT NICHOLAS P. HOWEY**

21
22 The Securities and Exchange Commission having filed a Complaint and Defendant
23 Nicholas P. Howey having entered a general appearance; consented to the Court's jurisdiction
24 over Defendant and the subject matter of this action; consented to entry of this Final Judgment
25 without admitting or denying the allegations of the Complaint (except as to jurisdiction); waived
26 findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:
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I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

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

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. § 77q(a)] in the offer or sale of any security by the

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

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

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14 III.

15 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable
16 for disgorgement of \$181,594, representing profits gained and losses avoided as a result of the
17 conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of
18 \$30,403, and a civil penalty in the amount of \$181,594, pursuant to Section 21A of the Exchange
19 Act [15 U.S.C. §78u-1]. Defendant shall satisfy this obligation by paying \$393,591 in three
20 equal installments, with the first installment due within two weeks after entry of this Final
21 Judgment, the second installment due within six months after entry of this Final Judgment, and
22 the third installment due within one year after entry of this Final Judgment. Each installment
23 shall be by certified check, bank cashier's check, or United States postal money order payable to
24 the Securities and Exchange Commission, and delivered or mailed to the Office of Financial
25 Management, Securities and Exchange Commission, 100 F Street, NE, Stop 6042, Washington,
26 DC 20549. Each installment shall be accompanied by a letter identifying Nicholas P. Howey as
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1 a defendant in this action; setting forth the title and civil action number of this action and the
2 name of this Court; and specifying that payment is made pursuant to this Final Judgment.

3 Defendant shall pay post-judgment interest on any delinquent amounts pursuant to 28 USC
4 § 1961. The Commission shall remit the funds paid pursuant to this paragraph to the United
5 States Treasury.
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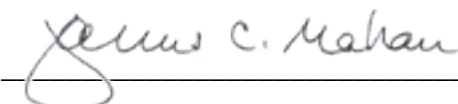
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8 IV.

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

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12 V.

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

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16 Dated: May 31, 2012

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20 UNITED STATES DISTRICT JUDGE

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