UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-15936

In the Matter of

CHRISTOPHER A.T. PEDRAS (a/k/a CHRIS PEDRAS a/k/a ANTONE THOMAS PEDRAS),

Respondent.

RENEWED MOTION BY DIVISION OF ENFORCEMENT FOR A FINDING THAT RESPONDENT CHRISTOPHER A.T. PEDRAS IS IN DEFAULT AND FOR IMPOSITION OF REMEDIAL SANCTIONS; DECLARATION OF KAREN MATTESON; EXHIBITS

I. BACKGROUND

On June 18, 2014, the Commission issued an Order Instituting Proceedings ("OIP") in this matter pursuant to Section 15(b) of the Securities Exchange Act of 1934. The OIP alleges that from at least July 2010 until the Commission filed an injunctive action seeking emergency relief on October 28, 2013, Respondent Christopher A.T. Pedras ("Pedras") offered and sold securities in unregistered offerings based on materially false representations and omissions without being registered as a broker, in furtherance of a Ponzi scheme by which more than $5.6 million was raised from over fifty United States investors; and that a final judgment by default was entered against Pedras on June 10, 2014, permanently enjoining him from future violations of Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933, and Sections 10(b) and 15(a) of the Exchange Act and Rule 10b-5 thereunder, in *SEC v. Pedras*, Civil Action No. 13-07932 GAF (C.D. Cal.).

Pedras was in New Zealand when the Commission filed its injunctive action against him; he later relocated to the nation of Tonga. The Division of Enforcement ("Division") served Pedras with the OIP by email, which method of service had been approved by the district court in the injunctive action. When Pedras failed to answer, the Division moved on December 11, 2014, for a

finding that Pedras was in default and for imposition of remedial sanctions in this proceeding. That motion was denied on December 12, 2014, on the grounds that Pedras had not been properly served with the OIP. (*See* Admin. Proceedings Rulings, Release No. 2129 (Postponement Order).)

The United States Department of Justice ("DOJ") sought Pedras' removal to the United States so that he could be tried on criminal charges. When the removal proceeding before the Tongan courts was unsuccessful, DOJ sought Pedras' extradition. That proceeding was ultimately successful, and Pedras was returned to the United States, in the custody of the United States Marshals Service, on September 30, 2016. That same day, the Division caused Pedras to be personally served by the Marshals Service with copies of:

(1) The OIP in this matter;

(2) The Memorandum & Order Regarding Motion for Default Judgment issued by the district court in *SEC v. Pedras* on April 16, 2014 (Dkt. No. 74); and

(3) The Final Judgment by Default against Defendants Christopher A.T. Pedras, Alicia Bryan, Maxum Gold BNK Holdings Limited, Maxum Gold BNK Holdings LLC, FMP Medical Services Limited, and FMP Medical Services LLC and Relief Defendant Comptroller 2013 Limited, filed on June 9 and entered on June 10, 2014, in the district court action.

(October 5, 2016, Declaration by Karen Matteson, Counsel for the Division of Enforcement, Regarding September 30, 2016, Personal Service on Respondent with the Order Instituting Proceedings.)[1]

Pedras was thus properly served with the OIP pursuant to Rule 141(a)(2)(i) by personal service on September 30, 2016. Pursuant to Rule 220(b), his Answer to the OIP was due by October 20, 2016. (*See* Admin. Proceedings Rulings, Release No. 4235 (October 7, 2016

[1] Court-certified copies of the Memorandum & Order and the Final Judgment are attached to the appended Declaration of Karen Matteson ("Matteson Dec.") as Exhibits 1 and 2.

Postponement Order).)[2] Pedras has neither served an Answer on the Division nor filed one with the Office of the Secretary. (Appended Matteson Declaration ¶ 2.)

The Division accordingly now moves pursuant to Rules 155(a)(2) and 220(f) for a finding that Pedras is in default, and imposition of remedial sanctions. In this case, the Division requests that Pedras be barred from associating with a broker or dealer, and be collaterally barred from associating with an investment adviser, municipal securities dealer, municipal adviser, transfer agent, nationally recognized statistical rating organization (NRSRO), or investment company, or participating in an offering of penny stock. Previously, Judge Elliot imposed these sanctions against Alicia Bryan ("Bryan"), Pedras' co-defendant in the injunctive action, after she defaulted after being personally served. *In the Matter of Bryan*, Initial Decision Release No. 697, 2014 SEC LEXIS 3961 (Oct. 22, 2014). Notably, as evidenced by the description of their relative roles by the district court, Pedras is the more culpable of the two; Bryan was his "lead sales representative." (Matteson Dec. Ex. 1 (Memorandum &Order) at 3:21-23.)

