

1 ALYSSA A. QUALLS (IL Bar No. 6292124)
Email: quallsa@sec.gov
2 MICHAEL FOSTER (IL Bar No. 6257063)
Email: fostermi@sec.gov
3 BRIAN D. FAGEL (IL Bar No. 6224886)
Email: fagelb@sec.gov
4 PETER SENECHALLE (IL Bar No. 6300822)
Email: senechallep@sec.gov
5 175 West Jackson Blvd., Suite 1450
United States Securities and Exchange Commission
6 Chicago, Illinois 60604
Telephone: (312) 353-7390
7 Facsimile: (312) 353-7398

8 Attorneys for Plaintiff
United States Securities and Exchange Commission
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10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN JOSE DIVISION**

13 UNITED STATES SECURITIES AND
14 EXCHANGE COMMISSION,

15 Plaintiff,

16 v.

17 ROBERT C. DOBKIN, CYNTHIA BRAUN,
18 MICHAEL FIORILLO, and JEFFREY S.
GREGERSEN,

19 Defendants.
20

Case No. 21-cv-09285-EJD

~~[PROPOSED]~~ **FINAL JUDGMENT AS TO
DEFENDANT MICHAEL FIORILLO**

21 The Securities and Exchange Commission having filed a Complaint and Defendant Michael
22 Fiorillo having entered a general appearance; consented to the Court's jurisdiction over Defendant
23 and the subject matter of this action; consented to entry of this Final Judgment without admitting or
24 denying the allegations of the Complaint (except as to jurisdiction and except as otherwise provided
25 herein in paragraph V); waived findings of fact and conclusions of law; and waived any right to
26 appeal from this Final Judgment:
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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 FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant shall pay a civil penalty in the amount of \$460,000 to the Securities and Exchange Commission pursuant to Section 21A of the Exchange Act, 15 U.S.C. § 78u-1. Defendant shall make this payment pursuant to the terms of the payment schedule set forth below in Section III.

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 certified check, bank cashier’s check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to

1 Enterprise Services Center
2 Accounts Receivable Branch
3 6500 South MacArthur Boulevard
4 Oklahoma City, OK 73169

5 and shall be accompanied by a letter identifying the case title, civil action number, and name of this
6 Court; Michael Fiorillo as a defendant in this action; and specifying that payment is made pursuant
7 to this Final Judgment.

8 Defendant shall simultaneously transmit photocopies of evidence of payment and case
9 identifying information to the Commission's counsel in this action. By making this payment,
10 Defendant relinquishes all legal and equitable right, title, and interest in such funds and no part of
11 the funds shall be returned to Defendant. The Commission shall send the funds paid pursuant to this
12 Final Judgment to the United States Treasury.

13 The Commission may enforce the Court's judgment for penalties by the use of all collection
14 procedures authorized by law, including the Federal Debt Collection Procedures Act, 28 U.S.C.
15 § 3001 *et seq.*, and moving for civil contempt for the violation of any Court orders issued in this
16 action. Defendant shall pay post-judgment interest on any amounts due after 30 days of the entry of
17 this Final Judgment pursuant to 28 USC § 1961.

18 III.

19 Defendant shall pay the total penalty due of \$460,000 in 12 installments to the Commission
20 according to the following schedule:

- 21 (1) \$25,000, within 1 month of entry of this Final Judgment;
- 22 (2) \$25,000, within 2 months of entry of this Final Judgment;
- 23 (3) \$25,000, within 3 months of entry of this Final Judgment;
- 24 (4) \$25,000, within 4 months of entry of this Final Judgment;
- 25 (5) \$25,000, within 5 months of entry of this Final Judgment;
- 26 (6) \$25,000, within 6 months of entry of this Final Judgment;
- 27 (7) \$25,000, within 7 months of entry of this Final Judgment;
- 28 (8) \$25,000, within 8 months of entry of this Final Judgment;

- 1 (9) \$25,000, within 9 months of entry of this Final Judgment;
- 2 (10) \$25,000, within 10 months of entry of this Final Judgment;
- 3 (11) \$25,000, within 11 months of entry of this Final Judgment; and
- 4 (12) \$185,000, within 12 months of entry of this Final Judgment.

5 Payments shall be deemed made on the date they are received by the Commission and shall
6 be applied first to post judgment interest, which accrues pursuant to 28 U.S.C. § 1961 on any unpaid
7 amounts due after 30 days of the entry of Final Judgment. Prior to making the final payment set
8 forth herein, Defendant shall contact the staff of the Commission for the amount due for the final
9 payment.

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

15 IV.

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

19 V.

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


1 VI.

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

4 VII.

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

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8 Dated: April 6, 2023

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10 HON. EDWARD J. DAVILA
11 UNITED STATES DISTRICT JUDGE
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