

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE
COMMISSION,

vs.

JOSE L. PINEDO,

Plaintiff,

Defendant.

CASE 12-CV-1620 W (BLM)
**ORDER DIRECTING FINAL
JUDGMENT PURSUANT TO
CONSENT DECREE [DOC. 7]**

The Securities and Exchange Commission having filed a Complaint and Defendant Jose L. Pinedo having entered a general appearance; consented to the Court’s jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction); waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant’s agents, servants, employees, attorneys, and all persons in active concert or

1 participation with them who receive actual notice of this Final Judgment by personal
2 service or otherwise are permanently restrained and enjoined from violating Sections
3 17(a)(2) and 17(a)(3) of the Securities Act of 1933 (the “Securities Act”), 15 U.S.C. §§
4 77q(a)(2) and 77q(a)(3), in the offer or sale of any security by the use of any means or
5 instruments of transportation or communication in interstate commerce or by use of the
6 mails, directly or indirectly:

7
8 (a) to obtain money or property by means of any untrue statement of a
9 material fact or any omission of a material fact necessary in order to make
10 the statements made, in light of the circumstances under which they were
11 made, not misleading; or

12
13 (b) to engage in any transaction, practice, or course of business which
14 operates or would operate as a fraud or deceit upon the purchaser.

15
16 II.

17 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
18 Defendant and Defendant’s agents, servants, employees, attorneys, and all persons in
19 active concert or participation with them who receive actual notice of this Final
20 Judgment by personal service or otherwise are permanently restrained and enjoined from
21 violating Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) and 77(e)(c),
22 by, directly or indirectly, in the absence of any applicable exemption:

23
24 (a) Unless a registration statement is in effect as to a security, making use
25 of any means or instruments of transportation or communication in
26 interstate commerce or of the mails to sell such security through the use or
27 medium of any prospectus or otherwise; or carrying or causing to be carried
28 through the mails or in interstate commerce, by any means or instruments

1 of transportation, any such security for the purpose of sale or for delivery
2 after sale; or

3
4 (b) Making use of any means or instruments of transportation or
5 communication in interstate commerce or of the mails to offer to sell or
6 offer to buy through the use or medium of any prospectus or otherwise any
7 security, unless a registration statement has been filed with the Commission
8 as to such security, or while the registration statement is the subject of a
9 refusal order or stop order or (prior to the effective date of the registration
10 statement) any public proceeding or examination under Section 8 of the
11 Securities Act, 15 U.S.C. § 77h.

12
13 III.

14 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that,
15 based on Defendant's sworn representations in his Statement of Financial Condition
16 dated May 1, 2012, and other documents and information submitted to the
17 Commission, the Court is not ordering Defendant to pay a civil penalty. The
18 determination not to impose a civil penalty is contingent upon the accuracy and
19 completeness of Defendant's Statement of Financial Condition. If at any time following
20 the entry of this Final Judgment the Commission obtains information indicating that
21 Defendant's representations to the Commission concerning his assets, income, liabilities,
22 or net worth were fraudulent, misleading, inaccurate, or incomplete in any material
23 respect as of the time such representations were made, the Commission may, at its sole
24 discretion and without prior notice to Defendant, petition the appropriate United States
25 district court for an order requiring Defendant to pay the maximum civil penalty
26 allowable under the law. In connection with any such petition, the only issue shall be
27 whether the financial information provided by Defendant was fraudulent, misleading,
28 inaccurate, or incomplete in any material respect as of the time such representations were
made. In its petition, the Commission may move the court to consider all available

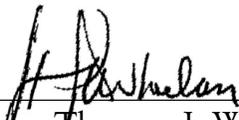
1 remedies, including, but not limited to, ordering Defendant to pay funds or assets,
2 directing the forfeiture of any assets, or sanctions for contempt of this Final Judgment.
3 The Commission may also request additional discovery. Defendant may not, by way of
4 defense to such petition: (1) challenge the validity of the Consent or this Final Judgment;
5 (2) contest the allegations in the Complaint filed by the Commission; (3) assert that
6 payment of disgorgement, pre-judgment and post-judgment interest or a civil penalty
7 should not be ordered; (4) contest the amount of disgorgement and pre-judgment and
8 post-judgment interest; (5) contest the imposition of the maximum civil penalty allowable
9 under the law; or (6) assert any defense to liability or remedy, including, but not limited
10 to, any statute of limitations defense.

11
12 IV.

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

16
17 **IT IS SO ORDERED.**

18
19 DATED: July 18, 2012

20
21 
22 _____
23 Hon. Thomas J. Whelan
24 United States District Judge
25
26
27
28