The sanctions imposed against Bryan were based upon the same default judgment which forms the basis for this motion for such relief to be imposed against Pedras. *See Bryan* at *1 (citing injunctive action) & *5 n.1 (identifying exhibits); Matteson Dec. Ex. 1 (Memorandum & Order) & Ex. 2 (Final Judgment). The Division requests, pursuant to Rule of Practice 323, that official notice be taken of the Initial Decision in *Bryan*, which is part of the official records of the Commission, as well as of the Memorandum & Order, the Final Judgment, and other documents included in the file in the district court action.

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[2] The Division produced to Pedras all nonprivileged documents described in Rule 230, and as required by the October 7 Postponement Order, by U.S. Express Mail between October 13 and October 17, 2016. The Division does not rely on any of these documents, however. Rather, it relies on the attached district court's Memorandum & Order and Final Judgment, both of which were personally served on Pedras together with the OIP. (*See* October 5 Matteson Declaration.)

II. ARGUMENT

A. Pedras Has Failed To Answer After Being Properly Served, And Is In Default

Because Pedras has never responded to the OIP, he is in default. Rule 155(a) of the Commission's Rules of Practice states that:

> A party to a proceeding may be deemed to be in default and the Commission or the hearing officer may determine the proceeding against the party upon consideration of the record, including the order instituting proceedings, the allegations of which may be deemed to be true, if that party fails: ...
>
> (2) To answer, to respond to a dispositive motion within the time provided, or otherwise to defend the proceeding ....

Moreover, the OIP itself provides that "If Respondent fails to file the directed answer . . . the Respondent may be deemed in default and the proceedings may be determined against him upon consideration of this Order, the allegations of which may be deemed to be true . . . ." (OIP at p. 3.)

Pedras was properly served with the OIP and is on notice of these proceedings. Rule 141(a)(2)(i) sets forth permissible methods of service of the OIP upon individuals, which include "delivering a copy of the order instituting proceedings to the individual," and which defines "delivery" to include "handing a copy of the order to the individual." As explained, the Marshals Service did exactly that, personally serving Pedras with the OIP on September 30.

The Division requests that Pedras be found to be in default, as he has failed to timely file and serve an Answer after having been personally served with the OIP. (*See* Matteson Dec. ¶ 2.)

B. A Permanent Collateral Bar And A Penny Stock Bar Should Be Imposed

There are several well-recognized factors that are to be considered in determining the appropriate remedy in the public interest in proceedings seeking to bar a respondent. Those factors are: (1) the egregiousness of the respondent's actions; (2) the isolated or recurrent nature of the infractions; (3) the degree of scienter involved; (4) the sincerity of the respondent's assurances

against future violations; (5) the respondent's recognition of the wrongful nature of his or her conduct; and (6) the likelihood that the respondent's occupation will present opportunities for future violations. *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979); *In the Matter of Von Hase*, Initial Decision Release No. 1061 at 5, 2016 SEC LEXIS 3491 *12-13 (Sept. 16, 2016) (*Steadman* factors used to determine whether a bar is in the public interest, in a case where sanctions were imposed by default). The Commission also considers the age of the violation and the degree of harm to investors and the marketplace resulting from the violation. *Von Hase*, at 5 and *13, *citing In the Matter of Melton*, 56 S.E.C. 695, 698, 2003 SEC LEXIS 1767, at *5 (July 25, 2003). Additionally, the Commission considers the extent to which the sanction will have a deterrent effect. *Von Hase*, at 5 and *13, *citing In the Matter of Schield Mgmt Co.*, 58 S.E.C. 1197, 1217 n.46, 2006 SEC LEXIS 195, at *35 n.46 (Jan. 31, 2006). The public interest requires a severe sanction when a respondent's past misconduct involves fraud because opportunities for dishonesty recur constantly in the securities business. *Von Hase*, at 5 and *13, *citing In the Matter of Bugarski*, Exchange Act Release No. 66842, 2012 SEC LEXIS 1267, at *18 n.26 (Apr. 20, 2012) (imposing industry and penny stock bars); and *In the Matter of Richard C. Spangler, Inc.*, 46 S.E.C. 238, 252, 1976 SEC LEXIS 2418, at *34 (Feb. 12, 1976).

