

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
Miami Division

**CASE NO: 13-23486-CIV-MARTINEZ-MCALILEY**

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

vs.

OM INVESTMENT MANAGEMENT LLC,  
GIGNESH MOVALIA, and  
EDWIN V. GAW

Defendants.

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**JUDGMENT OF PERMANENT INJUNCTION AND OTHER RELIEF  
AS TO DEFENDANT GIGNESH MOVALIA**

The Securities and Exchange Commission having filed a Complaint, and Defendant Gignesh Movalia having entered a general appearance; consented to this Court's jurisdiction over him and the subject matter of this action; consented to entry of this Judgment of Permanent Injunction and Other Relief as to Defendant Gignesh Movalia ("Judgment") without admitting or denying the allegations of the complaint (except as to personal and subject matter jurisdiction, which Movalia admits); waived findings of fact and conclusions of law; and waived any right to appeal from this Judgment:

**I.**

**SECTIONS 5(a) and 5(c) OF THE SECURITIES ACT OF 1933**

**IT IS ORDERED AND ADJUDGED** that Movalia and his agents, servants, employees, attorneys, representatives, 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 Sections 5(a) and 5(c) of the Securities Act of 1933 (the “Securities Act”), 15 U.S.C. §§ 77e(a) and 77e(c), by, directly or indirectly, in the absence of any applicable exemption:

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

**II.**

**SECTION 17(a) OF THE SECURITIES ACT**

**IT IS FURTHER ORDERED AND ADJUDGED** that Movalia and his agents, servants, employees, attorneys, representatives, 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 17(a) of 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 by, directly or indirectly, (i) creating a false appearance or otherwise deceiving any person, or (ii) disseminating false or misleading documents, materials, or information or making, either orally or in writing, any false or misleading statement in any communication with any investor or prospective investor, about:
  - (a) any investment strategy or investment in securities,
  - (b) the prospects for success of any product or company,

- (c) the use of investor funds,
- (d) compensation to any person,
- (e) investor account balances,
- (f) Movalia's qualifications to advise investors, or
- (g) the misappropriation of investor funds or investment proceeds.

**III.**

**SECTION 10(b) OF THE SECURITIES  
EXCHANGE ACT AND EXCHANGE ACT RULE 10b-5**

**IT IS FURTHER ORDERED AND ADJUDGED** that Movalia and his agents, servants, employees, attorneys, representatives 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, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act"), 15 U.S.C. § 78j(b), and Exchange Act Rule 10b-5, 17 C.F.R. § 240.10b-5, by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

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

a false appearance or otherwise deceiving any person, or (ii) disseminating false or misleading documents, materials, or information or making, either orally or in writing, any false or misleading statement in any communication with any investor or prospective investor, about:

- (a) any investment strategy or investment in securities,
- (b) the prospects for success of any product or company,
- (c) the use of investor funds,
- (d) compensation to any person,
- (e) investor account balances,
- (f) Movalia's qualifications to advise investors, or
- (g) the misappropriation of investor funds or investment proceeds.

**IV.**

**SECTIONS 206(1) and (2) OF THE ADVISERS ACT**

**IT IS FURTHER ORDERED AND ADJUDGED** that Movalia and his agents, servants, employees, attorneys, representatives 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, directly or indirectly, Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 (the "Advisers Act"), 15 U.S.C. §§ 80b-6(1) and (2), by using the mails or any means or instrumentality of interstate commerce, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud any clients or prospective clients; or
- (b) to engage in any transaction, practice or course of business which operates as a fraud or deceit upon any clients or prospective clients by, directly or indirectly, (i) creating a false appearance or otherwise deceiving any person, or (ii) disseminating false or misleading documents, materials, or information or making, either orally or in writing, any false or misleading statement in any communication with any investor or prospective investor, about:
  - (a) any investment strategy or investment in securities,
  - (b) the prospects for success of any product or company,
  - (c) the use of investor funds,
  - (d) compensation to any person,
  - (e) investor account balances,
  - (f) Movalia's qualifications to advise investors, or
  - (g) the misappropriation of investor funds or investment proceeds.

V.

**SECTION 206(4) AND RULE 206(4)-8 OF THE ADVISERS ACT**

**IT IS FURTHER ORDERED AND ADJUDGED** that Movalia and his agents, servants, employees, attorneys, representatives 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 Advisers Act Rule 206(4)-8, 17 C.F.R. § 275.206(4)-8, directly or

indirectly, by using the mails or any means or instrumentality of interstate commerce, while engaged in the business of advising a pooled investment vehicle for compensation as to the advisability of investing in, purchasing or selling securities: (a) to make any untrue statement of a material fact or to omit to state a material fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading, to any investor or prospective investor in the pooled investment vehicle; or (b) 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.

