

1 DAVID J. VAN HAVERMAAT, Cal. Bar No. 175761
Email: vanhavermaatd@sec.gov

2 Attorney for Plaintiff
3 Securities and Exchange Commission
4 William P. Hicks, Associate Regional Director
5 John W. Berry, Regional Trial Counsel
6 5670 Wilshire Boulevard, 11th Floor
Los Angeles, California 90036
Telephone: (323) 965-3998
Facsimile: (323) 965-3908

7 **UNITED STATES DISTRICT COURT**
8 **CENTRAL DISTRICT OF CALIFORNIA**

9
10 SECURITIES AND EXCHANGE
11 COMMISSION,

12 Plaintiff,

13 vs.

14 JOHN THORNES,

15 Defendant,

16 CHRISTOPHER BURNELL; KYLE
17 LARICK; and DOREEN THORNES,

18 Relief Defendants.
19

Case No. 5:14-cv-01598-RGK-SP(x)

**[PROPOSED] FINAL JUDGMENT AS
TO DEFENDANT JOHN THORNES**

20
21 The Securities and Exchange Commission having filed a Complaint and
22 Defendant John Thornes (“Defendant”) having entered a general appearance;
23 consented to the Court’s jurisdiction over Defendant and the subject matter of this
24 action; consented to entry of this Final Judgment without admitting or denying the
25 allegations of the Complaint (except as to jurisdiction); waived findings of fact and
26 conclusions of law; and waived any right to appeal from this Final Judgment:

27 ///

28 ///

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

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

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

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, 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

1 material fact necessary in order to make the statements made, in the light
2 of the circumstances under which they were made, not misleading; or
3 (c) to engage in any act, practice, or course of business which operates or
4 would operate as a fraud or deceit upon any person.

5 **III.**

6 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
7 Defendant is liable for disgorgement of \$4,366,790, representing profits gained as a
8 result of the conduct alleged in the Complaint, together with prejudgment interest
9 thereon in the amount of \$278,539.94, for a total of \$4,645,329.94. No execution
10 may issue on this Final Judgment, nor may proceedings be taken to enforce it, until
11 fourteen days have passed after its entry. Fed. R. Civ. P. 62.

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

18 Enterprise Services Center
19 Accounts Receivable Branch
20 6500 South MacArthur Boulevard
21 Oklahoma City, OK 73169

22 and shall be accompanied by a letter identifying the case title, civil action number,
23 and name of this Court; John Thornes as a defendant in this action; and specifying
24 that payment is made pursuant to this Final Judgment.

25 Defendant shall simultaneously transmit photocopies of evidence of payment
26 and case identifying information to the Commission's counsel in this action. By
27 making this payment, Defendant relinquishes all legal and equitable right, title, and
28 interest in such funds and no part of the funds shall be returned to Defendant.

1 The Commission shall hold the funds (collectively, the “Fund”) and may
2 propose a plan to distribute the Fund subject to the Court’s approval. The Court shall
3 retain jurisdiction over the administration of any distribution of the Fund. If the
4 Commission staff determines that the Fund will not be distributed, the Commission
5 shall send the funds paid pursuant to this Final Judgment to the United States
6 Treasury.

7 **IV.**

8 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant
9 shall pay a civil penalty in the amount of \$4,366,790 to the Securities and Exchange
10 Commission pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], and
11 Section 21(d) of the Exchange Act [15 U.S.C. §78u(d)]. No execution may issue on
12 this Final Judgment, nor may proceedings be taken to enforce it, until fourteen days
13 have passed after its entry. Fed. R. Civ. P. 62.

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

20 Enterprise Services Center
21 Accounts Receivable Branch
22 6500 South MacArthur Boulevard
23 Oklahoma City, OK 73169

24 and shall be accompanied by a letter identifying the case title, civil action number,
25 and name of this Court; John Thornes as a defendant in this action; and specifying
26 that payment is made pursuant to this Final Judgment.

27 Defendant shall simultaneously transmit photocopies of evidence of payment
28 and case identifying information to the Commission’s counsel in this action. By

1 making this payment, Defendant relinquishes all legal and equitable right, title, and
2 interest in such funds and no part of the funds shall be returned to Defendant. The
3 Commission shall send the funds paid pursuant to this Final Judgment to the United
4 States Treasury. Defendant shall pay post-judgment interest on any delinquent
5 amounts pursuant to 28 U.S.C. § 1961.

6 **V.**

7 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the
8 Consent of Defendant John Thornes is incorporated herein with the same force and
9 effect as if fully set forth herein, and that Defendant shall comply with all of the
10 undertakings and agreements set forth therein.

11 **VI.**

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

15 **VII.**

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

19
20 Dated: July 17, 2015

Jay Klauson

21
22 _____
23 UNITED STATES DISTRICT JUDGE
24
25
26
27
28