All of the *Steadman* factors are present in this case, as are the additional factors considered by the Commission. First, pursuant to Rules 155(a) and 220(f), the allegations of the OIP are deemed true when a respondent fails to timely answer and is in default. *See Von Hase* at 2. The allegations against Pedras include that a final judgment by default was entered on June 10, 2014, in a district court action brought against Pedras, permanently enjoining him from future violations of Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933, and Sections 10(b) and 15(a) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder. (OIP ¶ 2.) The factors weighed for

entry of an injunction are virtually identical to the *Steadman* factors. *See SEC v. Murphy*, 526 F.2d 633, 655 (9th Cir. 1980). The district court weighed those factors in determining that injunctive relief was appropriate against Pedras. (*See* Matteson Dec. Ex. 1 (Memorandum & Order) at 17:7-18:7.) Applying collateral estoppel principles, Pedras is precluded from contesting any findings made against him in the civil injunctive action. *See In the Matter of Grosnickle*, Initial Decision Release No. 441, 2011 SEC LEXIS 3969, * 4 (Nov. 10, 2011), *citing In the Matter of Gunderson*, Exchange Act Release No. 61234, 2009 SEC LEXIS 4322 *15-16 (Dec. 23, 2009).[3]

With regard to the underlying violations, the OIP alleges that from at least July 2010 until the Commission filed its injunctive action on October 28, 2013, Pedras, through five different U.S. and New Zealand-based entities of which he was an owner, officer and/or director, offered and sold securities in unregistered offerings based on materially false representations and omissions without being registered as a broker, in furtherance of a Ponzi scheme by which more than $5.6 million was raised from over fifty United States investors. (OIP ¶ 3.) Among other false representations, Pedras told investors that the Maxum Gold Trade Program was a "low risk" investment with returns ranging between 4-8% per month and claimed investor funds would be placed in escrow to facilitate a bank trade program. (*Id.*) When Pedras was unable to pay the promised returns, he began promoting the FMP Renal Program to Maxum Gold Trade Program investors, falsely claiming, among other things, that the new program would instantaneously increase the value of Maxum Gold investors' investments by approximately 80%. (*Id.*) In fact, neither investment program was real; instead, they were a Ponzi scheme. (*Id.*) Pursuant to the Ponzi scheme, Pedras paid out more than $2.4 million in investor "returns" directly out of investor

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[3] Because Pedras cannot contest the facts found by the district court, the Division's motion for imposition of sanctions could alternatively be treated as a motion for summary disposition, with the same result.

funds, misappropriated nearly $2 million in cash, cars, retail purchases and transfers to and from his related companies, and caused $1.2 million to be paid in sales commissions to a network of sales agents. (*Id.*)

These same facts were found by the district court.[4] In particular, the Court found that Pedras, the "lead sales representative," falsely represented the nature of the investments in two specific phases. (Ex. 3 (Memorandum & Order) 3:21-3:23.) First, Pedras and the other defendants pitched the "Maxum Gold" investment program as a "low risk" investment with 4-8% monthly returns, when it was nothing more than a Ponzi scheme. (*Id.* at 3:23-4:3.) Second, after Pedras and the other defendants had difficulty making the promised payouts, they began offering the FMP Renal Program, backing New Zealand kidney dialysis clinics, to investors who had already bought into the Maxum Gold Program. (*Id.* at 4:4-4:7.) Victims were told they could increase the value of their Maxum investments by 80% overnight if they invested in this new program. (*Id.* at 4:8-4:13.) None of the Defendants' investment promises were true. (*Id.* at 4:14.) Neither investment program was real. (*Id.* at 4:14-4:15.) Of the $5.6 million raised, Pedras and the other defendants returned $2.4 million as "investment returns," and paid over $1.2 million in commissions to a small network of sales agents. (*Id.* at 4:15-4:17.) Respondent Pedras appropriated nearly $2 million in cash, purchases, and transfers to his related companies. (*Id.* at 4:18-4:19.) Neither the instruments associated with the Maxum Gold Program nor the FMP Renal Program were registered with the Commission. (*Id.* at 4:19-4:21.)