**VI.**

**SECTION 206(4) AND RULE 206(4)-2 OF THE ADVISERS ACT**

**IT IS FURTHER ORDERED AND ADJUDGED** that Movalia and his agents, servants, employees, attorneys, representatives 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 aiding and abetting violations of Section 206(4) of the Advisers Act, 15 U.S.C. § 80b-6(4), and Advisers Act Rule 206(4)-2, 17 C.F.R. § 275.206(4)-2, directly or indirectly, by using the mails or any means or instrumentality of interstate commerce, while engaged in the business of advising a pooled investment vehicle for compensation as to the advisability of investing in, purchasing or selling securities, to have custody of client funds or securities without complying with the terms and conditions of Advisers Act Rule 206(4)-2, 17 C.F.R. § 275.206(4)-2.

**VII.**

**SECTION 207 OF THE ADVISERS ACT**

**IT IS FURTHER ORDERED AND ADJUDGED** that Movalia and his agents, servants, employees, attorneys, representatives 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 207 of the Advisers Act, 15 U.S.C. § 80b-7, directly or indirectly, by using the mails or any means or instrumentality of interstate commerce willfully to make any untrue statement of a material fact in a registration application or report filed with the Commission under Section 203 or 204 of the Advisers Act, 15 U.S.C. § 80b-3 or 15 U.S.C. § 80b-4, or willfully to omit to state in any such application or report any material fact which is required to be stated therein.

**VIII.**

**SECTION 203A OF THE ADVISERS ACT**

**IT IS FURTHER ORDERED AND ADJUDGED** that Movalia and his agents, servants, employees, attorneys, representatives 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 aiding and abetting violations of Section 203A of the Advisers Act, 15 U.S.C. § 80b-3a, directly or indirectly, by using the mails or any means or instrumentality of interstate commerce to register, or remain registered, under Section 203 of the Advisers Act, 15 U.S.C. § 80b-3, without complying with the terms and conditions of Section 203A of the Advisers Act, 15 U.S.C. § 80b-3a.



**IX.**

**SECTION 7(a) OF THE INVESTMENT COMPANY ACT**

**IT IS FURTHER ORDERED AND ADJUDGED** that Movalia and his agents, servants, employees, attorneys, representatives 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 aiding and abetting violations of Section 7(a) of the Investment Company Act of 1940, 15 U.S.C. § 80a-7, by any investment company that, directly or indirectly, without being registered with the Commission as an investment company: (a) offers for sale, sells, or delivers after sale, by the use of the mails or any means or instrumentality of interstate commerce, any security or any interest in a security; or offers for sale, sells, or delivers after sale any such security or any interest in a security, having reason to believe that such security or interest will be made the subject of a public offering by the use of the mails or any means or instrumentality of interstate commerce; (b) purchases, redeems, retires, or otherwise acquires or attempts to acquire, by the use of the mails or any means or instrumentality of interstate commerce, any security or any interest in a security; (c) engages in any business in interstate commerce; or (d) controls any company which engages in any of the conduct described in this paragraph.

**X.**

**ASSET FREEZE**

**IT IS FURTHER ORDERED AND ADJUDGED** that, pending further Order of this Court:

A. Movalia and his agents, servants, employees, attorneys, representatives, depositories, banks, and those persons in active concert or participation with any one or more of them, and each of them who receive notice of this Judgment by personal service, mail, facsimile transmission, electronic mail or otherwise, be and hereby are restrained from, directly or indirectly, transferring, setting off, receiving, changing, selling, pledging, assigning, liquidating or otherwise disposing of, or withdrawing any assets or property owned by, controlled by, or in the possession of Movalia, including, without limitation, cash, free credit balances, fully paid for securities, and/or property pledged or hypothecated as collateral for loans, other than as ordered by Court.

B. Any financial or brokerage institution or other person or entity holding any assets or property in the name, for the benefit or under the control of Movalia, directly or indirectly, held jointly or singly, and wherever located, and which receives notice of this Judgment by personal service, facsimile, electronic mail or otherwise, shall hold and retain within its control and prohibit the withdrawal, removal, transfer, disposition, pledge, encumbrance, assignment, set off, sale, liquidation, dissipation, concealment, or other disposal of any such funds or other assets, including, without limitation, the following presently known financial accounts:

- (a) Gignesh Movalia or Sona Ghia  
JPMorgan Chase  
Account number ending in 4095
- (b) OM Investment Management, LLC  
Bank of America  
Account number ending in 3594
- (c) OM Investment Management, LLC  
Interactive Brokers, LLC  
Account number ending in 0799

- (d) OM Global, LP  
Bank of America  
Account number ending in 2389
- (e) OM Global, LP  
Bank of America  
Account number ending in 2392
- (f) OM Global, LP  
Bank of America  
Account number ending in 2402
- (g) OM Global Investment Fund, LLC  
Bank of America  
Account number ending in 3581
- (h) OM Global Investment Fund, LLC  
Interactive Brokers, LLC  
Account number ending in 1864
- (i) OM Investment Management, LLC  
Interactive Brokers, LLC  
Account number ending in 0790

C. Notwithstanding Sections X.A and X.B above, any assets or property of OM Global Investment Fund, LLC (“OM Global”) and OM Global LP (“OM LP”) which are presently under the control of the corporate monitor appointed by the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, in the matter of *Chirag Amin v. Gignesh Movalia et al.*, Case No. 13-18620-CA 13, shall not be subject to this Judgment, but only insofar as such assets and property remain under the control of the corporate monitor; if said assets and property are no longer under the control of the corporate monitor, then said assets and property will automatically be subject to the terms of this Judgment.

