

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

JOHN M. McCOY III, Cal. Bar No. 166244
Email: mccoyj@sec.gov
SPENCER E. BENDELL, Cal. Bar No. 181220
Email: bendells@sec.gov
PAYAM DANIALYPOUR, Cal. Bar No. 212621
Email: danielypourp@sec.gov

Attorneys for Plaintiff
Securities and Exchange Commission
Rosalind R. Tyson, Regional Director
John M. McCoy III, Associate Regional Director
5670 Wilshire Boulevard, 11th Floor
Los Angeles, California 90036-3648
Telephone: (323) 965-3998
Facsimile: (323) 965-3908

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

ALERO ODELL MACK, JR. et al.,

Defendants.

Case No. CV 10-8383-DSF (PJWx)

**JUDGMENT OF PERMANENT
INJUNCTION AND OTHER RELIEF
AS TO DEFENDANT STEVEN
ENRICO LOPEZ, SR.**

1.

1
2
3 Plaintiff Securities and Exchange Commission (“Commission”) having filed
4 a Complaint and Defendant Steven Enrico Lopez, Sr., having entered a general
5 appearance; consented to the Court’s jurisdiction over Defendant Lopez and the
6 subject matter of this action; consented to entry of this Judgment without admitting
7 or denying the allegations of the Complaint (except as to jurisdiction); waived
8 findings of fact and conclusions of law; and waived any right to appeal from this

9 Judgment:

10 **I.**

11 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant
12 Lopez and Defendant Lopez’s agents, servants, employees, attorneys, and all
13 persons in active concert or participation with them who receive actual notice of
14 this Judgment by personal service or otherwise are permanently restrained and
15 enjoined from violating Section 17(a) of the Securities Act of 1933 (the “Securities
16 Act”), 15 U.S.C. § 77q(a), in the offer or sale of securities by the use of means or
17 instruments of transportation or communication in interstate commerce or by use
18 of the mails, directly or indirectly:

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

26 **II.**

27 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant Lopez and
28 Defendant Lopez’s agents, servants, employees, attorneys, and all persons in active
concert or participation with them who receive actual notice of this Judgment by

1
2 personal service or otherwise are permanently restrained and enjoined from
3 violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of
4 1934 (the “Exchange Act”), 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated
5 thereunder, 17 C.F.R. § 240.10b-5, by the use of means or instrumentalities of
6 interstate commerce, of the mails, or of the facilities of a national securities
7 exchange, in connection with the purchase or sale of any security:

- 8 (a) To employ any device, scheme, or artifice to defraud;
9 (b) To make any untrue statement of a material fact or to omit to state a
10 material fact necessary in order to make the statements made, in the
11 light of the circumstances under which they were made, not
12 misleading; or
13 (c) To engage in any act, practice, or course of business which operates or
14 would operate as a fraud or deceit upon any person.

15
16 **III.**

17 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant
18 Lopez and Defendant Lopez’s agents, servants, employees, attorneys, and all
19 persons in active concert or participation with them who receive actual notice of
20 this Judgment by personal service or otherwise are permanently restrained and
21 enjoined from violating Sections 206(1) and 206(2) of the Investment Advisers Act
22 of 1940 (“Advisers Act”), 15 U.S.C. §§ 80b-6(1) & 80b-6(2), by using the mails or
23 means and instrumentalities of interstate commerce, while acting as an investment
24 adviser, directly or indirectly:

- 25 (a) to employ any device, scheme, or artifice to defraud any client or
26 prospective client; or
27 (b) to engage in any transaction, practice, or course of business which
28 operates as a fraud or deceit upon any client or prospective client.

////

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

////

IV.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant Lopez and Defendant Lopez's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 206(4) of the Advisers Act, 15 U.S.C. § 80b-6(4), and Rule 206(4)-8 promulgated thereunder, 17 C.F.R. § 275.206(4)-8, by the use of the mails or means and instrumentalities of interstate commerce, directly or indirectly, while acting as an investment adviser to a pooled investment vehicle, to:

- (a) Make any untrue statement of a material fact or to omit to state a material fact necessary to make the statements made, in the light of the circumstances under which they were made, not misleading, to any investor or prospective investor in the pooled investment vehicle;
- or
- (c) Otherwise engage in any act, practice, or course of business that is fraudulent, deceptive, or manipulative with respect to any investor or prospective investor in the pooled investment vehicle.

V.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant Lopez shall pay disgorgement of ill-gotten gains, prejudgment interest thereon, and a civil penalty pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3), and Section 209(e)(1) of the Advisers Act, 15 U.S.C. § 80b-9(e)(1). The Court shall determine the amounts of the disgorgement and civil penalties upon motion of the Commission. Prejudgment interest shall be calculated from March 31, 2010, based on the rate of interest used by the Internal Revenue Service for the underpayment

1
2 of federal income tax as set forth in 26 U.S.C. § 6621(a)(2). In connection with the
3 Commission's motion for disgorgement and/or civil penalties, and at any hearing
4 held on such a motion: (a) Defendant Lopez will be precluded from arguing that he
5 did not violate the federal securities laws as alleged in the Complaint; (b)
6 Defendant Lopez may not challenge the validity of the Consent or this Judgment;
7 (c) solely for the purposes of such motion, the allegations of the Complaint shall be
8 accepted as and deemed true by the Court; and (d) the Court may determine the
9 issues raised in the motion on the basis of affidavits, declarations, excerpts of
10 sworn deposition or investigative testimony, and documentary evidence, without
11 regard to the standards for summary judgment contained in Rule 56(c) of the
12 Federal Rules of Civil Procedure. In connection with the Commission's motion for
13 disgorgement and/or civil penalties, the parties may take discovery, including
14 discovery from appropriate non-parties.

15
16 **VI.**

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

21 **VII.**

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

24 Dated: 3/2/12



25 The Honorable Dale S. Fischer
26 United States District Judge
27
28