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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
DUSTIN S. SMITH,

18 Defendants.

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

**[PROPOSED] FINAL JUDGMENT AS
TO DEFENDANT DUSTIN S. SMITH**

1 The Securities and Exchange Commission (“SEC” or “Commission”) having
2 filed a Complaint and Defendant Dustin S. Smith (“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 without
5 admitting or denying the allegations of the Complaint (except as to jurisdiction and
6 except as otherwise provided herein in paragraph VI); waived findings of fact and
7 conclusions of law; and waived any right to appeal from this Final Judgment:

8 **I.**

9 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is
10 permanently restrained and enjoined from violating Section 5 of the Securities Act of
11 1933 (“Securities Act”) [15 U.S.C. § 77e] by, directly or indirectly, in the absence of
12 any applicable exemption:

- 13 (a) Unless a registration statement is in effect as to a security, making use of
14 any means or instruments of transportation or communication in
15 interstate commerce or of the mails to sell such security through the use
16 or medium of any prospectus or otherwise;
- 17 (b) Unless a registration statement is in effect as to a security, carrying or
18 causing to be carried through the mails or in interstate commerce, by any
19 means or instruments of transportation, any such security for the purpose
20 of sale or for delivery after sale; or
- 21 (c) Making use of any means or instruments of transportation or
22 communication in interstate commerce or of the mails to offer to sell or
23 offer to buy through the use or medium of any prospectus or otherwise
24 any security, unless a registration statement has been filed with the
25 Commission as to such security, or while the registration statement is the
26 subject of a refusal order or stop order or (prior to the effective date of
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1 the registration statement) any public proceeding or examination under
2 Section 8 of the Securities Act [15 U.S.C. § 77h].

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 **II.**

10 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
11 Defendant is permanently restrained and enjoined from violating, directly or
12 indirectly, Section 15(a) of the Securities Exchange Act of 1934 (“Exchange Act”),
13 15 U.S.C. § 78o(a), which makes it unlawful for any broker or dealer which is either
14 a person other than a natural person or a natural person, to make use of the mails or
15 any means or instrumentality of interstate commerce to effect any transactions in, or
16 to induce or attempt to induce the purchase or sale of, any security (other than an
17 exempted security or commercial paper, bankers’ acceptances, or commercial bills)
18 unless such broker or dealer is registered in accordance with Section 15(b) of the
19 Exchange Act, 15 U.S.C. § 78o(b).

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

26 **III.**

27 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
28 Defendant is permanently barred from participating in an offering of penny stock,

1 including engaging in activities with a broker, dealer, or issuer for purposes of
2 issuing, trading, or inducing or attempting to induce the purchase or sale of any penny
3 stock. A penny stock is any equity security that has a price of less than five dollars,
4 except as provided in Rule 3a51-1 under the Exchange Act [17 C.F.R. 240.3a51-1].

5 **IV.**

6 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant
7 is liable for disgorgement of \$237,361, representing profits gained as a result of the
8 conduct alleged in the Complaint, together with prejudgment interest thereon in the
9 amount of \$7,165, and a civil penalty in the amount of \$15,000 pursuant to Section
10 20(d) of the Securities Act, 15 U.S.C. § 77t(d) and Section 21(d)(3) of the Exchange
11 Act, 15 U.S.C. § 78u(d)(3). Defendant shall satisfy this obligation by paying
12 \$259,526 to the Securities and Exchange Commission within 14 days after entry of
13 this Final Judgment.

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

9 **V.**

10 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the
11 Consent of Defendant Dustin S. Smith to Entry of Final Judgment is incorporated
12 herein with the same force and effect as if fully set forth herein, and that Defendant
13 shall comply with all of the undertakings and agreements set forth therein.

14 **VI.**

15 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, for
16 purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code,
17 11 U.S.C. § 523, the allegations in the complaint are true and admitted by Defendant,
18 and further, any debt for disgorgement, prejudgment interest, civil penalty or other
19 amounts due by Defendant under this Final Judgment or any other judgment, order,
20 consent order, decree or settlement agreement entered in connection with this
21 proceeding, is a debt for the violation by Defendant of the federal securities laws or
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1 any regulation or order issued under such laws, as set forth in Section 523(a)(19) of
2 the Bankruptcy Code, 11 U.S.C. §523(a)(19).

3 **VII.**

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

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10 **VIII.**

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

14 IT IS SO ORDERED.

15 DATED: July 19, 2017

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17 By: 

18 _____
19 Honorable Beverly R. O'Connell
20 United States District Court Judge
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