D. Notwithstanding Sections X.A and X.B above, Movalia shall be entitled to the release of frozen funds to pay each of his reasonable and necessary living expenses in the total

monthly amount of \$5,548.00. Such funds shall be released on the twenty-fifth (25th) day of each calendar month. Should Movalia have additional expenses in a particular month in excess of \$5,548.00 for which he seeks a release of frozen funds, the parties shall discuss said additional expenses in good faith, and if an agreement is reached, Movalia shall file a consent motion with the Court seeking approval of the release of frozen funds. If the parties are unable to agree, Movalia may move the Court separately for approval and the Commission shall file a response opposing the approval.

E. Also notwithstanding Sections X.A and X.B above, Movalia shall be entitled to the release of frozen funds to pay reasonable attorneys' fees in the total monthly amount of \$2,000.00. Such funds shall be released on the first (1st) day of each calendar month.

F. Further notwithstanding Sections X.A and X.B above, any employment income earned individually by Movalia's wife, Sona Movalia (a.k.a. Sona Ghia), after the date this Judgment is entered shall not be subject to this Judgment.

## **XI.**

### **DISGORGEMENT AND CIVIL PENALTY**

**IT IS FURTHER ORDERED AND ADJUDGED** that Movalia shall pay disgorgement of ill-gotten gains, prejudgment interest, 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), Section 209(e) of the Advisers Act, 15 U.S.C. § 80b-9(e), and Section 42(e) of the Investment Company Act, 15 U.S.C. § 80a-41(e). The Court shall determine the amounts of the disgorgement and civil penalty upon motion of the Commission. Prejudgment interest shall be calculated from July 11, 2013, based on the rate of interest used by the Internal Revenue Service

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

## **XII.**

### **ACCOUNTING**

**IT IS FURTHER ORDERED AND ADJUDGED** that within twenty (20) calendar days of the date this Judgment is entered, Movalia shall:

A. Make a sworn accounting to this Court and the Commission of all funds, whether in the form of compensation, commissions, income (including payments for assets, shares or property of any kind), draws, and other benefits (including the provision of services of a personal or mixed business and personal nature) received by Movalia relating in any way to OM Investment Management, LLC, OM Global Investment Fund, LLC, and/or OM Global, LP;

B. Make a sworn accounting to this Court and the Commission of all assets, funds, or other properties held by Movalia, jointly or individually, or for his direct or indirect beneficial

interest, or over which he maintains control, wherever situated, stating the location, value, and disposition of each such asset, fund, and other property; and

C. Provide to the Court and the Commission a sworn identification of all accounts (including, but not limited to, bank accounts, savings accounts, securities accounts and deposits of any kind) in which Movalia (whether solely or jointly), directly or indirectly (including through a corporation, partnership, relative, friend or nominee), either has an interest or over which he has the power or right to exercise control.

### XIII.

#### **RECORDS PRESERVATION**

**IT IS FURTHER ORDERED AND ADJUDGED** that pending further Order of this Court, Movalia, his directors, officers, agents, servants, employees, attorneys, representatives, depositories, banks, managers, members and those persons in active concert or participation with any one or more of them, and each of them, be and they hereby are restrained and enjoined from, directly or indirectly, destroying, mutilating, concealing, altering, disposing of, or otherwise rendering illegible in any manner, any of the books, records, documents, correspondence, brochures, manuals, papers, ledgers, accounts, statements, obligations, files and other property that refers, reflects or relates in any way, directly or indirectly, in whole or in part, in any manner whatsoever, to OM Investment Management, LLC, OM Global Investment Fund, LLC, and/or OM Global, LP, wherever located and in whatever form, electronic or otherwise.

**XIV.**

**INCORPORATION OF CONSENT**

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

**XV.**

**RETENTION OF JURISDICTION**

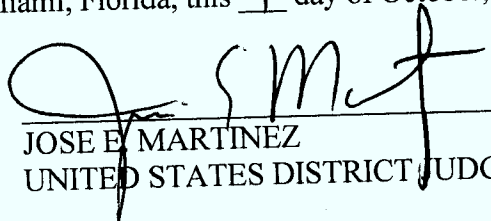
**IT IS FURTHER ORDERED AND ADJUDGED** that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Judgment.

**XVI.**

**RULE 54(b) CERTIFICATION**

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

**DONE AND ORDERED** in Chambers at Miami, Florida, this 9 day of October, 2013.

  
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JOSE E. MARTINEZ  
UNITED STATES DISTRICT JUDGE

Copies provided to:  
Magistrate Judge McAliley  
All Counsel of Record