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**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

**AGREED FINAL JUDGMENT AS
TO DEFENDANT RICHARD
WHITNEY [303]**

The Securities and Exchange Commission filed a Complaint and Defendant Richard Whitney (“Defendant”): entered a general appearance; consented to the Court’s jurisdiction over Defendant and the subject matter of this action; consented to entry of this Agreed Final Judgment (“Final Judgment”) without admitting or denying the allegations of the Complaint (except as to jurisdiction and except as otherwise provided herein in paragraph V); waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

1 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant
2 is permanently restrained and enjoined from violating, directly or indirectly,
3 Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15
4 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5],
5 by using any means or instrumentality of interstate commerce, or of the mails, or
6 of any facility of any national securities exchange, in connection with the purchase
7 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 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as
16 provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also
17 binds the following who receive actual notice of this Final Judgment by personal
18 service or otherwise: (a) Defendant’s officers, agents, servants, employees, and
19 attorneys; and (b) other persons in active concert or participation with Defendant
20 or with anyone described in (a).

21 II.

22 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED
23 that Defendant is permanently restrained and enjoined from violating Section 17(a)
24 of the Securities Act [15 U.S.C. § 77q(a)] in the offer or sale of any security by the
25 use of any means or instruments of transportation or communication in interstate
26 commerce or by use of the mails, directly or indirectly:

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

- 1 (b) to obtain money or property by means of any untrue statement of a
2 material fact or any omission of a material fact necessary in order to
3 make the statements made, in light of the circumstances under which
4 they were made, not misleading; or
5 (c) to engage in any transaction, practice, or course of business which
6 operates or would operate as a fraud or deceit upon the purchaser.

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

13 III.

14 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that
15 Defendant is liable for disgorgement of \$30,000, representing net profits gained as
16 a result of the conduct alleged in the Complaint, together with prejudgment interest
17 of \$5,611.10 thereon, and a civil penalty in the amount of \$207,183 pursuant to
18 Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the
19 Exchange Act [15 U.S.C. § 78u(d)(3)], for a total of \$242,794.10. Defendant shall
20 satisfy this obligation by paying \$242,794.10 as described in this Section.

21 Payments made under this Section shall be made within 45 days following
22 the entry of this Final Judgment to the Receiver appointed in this case, Robert P.
23 Mosier, c/o Smiley Wang-Ekval, 3200 Park Center Drive, Suite 250, Costa Mesa,
24 CA 92626, and shall become part of the Receivership Assets, defined in this
25 Court’s Order Appointing Receiver dated September 12, 2019 [Doc. 86]
26 (“Receivership Order”), to be distributed to victims upon further Order of this
27 Court.

1 After the receivership is closed, Defendants may transmit payment
2 electronically to the Commission, which will provide detailed ACH
3 transfer/Fedwire instructions upon request. Payment may also be made directly
4 from a bank account via Pay.gov through the SEC website at
5 <http://www.sec.gov/about/offices/ofm.htm>. Defendants may also pay by certified
6 check, bank cashier's check, or United States postal money order payable to the
7 Securities and Exchange Commission, which shall be delivered or mailed to
8 Enterprise Services Center, Accounts Receivable Branch, 6500 South MacArthur
9 Boulevard, Oklahoma City, OK 73169, and shall be accompanied by a letter
10 identifying the case title, civil action number, and name of this Court; Defendants'
11 names as defendants in this action; and specifying that payment is made pursuant
12 to this Final Judgment.

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

18 The Commission shall hold the funds (collectively, the "Fund") until further
19 order of this Court. The SEC may propose a plan to distribute the Fund subject to
20 the Court's approval, and the Court shall retain jurisdiction over the administration
21 of any distribution of the Fund.

22 The Commission may enforce the Court's judgment for disgorgement and
23 prejudgment interest by using all collection procedures authorized by law,
24 including, but not limited to, moving for civil contempt at any time after 30 days
25 following entry of this Final Judgment. Defendants shall pay post judgment
26 interest on any amounts due after 30 days of entry of this Final Judgment pursuant
27 to 28 U.S.C. § 1961.

1 IV.

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

6 V.

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

16 VI.

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

19 VII.

20 IT IS FURTHER ORDERED that all relief not granted expressly herein is
21 DENIED.

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VIII.

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 Final Judgment forthwith and without further notice.

IT IS SO ORDERED.

Dated: July 14, 2023.



UNITED STATES DISTRICT JUDGE
JAMES V. SELNA

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