

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

vs.

RMR Asset Management Company, Bruce  
A. Broekhuizen, Douglas J. Derryberry,  
David R. Frost, Richard C. Gounaud, Neil  
P. Kelly, John M. Kirschenbaum, David S.  
Luttbeg, Timothy J. McAloon, Jocelyn M.  
Murphy, Michael Sean Murphy, Ralph M.  
Riccardi, Dewey T. Tran, and Philip A.  
Weiner,

Defendants.

Case No. 3:18-cv-01895-AJB-JMA

**ORDER GRANTING CONSENT  
JUDGMENT**

**(Doc. No. 11)**

**FINAL JUDGMENT AS TO DEFENDANT DEWEY T. TRAN**

The Securities and Exchange Commission (“Commission”) having filed a Complaint and Defendant Dewey T. Tran (“Defendant”) having entered a general appearance; consented to the Court’s jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction and except as otherwise provided herein in paragraph VII); waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

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

1 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using  
2 any means or instrumentality of interstate commerce, or of the mails, or of any  
3 facility of any national securities exchange, in connection with the purchase or sale of  
4 any security:

5 (a) to employ any device, scheme, or artifice to defraud;

6 (b) to make any untrue statement of a material fact or to omit to state a  
7 material fact necessary in order to make the statements made, in the light of the  
8 circumstances under which they were made, not misleading; or

9 (c) to engage in any act, practice, or course of business which operates or  
10 would operate as a fraud or deceit upon any person.

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

17 II.

18 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is  
19 permanently restrained and enjoined from violating, directly or indirectly, Section  
20 15(a)(1) of the Exchange Act [15 U.S.C. § 78o(a)(1)], by making use of the mails or  
21 the means or instrumentalities of interstate commerce to effect transactions in, or to  
22 induce or attempt to induce the purchase or sale of, a security without being  
23 registered in accordance with Section 15(a)(1) of the Exchange Act while engaged in  
24 the business of effecting transactions in securities for the account of others.

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 III.

4 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is  
5 permanently restrained and enjoined from violating, directly or indirectly, Rule G-17  
6 of the Municipal Securities Rulemaking Board by not dealing fairly with all persons  
7 and/or by engaging in any deceptive, dishonest, or unfair practice.

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

14 IV.

15 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is  
16 enjoined for a period of five (5) years from the date of this Final Judgment from,  
17 directly or indirectly, opening or maintaining any brokerage account(s) without  
18 providing the relevant brokerage firm(s) a copy of the Complaint and a copy of this  
19 Final Judgment.

20 V.

21 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant  
22 is liable for disgorgement of \$31,953 representing profits gained as a result of the  
23 conduct alleged in the Complaint, together with prejudgment interest thereon in the  
24 amount of \$3,287, and a civil penalty in the amount of \$45,000 pursuant to Section  
25 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. Defendant shall satisfy this  
26 obligation pursuant to the terms of the payment schedule set forth in paragraph VI  
27 below.

28 Defendant may transmit payment electronically to the Commission, which will

1 provide detailed ACH transfer/Fedwire instructions upon request. Payment may also  
2 be made directly from a bank account via Pay.gov through the SEC website at  
3 <http://www.sec.gov/about/offices/ofm.htm>. Defendant may also pay by certified  
4 check, bank cashier's check, or United States postal money order payable to the  
5 Securities and Exchange Commission, which shall be delivered or mailed to  
6 Enterprise Services Center  
7 Accounts Receivable Branch  
8 6500 South MacArthur Boulevard  
9 Oklahoma City, OK 73169  
10 and shall be accompanied by a letter identifying the case title, civil action number,  
11 and name of this Court; Dewey T. Tran as a defendant in this action; and specifying  
12 that 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 Commission's counsel in this action. By  
15 making this payment, Defendant relinquishes all legal and equitable right, title, and  
16 interest in such funds and no part of the funds shall be returned to Defendant. The  
17 Commission shall send the funds paid pursuant to this Final Judgment to the United  
18 States Treasury.

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

## 24 VI.

25 Defendant shall pay the total of disgorgement, prejudgment interest, and  
26 penalty due of \$80,240 in twelve (12) installments to the Commission according to  
27 the following schedule:

- 28 (1) \$20,059.99 within fourteen (14) days of entry of this Final Judgment;
- (2) \$5,470.91 within four (4) months of entry of this Final Judgment;

- 1 (3) \$5,470.91 within eight (8) months of entry of this Final Judgment;
- 2 (4) \$5,470.91 within twelve (12) months of entry of this Final Judgment;
- 3 (5) \$5,470.91 within fifteen (15) months of entry of this Final Judgment;
- 4 (6) \$5,470.91 within eighteen (18) months of entry of this Final Judgment
- 5 (7) \$5,470.91 within twenty one (21) months of entry of this Final Judgment
- 6 (8) \$5,470.91 within twenty four (24) months of entry of this Final Judgment
- 7 (9) \$5,470.91 within twenty seven (27) months of entry of this Final Judgment
- 8 (10) \$5,470.91 within thirty (30) months of entry of this Final Judgment
- 9 (11) \$5,470.91 within thirty three (33) months of entry of this Final Judgment;
- 10 and
- 11 (12) \$5,470.91 within thirty six (36) months of entry of this Final Judgment.

12 Payments shall be deemed made on the date they are received by the  
13 Commission and shall be applied first to post judgment interest, which accrues  
14 pursuant to 28 U.S.C. § 1961 on any unpaid amounts due after fourteen (14) days of  
15 the entry of Final Judgment. Prior to making the final payment set forth herein,  
16 Defendant shall contact the staff of the Commission for the amount due for the final  
17 payment.

18 If Defendant fails to make any payment by the date agreed and/or in the  
19 amount agreed according to the schedule set forth above, all outstanding payments  
20 under this Final Judgment, including post-judgment interest, minus any payments  
21 made, shall become due and payable immediately at the discretion of the staff of the  
22 Commission without further application to the Court.

23 VII.

24 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, solely for  
25 purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code,  
26 11 U.S.C. § 523, the allegations in the Complaint are true and admitted by Defendant,  
27 and further, any debt for disgorgement, prejudgment interest, civil penalty or other  
28 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  
4 the 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  
11 Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith  
12 and without further notice.

13 IT IS SO ORDERED.

14 Dated: August 17, 2018

15   
16 Hon. Anthony J. Battaglia  
17 United States District Judge  
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