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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 OAKLAND DIVISION

15 SECURITIES AND EXCHANGE
16 COMMISSION,

17 Plaintiff,

18 v.

19 STEVEN T. KOBAYASHI,

20 Defendant

Case No. 4:11-CV-00981-CW

NOTICE OF VOLUNTARY
DISMISSAL OF PLAINTIFF'S
CLAIMS FOR DISGORGEMENT
AND CIVIL PENALTIES AGAINST
DEFENDANT

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22 Pursuant to Federal Rule of Civil Procedure 41(a)(1), plaintiff Securities and Exchange
23 Commission ("Commission") hereby voluntarily dismisses with prejudice its unresolved claims
24 for disgorgement and civil penalties against defendant Steven T. Kobayashi ("Kobayashi").
25 Federal Rule of Civil Procedure 41(a)(1) permits a plaintiff to dismiss claims voluntarily where
26 the opposing party, such as Kobayashi here, has not filed an answer or summary judgment
27 motion with the Court.
28

1 The Commission brought the above-titled action against Kobayashi on March 3, 2011.
2 At the time of filing, Kobayashi consented to a final judgment that permanently enjoined him
3 from committing any future violations of the federal securities laws. The Court entered the Final
4 Judgment against Kobayashi on April 26, 2011. Section III of the Final Judgment states that
5 “Defendant shall pay disgorgement of ill-gotten gains, prejudgment interest thereon, and a civil
6 penalty pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. The Court
7 shall determine the amounts of the disgorgement and civil penalty upon motion of the
8 Commission.” Thus, the only remaining issues in the above-titled action are the amount of
9 disgorgement and civil penalties to be imposed against Kobayashi.

10 On December 9, 2011, this Court sentenced Kobayashi to a prison term of 65 months and
11 imposed a restitution order of \$4,626,600 in a related criminal action, *United States of America*
12 *v. Steven Kobayashi*, CR-11-00106 CW, for substantially similar conduct at issue in the
13 Commission’s suit. In light of Kobayashi’s criminal sentence, including his prison term and
14 restitution order, the Commission hereby dismisses its claims for disgorgement and civil
15 penalties against Kobayashi, pursuant to Federal Rule of Civil Procedure 41(a)(1).

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17 Dated: April 12, 2012

Respectfully submitted:

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20 /s/ Sheila E. O’Callaghan
21 Sheila E. O’Callaghan
22 Attorney for Plaintiff
23 SECURITIES AND EXCHANGE COMMISSION
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