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[4] The district court made its findings based not only on facts alleged in the Commission's Complaint, but also noted that the facts were "supported by evidence produced by Plaintiff [Commission] in these proceedings." (Ex. 1 (Memorandum & Order) at 3:15-3:16.) In particular, the Commission presented evidence in support of its application for a temporary restraining order and preliminary injunction filed simultaneously with its Complaint. Official notice may and should be taken of the documents filed in *SEC v. Pedras* pursuant to Rule of Practice 323, including the Memorandum & Order and Final Judgment. *See Bryan* at 2 and *5.

The district court further specifically found that Pedras engaged in the sale or offer of securities for both the Maxum Gold and FMP Renal Programs, that the investment offerings were not registered with the Commission, and that the Defendants, including Pedras, accordingly violated Sections 5(a) and 5(c) of the Securities Act. (*Id.* at 9:2-9:11.) Similarly, the Court found that the Defendants made several affirmative misrepresentations in violation of the antifraud provisions, and that Pedras falsely represented that money would be used for investments, "when instead it was diverted directly to Pedras' pockets." (*Id.* at 10:1-10:3.) The district court also specifically found that Pedras acted with scienter, because he knew that he was using false offering and marketing materials to solicit investors. (*Id.* at 10:7-10:16.) Finally, the Court found that Pedras violated the requirement of Exchange Act Section 15(a) that he be registered as a broker when he directly solicited investors for the Maxum and FMP Renal Programs, recruited sales agents in order to promote the programs, and paid the sales agents commissions, without being registered with the SEC or associated with a registered broker. (*Id.* at 11:3-11:14.)

As explained, the factors weighed for entry of an injunction under *SEC v. Murphy* are essentially identical to the *Steadman* factors, and the district court weighed those factors in determining that injunctive relief was appropriate against Pedras. (*See* Ex. 1 (Memorandum & Order) at 17:7-18:7.) The district court noted that a permanent injunction is particularly appropriate where a violation is "founded on systemic wrongdoing rather than an isolated occurrence," or "involved a 'high degree of scienter,'" finding that the Defendants' violations – including Pedras' – met this criteria. *Id.* at 17:26-18:3, *citing SEC v. Berger*, 244 F. Supp. 2d 180, 193 (S.D.N.Y. 2001). Pedras has also not acknowledged his wrongdoing, nor made any assurances, much less reasonable ones, that he will not violate the registration and antifraud provisions in the future. (Matteson Dec. Ex. 1 (Memorandum & Order) at 18:2-18:3.)

The additional factors considered by the Commission in imposing sanctions are also present. The violations were ongoing at the time the Commission filed its injunctive action in 2013, so they were very recent when this proceeding was instituted in 2014, and remain recent. The investors have lost at least $3.2 million of the $5.6 million raised, as Pedras paid only $2.4 million to them in the Ponzi scheme as purported "returns." An industry bar will have a deterrent effect, both on Pedras and others who contemplate similar schemes. Finally, the public interest requires a severe sanction because Pedras' past misconduct involves fraud. In fact, he was an architect of the fraudulent scheme, whereas Bryan, against whom collateral industry and penny stock bars have already been imposed, was simply his "lead sales representative." (*See id.* at 3:21-3:23.)

Because all of the *Steadman* and other factors are present, it is in the public interest to impose a bar which not only precludes Pedras from associating with any broker or dealer, but a full collateral bar precluding him from associating with any securities professional, and from participating in any offering of a penny stock.

III. CONCLUSION

For the reasons stated, Pedras should be found in default and a permanent collateral bar and a penny stock bar should be imposed against him.

Dated: October 26, 2016

Respectfully submitted,

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DECLARATION BY KAREN MATTESON

I, Karen Matteson, declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am the attorney representing the Division of Enforcement in this proceeding. I am also one of the attorneys representing the Commission in the injunctive action *SEC v. Pedras*, CV 13-07932 GAF (MRWx), filed in the Central District of California. I have personal knowledge of the following facts and, if called as a witness, would testify competently thereto.

