

WHEREAS, on June 29, 2011, the Court entered an Order Permanently Enjoining Kowalewski from further violations of the federal securities laws and ordering other relief;

WHEREAS, the Commission moved the Court on August 24, 2011 to enter a final judgment against Kowalewski for disgorgement in the amount of \$8,420,923.45, plus \$193,610.40 in prejudgment interest as of August 24, 2011, as well as civil penalties in an appropriate amount to be determined by the Court pursuant to Section 20(d) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. § 77t(d)], Section 21(d)(3) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78u(d)(3)] and Section 209(e) of the Investment Advisers Act of 1940 (“Advisers Act”) [15 U.S.C. § 80b-9(e)], as well as the Court’s June 29, 2011 Order (“Motion for Disgorgement”);

WHEREAS, the parties submitted briefs and evidence in connection with the Motion for Disgorgement;

WHEREAS, the Court, having reviewed all the filings submitted in connection with the Motion for Disgorgement, reviewed all other filings submitted in this action, and conducted a hearing on the Motion for Disgorgement on September 29, 2011, issued a Final Judgment of Disgorgement and Civil Penalties on September 30, 2011 which, among other things, found Kowalewski liable for

disgorgement of \$8,420,923.45, plus prejudgment interest of \$211,385.34 as calculated as of the date of September 30, 2011, for a total of \$8,632,308.79, representing ill-gotten gains resulting from his conduct in violation of the federal securities laws [Dkt. 140];

WHEREAS, by that same Order, the Court also ordered Kowalewski to pay civil penalties in the amount of \$16,841,846.90 [Dkt. 140];

WHEREAS, Kowalewski filed a notice of appeal on November 28, 2011 appealing the Court's September 30, 2011 Final Judgment on the sole issue of whether the third-tier civil penalty amount imposed upon Kowalewski was proper [Dkt. 152];

WHEREAS, the parties jointly moved on June 22, 2012 for an indicative ruling pursuant to Federal Rule of Civil Procedure 62.1 seeking a remand to this Court for the limited purpose of recalculating the amount of third-tier civil penalty to be imposed on Kowalewski [Dkt. 176];

WHEREAS the Court ordered on June 25, 2012 that if the case is remanded to the Court by the United States Court of Appeals for the Eleventh Circuit, the Court would proceed to reconsider the amount of third-tier civil penalty to be imposed upon Kowalewski, following further briefing by the parties and an evidentiary hearing [Dkt. 177];

WHEREAS, based on the Court's June 25, 2012 ruling, the United States Court of Appeals for the Eleventh Circuit remanded the action to this Court by order dated July 17, 2012 [Dkt. 179];

WHEREAS, the Court established a briefing schedule and set a court hearing to be held on August 27, 2012 on the amount of third-tier civil penalty to be imposed upon Kowalewski;

WHEREAS, the parties subsequently submitted briefs and had the opportunity to submit evidence in connection with the proper amount of civil penalties to be imposed upon Kowalewski;

WHEREAS, the Court, having reviewed those briefs and all other filings submitted in this action, conducted a hearing on August 27, 2012 on the civil penalties to be imposed upon Kowalewski;

I.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Court's September 30, 2011 Final Judgment is hereby vacated with respect to all portions of that Final Judgment relating to disgorgement, prejudgment interest and civil penalties;

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED

that Defendant Kowalewski is liable for disgorgement of \$8,420,923.45, plus prejudgment interest of \$211,385.34 as calculated as of the date of September 30, 2011, for a total of \$8,632,308.79, representing ill-gotten gains resulting from his conduct in violation of the federal securities laws. Defendant Kowalewski shall pay all amounts due under this paragraph within thirty days from the date of this Amended Final Judgment by paying the funds to S. Gregory Hays, Receiver in this case. Defendant shall pay post-interest interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED

that Defendant Kowalewski is further liable for and shall pay civil penalties in the additional amount of \$8,420,923.45 pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)] and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)]. Defendant shall satisfy this obligation by paying this entire amount within 30 days from the date of this Amended Final Judgment by certified check, bank cashier's check, or United

States postal money order payable to the Commission. The payment shall be delivered to the Office of Financial Management, Securities and Exchange Commission, 100 F. Street, Stop 6042, Washington DC 20549, and shall be accompanied by a letter identifying Kowalewski as a defendant in this action, setting forth the title and civil action number of this action and the name of this Court, and specifying that payment is made pursuant to this Amended Final Judgment, a copy of which letter and money order or check shall be sent to counsel for the Commission attorneys of record in this action. Defendant shall pay post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961. Upon receipt of those funds, the Commission shall propose to the Court a plan of distributing those funds to investors.

IV.

This Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Amended Final Judgment.

SO ORDERED, this 28th day of August, 2012.



TIMOTHY C. BATTEN, SR.
UNITED STATES DISTRICT JUDGE

WHEREAS, on June 29, 2011, the Court entered an Order Permanently Enjoining Kowalewski from further violations of the federal securities laws and ordering other relief;

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WHEREAS, the parties subsequently submitted briefs and had the opportunity to submit evidence in connection with the proper amount of civil penalties to be imposed upon Kowalewski;

WHEREAS, the Court, having reviewed those briefs and all other filings submitted in this action, conducted a hearing on August 27, 2012 on the civil penalties to be imposed upon Kowalewski;

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UNITED STATES DISTRICT JUDGE