

1 DAVID J. VAN HAVERMAAT, Cal. Bar No. 175761
Email: vanhavermaatd@sec.gov
2 LUCEE S. KIRKA, Cal. Bar No. 121685
Email: kirkal@sec.gov

NO JS-6

3 Attorneys for Plaintiff
4 Securities and Exchange Commission
Michele Wein Layne, Regional Director
5 John W. Berry, Associate Regional Director
Amy J. Longo, Regional Trial Counsel
6 444 S. Flower Street, Suite 900
Los Angeles, California 90071
7 Telephone: (323) 965-3998
Facsimile: (213) 443-1904

8
9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11 **WESTERN DIVISION**

12 **SECURITIES AND EXCHANGE**
13 **COMMISSION,**

14 Plaintiff,

15 vs.

16 **MARCUS A. LUNA, NORRELL L.**
17 **WALKER, PAUL L. GOMEZ, and**
18 **DUSTIN S. SMITH,**

19 Defendants.

Case No.: CV-16-07333 BRO (SKx)

FINAL JUDGMENT AS TO
DEFENDANT PAUL L. GOMEZ

1 The Securities and Exchange Commission (“SEC” or “Commission”) having
2 filed a Complaint and Defendant Paul L. Gomez (“Defendant”) having entered a
3 general appearance; consented to the Court’s jurisdiction over Defendant and the
4 subject matter of this action; consented to entry of this Final Judgment; waived
5 findings of fact and conclusions of law; and waived any right to appeal from this
6 Final Judgment; and Defendant having admitted the facts set forth in Annex A to the
7 Consent of Defendant Paul L. Gomez to Entry of Final Judgment and the Consent of
8 Defendant Paul L. Gomez to Entry of Final Judgment and Annex A thereto being
9 hereby incorporated by reference with the same force and effect as if fully set forth
10 herein:

11 **I.**

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

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

25 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as
26 provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also
27 binds the following who receive actual notice of this Final Judgment by personal
28 service or otherwise: (a) Defendant’s officers, agents, servants, employees, and

1 attorneys; and (b) other persons in active concert or participation with Defendant or
2 with anyone described in (a).

3 **II.**

4 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
5 Defendant is permanently restrained and enjoined from violating Section 17(a) of the
6 Securities Act of 1933 (the “Securities Act”) [15 U.S.C. § 77q(a)] in the offer or sale
7 of any security by the use of any means or instruments of transportation or
8 communication in interstate commerce or by use of the mails, directly or indirectly:

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

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

22 **III.**

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

- 27 (a) Unless a registration statement is in effect as to a security, making use of
28 any means or instruments of transportation or communication in

1 interstate commerce or of the mails to sell such security through the use
2 or medium of any prospectus or otherwise;

3 (b) Unless a registration statement is in effect as to a security, carrying or
4 causing to be carried through the mails or in interstate commerce, by any
5 means or instruments of transportation, any such security for the purpose
6 of sale or for delivery after sale; or

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

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

21 **IV.**

22 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
23 Defendant is permanently restrained and enjoined from violating, directly or
24 indirectly, Section 15(a) of the Exchange Act, 15 U.S.C. § 78o(a), which makes it
25 unlawful for any broker or dealer which is either a person other than a natural person
26 or a natural person, to make use of the mails or any means or instrumentality of
27 interstate commerce to effect any transactions in, or to induce or attempt to induce the
28 purchase or sale of, any security (other than an exempted security or commercial

1 paper, bankers' acceptances, or commercial bills) unless such broker or dealer is
2 registered in accordance with Section 15(b) of the Exchange Act, 15 U.S.C. § 78o(b).

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

9 V.

10 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
11 Defendant is permanently barred from participating in an offering of penny stock,
12 including engaging in activities with a broker, dealer, or issuer for purposes of
13 issuing, trading, or inducing or attempting to induce the purchase or sale of any penny
14 stock. A penny stock is any equity security that has a price of less than five dollars,
15 except as provided in Rule 3a51-1 under the Exchange Act [17 C.F.R. 240.3a51-1].

16 VI.

17 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant
18 is liable for disgorgement of \$1,029,993, representing profits gained as a result of the
19 conduct alleged in the Complaint, together with prejudgment interest thereon in the
20 amount of \$31,094, for a total of \$1,061,087. Defendant shall satisfy this obligation
21 by paying \$1,061,087 to the Securities and Exchange Commission within 14 days
22 after entry of this Final Judgment. Defendant's disgorgement and prejudgment
23 interest obligation shall be credited by any amounts that Defendant is ordered to pay
24 as restitution in *U.S. v. Gomez*, Case No. CR-16-0044-AG-1, pending in the Central
25 District of California.

26 Defendant may transmit payment electronically to the Commission, which will
27 provide detailed ACH transfer/Fedwire instructions upon request. Payment may also
28 be made directly from a bank account via Pay.gov through the SEC website at

1 <http://www.sec.gov/about/offices/ofm.htm>. Defendant may also pay by certified
2 check, bank cashier's check, or United States postal money order payable to the
3 Securities and Exchange Commission, which shall be delivered or mailed to

4 Enterprise Services Center
5 Accounts Receivable Branch
6 6500 South MacArthur Boulevard
7 Oklahoma City, OK 73169

8 and shall be accompanied by a letter identifying the case title, civil action number,
9 and name of this Court; Paul Gomez as a defendant in this action; and specifying that
10 payment is made pursuant to this Final Judgment.

11 Defendant shall simultaneously transmit photocopies of evidence of payment
12 and case identifying information to the Commission's counsel in this action. By
13 making this payment, Defendant relinquishes all legal and equitable right, title, and
14 interest in such funds and no part of the funds shall be returned to Defendant. The
15 Commission shall send the funds paid pursuant to this Final Judgment to the United
16 States Treasury. The Commission may enforce the Court's judgment for
17 disgorgement and prejudgment interest by moving for civil contempt (and/or through
18 other collection procedures authorized by law) at any time after 14 days following
19 entry of this Final Judgment. Defendant shall pay post judgment interest on any
20 delinquent amounts pursuant to 28 U.S.C. § 1961.

21 **VII.**

22 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the
23 Consent of Defendant Paul L. Gomez to Entry of Final Judgment is incorporated
24 herein with the same force and effect as if fully set forth herein, and that Defendant
25 shall comply with all of the undertakings and agreements set forth therein.

26 **VIII.**

27 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, for
28 purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code,

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

8 **IX.**

9 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the SEC
10 has determined to forgo seeking a civil penalty against Defendant, and the claim for a
11 civil penalty against Defendant is hereby DISMISSED.

12 **X.**

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

16 **XI.**

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

20 IT IS SO ORDERED.

21 DATED: July 19, 2017

22
23 By: 

24 Honorable Beverly R. O'Connell
25 United States District Court Judge
26
27
28