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10 **UNITED STATES DISTRICT COURT**

11 **EASTERN DISTRICT OF CALIFORNIA**

12 SECURITIES AND EXCHANGE
13 COMMISSION,

14 Plaintiff,

15 vs.

16 BIC REAL ESTATE DEVELOPMENT
17 CORPORATION and DANIEL R.
18 NASE, individually and d/b/a
19 BAKERSFIELD INVESTMENT
20 CLUB,

21 Defendants,

22 BIC SOLO 401K TRUST and
23 MARGARITA NASE,

24 Relief Defendants.

Case No. 1:16-cv-00344-LJO-JLT

**FINAL JUDGMENT AS TO
DEFENDANT DANIEL R. NASE**

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1 The Securities and Exchange Commission (“SEC”) having filed a Complaint
2 and Defendant Daniel R. Nase having entered a general appearance; consented to the
3 Court’s jurisdiction over Defendant and the subject matter of this action; consented to
4 entry of a Judgment of Permanent Injunction, and this Court having ordered monetary
5 remedies, and thereby fully adjudicated the issues and claims involving Defendant
6 Nase, now therefore:

7 **I.**

8 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is
9 permanently restrained and enjoined from violating, directly or indirectly, Section
10 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. §
11 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using
12 any means or instrumentality of interstate commerce, or of the mails, or of any
13 facility of any national securities exchange, in connection with the purchase or sale of
14 any security:

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

21 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as
22 provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also
23 binds the following who receive actual notice of this Judgment by personal service or
24 otherwise: (a) Defendant’s officers, agents, servants, employees, and attorneys; and
25 (b) other persons in active concert or participation with Defendant or with anyone
26 described in (a).

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is 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.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Judgment by personal service or otherwise: (a) Defendant’s officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating Section 5 of the Securities Act [15 U.S.C. § 77e] by, directly or indirectly, in the absence of any applicable exemption:

- (a) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;

- 1 (b) Unless a registration statement is in effect as to a security, carrying or
2 causing to be carried through the mails or in interstate commerce, by any
3 means or instruments of transportation, any such security for the purpose
4 of sale or for delivery after sale; or
- 5 (c) Making use of any means or instruments of transportation or
6 communication in interstate commerce or of the mails to offer to sell or
7 offer to buy through the use or medium of any prospectus or otherwise
8 any security, unless a registration statement has been filed with the SEC
9 as to such security, or while the registration statement is the subject of a
10 refusal order or stop order or (prior to the effective date of the
11 registration statement) any public proceeding or examination under
12 Section 8 of the Securities Act [15 U.S.C. § 77h].

13 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as
14 provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also
15 binds the following who receive actual notice of this Judgment by personal service or
16 otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and
17 (b) other persons in active concert or participation with Defendant or with anyone
18 described in (a).

19 **IV.**

20 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
21 Defendant Nase shall be liable for disgorgement of \$12,132,370.00, representing ill-
22 gotten gains received as a result of the conduct alleged in the Complaint, together
23 with prejudgment interest thereon in the amount of \$491,593.47, for a total of
24 \$12,623,963.47. Defendant Nase shall satisfy this obligation by paying
25 \$12,623,963.47, jointly and severally with Defendant BIC Real Estate Development
26 Corporation, to the Permanent Receiver, David P. Stapleton, pursuant to the terms of
27 this Court's Order Granting Plaintiff's Motion for Monetary Remedies. The Plaintiff
28 may enforce the Court's judgment for disgorgement by moving for civil contempt

1 (and/or through other collection procedures authorized by law) at any time after 14
2 days following entry of this Final Judgment. Defendant shall pay post-judgment
3 interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

4 **V.**

5 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
6 Defendant Nase shall pay a civil penalty in the amount of \$12,132,370.00 pursuant to
7 Section 20(d) of the Securities Act of 1933 and Section 21(d)(3) of the Securities
8 Exchange Act of 1934. Nase shall make this payment within 14 days after entry of
9 this Final Judgment. Defendant may transmit payment electronically to the SEC,
10 which will provide detailed ACH transfer/Fedwire instructions upon request.
11 Payment may also be made directly from a bank account via Pay.gov through the
12 SEC website at <http://www.sec.gov/about/offices/ofm.htm>. Defendant may also pay
13 by certified check, bank cashier's check, or United States postal money order payable
14 to the Securities and Exchange Commission, which shall be delivered or mailed to:

15 Enterprise Services Center
16 Accounts Receivable Branch
17 6500 South MacArthur Boulevard
Oklahoma City, OK 73169

18 and shall be accompanied by a letter identifying the case title, civil action number,
19 and name of this Court; Nase as a defendant in this action; and specifying that
20 payment is made pursuant to this Final Judgment.

21 Defendant shall simultaneously transmit photocopies of evidence of payment
22 and case identifying information to the Commission's counsel in this action, John B.
23 Bulgozdy. By making this payment, Defendant relinquishes all legal and equitable
24 right, title, and interest to such funds and no part of the funds shall be returned to
25 Defendant. Defendant shall pay post-judgment interest on any delinquent amounts
26 pursuant to 28 U.S.C. § 1961.

27 **VI.**

28 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, solely for

1 purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code,
2 11 U.S.C. §523, the allegations in the complaint are true and admitted by Defendant,
3 and further, any debt for disgorgement, prejudgment interest, civil penalty or other
4 amounts due by Defendant under this Judgment or any other judgment, order, consent
5 order, decree or settlement agreement entered in connection with this proceeding, is a
6 debt for the violation by Defendant of the federal securities laws or any regulation or
7 order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy
8 Code, 11 U.S.C. §523(a)(19).

9 **VII.**

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

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14 IT IS SO ORDERED.

15 Dated: May 4, 2017

/s/ Lawrence J. O'Neill
UNITED STATES CHIEF DISTRICT JUDGE