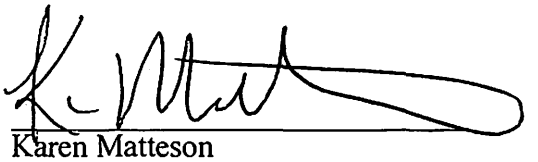
2. The Division of Enforcement has not been served with an Answer by Pedras in this proceeding. On October 26, 2016, I telephoned the Office of the Secretary. I spoke with Margaret Baldwin, who confirmed that Pedras had not filed an Answer, or any other document responsive to the OIP, in this proceeding.

3. Attached as Exhibit 1 is an original court-certified copy of the Memorandum & Order Regarding Motion for Default Judgment, issued by the District Court on April 16, 2014 in *SEC v. Pedras*.

4. Attached as Exhibit 2 is an original court-certified copy of the Final Judgment by Default Against Defendants Christopher A.T. Pedras, Alicia Bryan, Maxum Gold Bnk Holdings Limited, Maxum Gold Bnk Holdings LLC, FMP Medical Services Limited, and FMP Medical Services LLC, and Relief Defendant Comptroller 2013 Limited, filed by the Court on June 9, 2014, and entered into the docket by the Clerk on June 10, 2014, in *SEC v. Pedras*.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 26, 2016, at Los Angeles, California.



Karen Matteson

EXHIBIT 1

LINK: 62

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, v. CHRISTOPHER A. T. PEDRAS (aka CHRIS PEDRAS aka ANTONE THOMAS PEDRAS; SYLVESTER M. GRAY II; ALICIA BRYAN; MAXUM GOLD BNK HOLDINGS LIMITED; MAXUM GOLD BNK HOLDINGS LLC; FMP MEDICAL SERVICES LIMITED; and FMP MEDICAL SERVICES LLC, Defendants, and COMPTROLLER 2013 LIMITED Relief Defendant.	**Case No. CV 13-7932 GAF (MRWx)** MEMORANDUM & ORDER REGARDING MOTION FOR DEFAULT JUDGMENT

I.

INTRODUCTION

Plaintiff, the Securities and Exchange Commission (the "SEC" or "Plaintiff"), seeks entry of default judgment pursuant to Federal Rule of Civil Procedure 55(b)(2)

against Defendants Christopher A. T. Pedras ("Pedras"), Alicia Bryan ("Bryan"), Maxum Gold Bnk Holdings Limited ("Maxum Ltd."), Maxum Gold Bnk Holdings LLC ("Maxum LLC"), FMP Medical Services Limited ("FMP Ltd."), and FMP Medical Services LLC ("FMP LLC"), and Relief Defendant Comptroller 2013 Limited ("Comptroller Ltd.") (collectively, "Defaulting Defendants"). (Docket No. 62 [Not. of Motion ("Not.")].) Sylvester M. Gray II ("Gray"), also named as a Defendant, has responded to the complaint and is therefore not included in Plaintiff's motion.

The SEC alleges that all Defaulting Defendants, other than Comptroller Ltd., have violated: (1) the security registration provisions of Sections 5(a) and 5(c) of the Securities Act of 1933 (the "Securities Act"); (2) the antifraud provisions of Section 17(a) of the same Act; and (3) Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act"), and the corresponding Rule 10b-5, 17 C.F.R. § 240.10b-5. (Docket No. 63 [Mem. in Support of Default ("Mem.")] at 1; Docket No. 1 [Complaint ("Compl.")] ¶¶ 81–92.) Additionally, Plaintiff alleges that Defendants Pedras and Bryan have violated Section 15(a) of the Exchange Act by using interstate commerce to effect transactions in securities without being registered with the SEC. (Mem. at 1; Compl. ¶¶ 93–95.)

Plaintiff seeks entry of a judgment: (1) enjoining all Defaulting Defendants other than Comptroller Ltd. from violating Sections 5(a) and 5(c) of the Securities Act; (2) enjoining all Defaulting Defendants other than Comptroller Ltd. from violating Section 17(a) of the Securities Act and Rule 10b-5 thereunder; and (3) enjoining Pedras and Bryan from violating Section 15(a) of the Exchange Act. (Mem. at 1.) Additionally, Plaintiff asks for a judgment against Pedras, Maxum Ltd., Maxum LLC, FMP Ltd., and FMP LLC, holding them jointly and severally liable for $3,185,152 in ill-gotten gains, plus $31,492.64 in prejudgment interest, for a total of $3,216,644.64. (Id. at 2.) Plaintiff also asks that Comptroller Ltd. be found jointly and severally liable for a portion of that total: $553,403.70, plus $5,471.68 in prejudgment interest, for a subtotal of $558,875.38. (Id.; Docket No. 71 [Suppl. Longo Decl.] ¶ 8.) And Plaintiff

