

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

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

vs.

KENT R.E. WHITNEY, et al.,

Defendants,

and

HA T. “KELLY” HOANG, et al.,

Relief Defendants.

Case No. 8:19-cv-499-JVS-KES

**FINAL JUDGMENT BY
DEFAULT AGAINST
DEFENDANT ALLEN Y. HSU**

Plaintiff Securities and Exchange Commission (“Plaintiff” or the “Commission”) filed a Complaint (“Complaint”) in this action, Defendant Allen Y. Hsu (“Defendant”) failed to answer or to otherwise defend this action, and the District Clerk entered default against Defendant. Thereafter, the Commission filed a Motion for Final Judgment by Default against Defendant, which the Court granted. The Motion being unopposed, therefore:

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. § 78j(b)] and Rule 10b-5 promulgated thereunder [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.

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).

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 [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 Order 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 FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for disgorgement of \$176,587.95, representing net profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest of \$34,234.41 thereon, and a civil penalty in the amount of \$223,229 pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)] for a total of \$434,051.36. Defendant shall satisfy this obligation by paying the total amount to the Securities and Exchange Commission within 30 days after entry of this Final Judgment.

Defendant may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>. Defendant may also pay by

1 certified check, bank cashier's check, or United States postal money order payable
2 to the Securities and Exchange Commission, which shall be delivered or mailed to
3 Enterprise Services Center, Accounts Receivable Branch, 6500 South MacArthur
4 Boulevard, Oklahoma City, OK 73169, and shall be accompanied by a letter
5 identifying the case title, civil action number, and name of this Court; Defendant's
6 name as defendant in this action; and specifying that payment is made pursuant to
7 this Final Judgment.

8 The Commission may enforce the Court's judgment for disgorgement and
9 prejudgment interest by using all collection procedures authorized by law,
10 including, but not limited to, moving for civil contempt at any time after 30 days
11 following entry of this Final Judgment.

12 The Commission may enforce the Court's judgment for penalties by the use
13 of all collection procedures authorized by law, including the Federal Debt
14 Collection Procedures Act, 28 U.S.C. § 3001 *et seq.*, and moving for civil
15 contempt for the violation of any Court orders issued in this action. Defendant
16 shall pay post judgment interest on any amounts due after 30 days of the entry of
17 this Final Judgment pursuant to 28 U.S.C. § 1961. The Commission shall hold the
18 funds, together with any interest and income earned thereon (collectively, the
19 "Fund"), pending further order of the Court.

20 The Commission may propose a plan to distribute the Fund subject to the
21 Court's approval. Such a plan may provide that the Fund shall be distributed
22 pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act
23 of 2002. The Court shall retain jurisdiction over the administration of any
24 distribution of the Fund and the Fund may only be disbursed pursuant to an Order
25 of the Court.

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

17 IV.

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

1 V.

2 IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this
3 matter for the purposes of enforcing the terms of this Final Judgment.

4 VI.

5 IT IS FURTHER ORDERED that all relief not granted expressly herein is
6 DENIED.

7 VII.

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

11 The Court vacates the August 26, 2024, hearing.

12 IT IS SO ORDERED.

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14 Dated: August 20, 2024



17 UNITED STATES DISTRICT JUDGE
18 JAMES V. SELNA
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