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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Securities and Exchange Commission,
10 Plaintiff,
11 v.
12 Arthur S Hoffman,
13 Defendant.
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No. CV-22-00296-PHX-ROS
FINAL JUDGMENT

15 Pursuant to the “Consent of Defendant Arthur S. Hoffman to Final Judgment,” the
16 Court enters this Final Judgment.

17 Accordingly,

18 **IT IS ORDERED** the Motion to Approve Consent Judgment (Doc. 4) is
19 **GRANTED** and this Final Judgment is entered. The Clerk of Court shall close this case.

20 **I.**

21 **IT IS ORDERED** Defendant is permanently restrained and enjoined from
22 violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the
23 “Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R.
24 § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the
25 mails, or of any facility of any national securities exchange, in connection with the
26 purchase or sale of any security:

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

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- 1 (b) to make any untrue statement of a material fact or to omit to state a material
- 2 fact necessary in order to make the statements made, in the light of the
- 3 circumstances under which they were made, not misleading; or
- 4 (c) to engage in any act, practice, or course of business which operates or would
- 5 operate as a fraud or deceit upon any person.

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

11 **II.**

12 **IT IS FURTHER ORDERED** Defendant is permanently restrained and enjoined
13 from violating Section 17(a) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C.
14 § 77q(a)] in the offer or sale of any security by the use of any means or instruments of
15 transportation or communication in interstate commerce or by use of the mails, directly or
16 indirectly:

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

25 **IT IS FURTHER ORDERED** as provided in Federal Rule of Civil Procedure
26 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this
27 Final Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants,
28 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 Defendant is 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 80b-6(2)], by the use of the mails or any means or instrumentalities of interstate commerce:

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

IT IS FURTHER ORDERED 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).

IV.

IT IS FURTHER ORDERED Defendant is liable for disgorgement of \$160,000, representing net profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$11,973.78, and a civil penalty in the amount of \$160,000 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) of the Advisers Act [15 U.S.C. § 809(e)]. Defendant shall satisfy this obligation by paying \$331,973.78 to the Securities and Exchange Commission within 365 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

1 http://www.sec.gov/about/offices/ofm.htm. Defendant may also pay by certified check,
2 bank cashier's check, or United States postal money order payable to the Securities and
3 Exchange Commission, which shall be delivered or mailed to

4 Enterprise Services Center
5 Accounts Receivable Branch
6 6500 South MacArthur Boulevard
7 Oklahoma City, OK 73169

8 and shall be accompanied by a letter identifying the case title, civil action number, and
9 name of this Court; Arthur S. Hoffman as a defendant in this action; and specifying that
10 payment is made pursuant to this Final Judgment.

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

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

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

26 The Commission may propose a plan to distribute the Fund subject to the Court's
27 approval. Such a plan may provide that the Fund shall be distributed pursuant to the Fair
28 Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. The Court shall

retain jurisdiction over the administration of any distribution of the Fund and the Fund may only be disbursed pursuant to an Order of the Court.

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

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

VI.

IT IS FURTHER ORDERED solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the allegations in the complaint are true and admitted by Defendant, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Defendant under this Final

1 Judgment or any other judgment, order, consent order, decree or settlement agreement
2 entered in connection with this proceeding, is a debt for the violation by Defendant of the
3 federal securities laws or any regulation or order issued under such laws, as set forth in
4 Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

5 **VII.**

6 **IT IS FURTHER ORDERED** this Court shall retain jurisdiction of this matter for
7 the purposes of enforcing the terms of this Final Judgment.

8 Dated this 8th day of August, 2022.

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12 Honorable Roslyn O. Silver
13 Senior United States District Judge
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