asks that the Court order Bryan to disgorge $226,676 in ill-gotten gains—another portion of the total amount—along with $2,241.22 in prejudgment interest, for a subtotal of $228,917.22. (Mem. at 2.) Finally, Plaintiff asks for third-tier civil penalties against both Pedras and Bryan under Section 20(d) of the Securities Act and Section 21(d)(3) of the Exchange Act. (Id.) This penalty would leave Pedras with an additional liability of $1,985,152, and Bryan with an additional liability of $150,000. (Id.)

After examining Plaintiff's relevant filings, the Court concludes that Plaintiff is entitled to default judgment because it has satisfied all of the relevant procedural requirements, has pleaded sufficient facts in its complaint to justify entry of default judgment, seeks remedies the Court deems proper, and has shown that it is entitled to relief. Accordingly, Plaintiff's motion for default judgment is **GRANTED** for the reasons and on the terms set forth below.

II.

BACKGROUND

The following facts are those alleged in Plaintiff's complaint and supported by evidence produced by Plaintiff in these proceedings.

A. DEFENDANTS' ACTIONS

Beginning in July 2010, Defendants offered and sold unregistered securities based on materially false representations and omissions. (Compl. ¶ 4.) In doing so, they raised over $5.6 million from more than 50 investors in the United States. (Id.)

Defendants Pedras and Gray[1] were business partners. (Id.) Together with Defendant Bryan, their lead sales representative, they falsely represented the nature of investments in two successive phases. (Id.) First, they pitched a "Maxum Gold Trade Program" to investors, describing it as a "low risk" investment with returns ranging between four and eight percent per month. (Id. ¶ 5.) The securities offered as an

[1]Gray is the only Defendant to have filed an answer to Plaintiff's complaint, and is therefore not one of the targets of the current motion. His alleged role is described only to provide factual context.

investment in this program took the form of investment contracts issued by Defendants Maxum Ltd. and Maxum LLC. (Id.)

However, the investment was nothing more than a Ponzi scheme. (Id. ¶ 7.) Eventually, when they began having difficulty making their promised payouts on the Maxum Gold Trade Program, Pedras, Gray, and Bryan changed their pitch. (Id. ¶ 6.) They began offering the "FMP Renal Program" to investors who had already bought in to the Maxum Program. (Id.)

The FMP Renal Program purported to offer investors the opportunity to back kidney dialysis clinics in New Zealand. (Id.) By signing on to this Program, victims were told that they could increase the value of their Maxum Program investments by 80% overnight. (Id.) They were told to wire money to Defendant Comptroller Ltd.; the money would then be used to purchase securities issued by Defendants FMP Ltd. and FMP LLC. (Id.)

None of Defendants' investment promises were true. (Id. ¶ 7.) Neither the Maxum Gold Trade Program nor the FMP Renal Program are real. (Id.) Of the $5.6 million they raised, Defendants have returned $2.4 million as "investment returns," and paid over $1.2 million in commissions to a small network of sales agents. (Id.) Defendant Pedras has appropriated nearly $2 million in cash, purchases, and transfers to his related companies. (Id.) Neither the instruments associated with the Maxum Gold Trade Program, nor the instruments associated with the FMP Renal Program, were registered with the SEC. (Id. ¶ 8.)

B. THE PRESENT ACTION

The SEC filed this action on October 28, 2013. (Compl.) It then served the complaint on each of the Defendants. Defendant Pedras was served via email, as authorized by this Court, on October 30, 2013. (Docket No. 35.) He was then served personally on November 4, 2013. (Docket No. 25.) Defendant Bryan was served personally on October 31, 2013. (Docket No. 31.) Defendant Maxum Ltd. was served via email, as authorized by this Court, on October 30, 2013, by service upon Pedras.

