

JS-6

1 JOHN B. BULGOZDY (Cal. Bar No. 219897)

Email: bulgozdyj@sec.gov

2 ADRIENNE D. GURLEY

Email: gurleya@sec.gov

3 Attorneys for Plaintiff

4 Securities and Exchange Commission

Michele Wein Layne, Regional Director

5 Alka N. Patel, 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 SECURITIES AND EXCHANGE
12 COMMISSION,

13 Plaintiff,

14 vs.

15 ROBERT A. FERRANTE, et al.,

16 Defendants.

Case No. 8:18-cv-01758-CJC-DFM

**FINAL JUDGMENT AS TO
DEFENDANT ROBERT A.
FERRANTE**

27
28

1 The Securities and Exchange Commission (“SEC” or “Commission”) having
2 filed a Complaint and Defendant Robert A. Ferrante, having entered a general
3 appearance; consented to the Court’s jurisdiction over Defendant and the subject
4 matter of this action; consented to entry of this Final Judgment without admitting or
5 denying the allegations of the Complaint (except as to jurisdiction and except as
6 otherwise provided herein in paragraph VII); waived findings of fact and conclusions
7 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, directly or indirectly, Section
11 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. §
12 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any
13 means or instrumentality of interstate commerce, or of the mails, or of any facility of
14 any national securities exchange, in connection with the purchase or sale of any
15 security:

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

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

28 ///

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 Final 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, directly or indirectly, including but not limited to, through an entity owned or controlled by Defendant, participating in the issuance, purchase, offer, or sale of any security, provided, however, that such injunction shall not prevent Defendant from purchasing or selling securities for his own personal account.

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

1 following who receive actual notice of this Final Judgment by personal service or
2 otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and
3 (b) other persons in active concert or participation with Defendant or with anyone
4 described in (a).

5 IV.

6 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
7 Defendant is permanently restrained and enjoined from, directly or indirectly,
8 participating in the offer or sale of any security which constitutes an investment in a
9 "commercial enterprise" under the United States Government EB-5 visa program
10 administered by the United States Citizenship and Immigration Service ("USCIS"),
11 including engaging in activities with a broker, dealer, or issuer, or a Regional Center
12 designated by the USCIS, for purposes of issuing, offering, trading, or inducing or
13 attempting to induce the purchase or sale of any such EB-5 investment.

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

20 V.

21 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
22 Defendant is liable for disgorgement of \$3,549,140.00, representing profits gained as a
23 result of the conduct alleged in the Complaint, together with prejudgment interest
24 thereon in the amount of \$230,425.34, and a civil penalty in the amount of \$369,534.00
25 pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section
26 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3). Defendant shall satisfy this
27 obligation by paying \$4,148,919.34 to the SEC within 14 days after entry of this Final
28 Judgment.

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

7 Enterprise Services Center
8 Accounts Receivable Branch
9 6500 South MacArthur Boulevard
Oklahoma City, OK 73169

10 and shall be accompanied by a letter identifying the case title, civil action number, and
11 name of this Court; Defendant's name as a defendant in this action; and specifying that
12 payment is made pursuant to this Final Judgment.

13 Defendant shall simultaneously transmit photocopies of evidence of payment
14 and case identifying information to the SEC's counsel in this action. By making this
15 payment, Defendant relinquishes all legal and equitable right, title, and interest in such
16 funds and no part of the funds shall be returned to Defendant.

17 The SEC may enforce the Court's judgment for disgorgement and prejudgment
18 interest by moving for civil contempt (and/or through other collection procedures
19 authorized by law) at any time after 14 days following entry of this Final Judgment.
20 Defendant shall pay post judgment interest on any delinquent amounts pursuant to 28
21 U.S.C. § 1961. The SEC shall hold the funds, together with any interest and income
22 earned thereon (collectively, the "Fund"), pending further order of the Court.

23 The SEC may propose a plan to distribute the Fund subject to the Court's
24 approval. Such a plan may provide that the Fund shall be distributed pursuant to the
25 Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. The Court
26 shall retain jurisdiction over the administration of any distribution of the Fund. If the
27 SEC staff determines that the Fund will not be distributed, the SEC shall send the
28 funds paid pursuant to this Final Judgment to the United States Treasury.

Regardless of whether any such Fair Fund distribution is made, amounts ordered to be paid as civil penalties pursuant to this Judgment shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Defendant shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on Defendant's payment of disgorgement in this action, argue that he is entitled to, nor shall he further benefit by, offset or reduction of such compensatory damages award by the amount of any part of Defendant's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Defendant shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the SEC directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this Judgment. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Defendant by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.

VI.

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

VII.

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

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

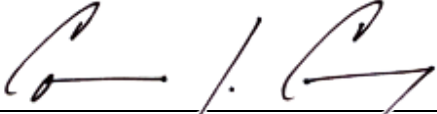
5 **VIII.**

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

9 **IX.**

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

13
14 Dated: February 12, 2020

15 

16 HON. CORMAC J. CARNEY
17 UNITED STATES DISTRICT JUDGE
18
19
20
21
22
23
24
25
26
27
28