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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

DEREK COHEN, MICHAEL FLEISCHLI
and ROBERT HERMAN,

Defendants,

Case No. 14-cv-1189 JAH (NLS)

**FINAL JUDGMENT AS TO
DEFENDANT ROBERT HERMAN**

The Securities and Exchange Commission (the “SEC”) having filed a Complaint and Defendant Robert Herman (“Defendant”) 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; 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 participation with them who receive actual notice of this Final Judgment

1 by personal service or otherwise are permanently restrained and enjoined from
2 violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of
3 1934 (the “Exchange Act”), 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated
4 thereunder, 17 C.F.R. § 240.10b-5, by using any means or instrumentality of
5 interstate commerce, or of the mails, or of any facility of any national securities
6 exchange, in connection with the purchase or sale of any security:

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

14 **II.**

15 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that
16 Defendant is liable for disgorgement of \$29,318.00, representing profits gained as
17 a result of the conduct alleged in the Complaint, together with prejudgment interest
18 thereon in the amount of \$3,391.00, and a civil penalty in the amount of
19 \$29,318.00 pursuant to under Section 21A of the Exchange Act (the Insider
20 Trading and Securities Fraud Enforcement Act of 1988, or “ITSFEA”), 15 U.S.C.
21 § 78u-1. Defendant shall satisfy this obligation by paying \$62,027 to the Securities
22 and Exchange Commission within 14 days after entry of this Final Judgment.

23 Defendant may transmit payment electronically to the SEC, which will
24 provide detailed ACH transfer/Fedwire instructions upon request. Payment may
25 also be made directly from a bank account via Pay.gov through the SEC website at
26 <http://www.sec.gov/about/offices/ofm.htm>. Defendant may also pay by certified
27 check, bank cashier’s check, or United States postal money order payable to the
28 Securities and Exchange Commission, which shall be delivered or mailed to

1 Enterprise Services Center
2 Accounts Receivable Branch
3 6500 South MacArthur Boulevard
4 Oklahoma City, OK 73169

5 and shall be accompanied by a letter identifying the case title, civil action number,
6 name of this Court; Robert Herman's name as a defendant in this action; and
7 specifying that payment is made pursuant to this Final Judgment.

8 Defendant shall simultaneously transmit photocopies of evidence of
9 payment and case identifying information to the SEC's counsel in this action. By
10 making this payment, Defendant relinquishes all legal and equitable right, title, and
11 interest in such funds and no part of the funds shall be returned to Defendant. The
12 SEC shall send the funds paid pursuant to this Final Judgment to the United States
13 Treasury.

14 The SEC may enforce the Court's judgment for disgorgement and
15 prejudgment interest by moving for civil contempt (and/or through other collection
16 procedures authorized by law) at any time after 14 days following entry of this
17 Final Judgment. Defendant shall pay post judgment interest on any delinquent
18 amounts pursuant to 28 U.S.C. § 1961.

19 **III.**

20 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the
21 Consent is incorporated herein with the same force and effect as if fully set forth
22 herein, and that Defendant shall comply with all of the undertakings and
23 agreements set forth therein.

24 **IV.**

25 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, solely
26 for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy
27 Code, 11 U.S.C. § 523, the allegations in the Complaint are true and admitted by
28 Defendant, and further, any debt for disgorgement, prejudgment interest, civil
penalty or other amounts due by Defendant under this Final Judgment or any other

1 judgment, order, consent order, decree or settlement agreement entered in
2 connection with this proceeding, is a debt for the violation by Defendant of the
3 federal securities laws or any regulation or order issued under such laws, as set
4 forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

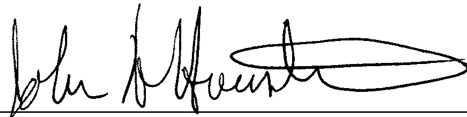
5 **V.**

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

9 **VI.**

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

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14 Dated: January 5, 2014

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17 JOHN A. HOUSTON
18 UNITED STATES DISTRICT JUDGE
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