(Docket No. 32.) It was then served by personal service on its registered agent on November 4, 2013. (Docket No. 37.) Maxum LLC was served by personal service on its registered agent on October 31, 2013. (Docket No. 29.) FMP Ltd. was served via email, as authorized by this Court, on October 30, 2013, by service upon Pedras. (Docket No. 33.) It was then served by personal service on its registered agent on November 5, 2013. (Docket No. 36.) FMP LLC was served by personal service on its registered agent on October 31, 2013. (Docket No. 30.) Comptroller Ltd. was served via email, as authorized by this Court, on October 30, 2013, by service upon Pedras. (Docket No. 26.) It was then served by personal service on its registered agent on November 4, 2013. (Id.)

Defaulting Defendants have never responded to the complaint. Accordingly, at Plaintiff's request, the Court Clerk entered default against each of them on December 20, 2013. (Docket No. 59 [Clerk's Default].) Plaintiff then served the notice of entry of default on each Defaulting Defendant. (Docket No. 61.) Plaintiff filed the present motion for default judgment on February 21, 2014. (Not.)

III.

DISCUSSION

A. PROCEDURAL REQUIREMENTS FOR ENTRY OF DEFAULT JUDGMENT

Rule 55(b) of the Federal Rules of Civil Procedure permits a court-ordered default judgment following the entry of default by the Court Clerk under Rule 55(a). Elektra Entm't Grp., Inc. v. Bryant, 2004 WL 783123, at *1 (C.D. Cal. Feb. 13, 2004) (citing Kloepping v. Fireman's Fund, 1996 WL 75314, at *2 (N.D. Cal. Feb. 13, 1996)). Local Rule 55-1 requires that motions for default judgment set forth the following information: (1) when and against what party default was entered; (2) identification of the pleading as to which default was entered; (3) whether the defaulting party is an infant or incompetent person, and if so, whether that person is adequately represented;

(4) that the Servicemembers Civil Relief Act,[2] 50 App. U.S.C. § 521, does not apply; and (5) that notice of the motion has been served on the defaulting party, if required by Federal Rule of Civil Procedure 55(b)(2). C.D. Cal. R. 55-1.

Here, Plaintiff has satisfied all applicable procedural requirements. The Court Clerk entered default against the Defaulting Defendants on December 20, 2013. (Clerk's Default; Mem. at 2.) The default was entered as to the complaint, which is the only pleading filed so far in this case. (Id.) Plaintiff has also established that Defaulting Defendants are not infants, incompetent persons, or subject to the Servicemembers Civil Relief Act. (Mem. at 5 n.2.) Finally, Plaintiff has served notice of the motion on the Defaulting Defendants. (Not. at 2–3.) Because the procedural requirements for entry of default judgment are met, the Court proceeds to weigh the merits of Plaintiff's motion.

B. FACTORS USED TO DETERMINE WHETHER TO GRANT DEFAULT JUDGMENTS

A district court has discretion to grant or deny a motion for default judgment. Aldabe v. Aldabe, 616 F.2d 1089, 1092 (9th Cir. 1980). Thus, a defendant's default alone does not entitle a plaintiff to a court-ordered judgment. The Ninth Circuit has held that a district court must examine the following factors when determining whether to enter a default judgment:

> (1) the possibility of prejudice to the plaintiff, (2) the merits of plaintiff's substantive claim, (3) the sufficiency of the complaint, (4) the sum of money at stake in the action, (5) the possibility of a dispute concerning material facts, (6) whether the default was due to excusable neglect, and (7) the strong policy underlying the Federal Rules of Civil Procedure favoring decisions on the merits.

[2] The Servicemembers Civil Relief Act was formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940.

Eitel v. McCool, 782 F.2d 1470, 1471–72 (9th Cir. 1986) (citation omitted). "In applying this discretionary standard, default judgments are more often granted than denied." PepsiCo, Inc. v. Triunfo-Mex, Inc., 189 F.R.D. 431, 432 (C.D. Cal. 1999).

On a motion for default judgment, a court must presume the truth of all factual allegations in the complaint except for those pertaining to the amount of damages. TeleVideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917–18 (9th Cir. 1987). Along with the complaint, the court may look to affidavits and declarations to determine whether default judgment is appropriate. See William W. Schwarzer et al., California Practice Guide: Federal Civil Procedure Before Trial § 6:91 (2010).

1. POSSIBILITY OF PREJUDICE TO PLAINTIFFS

To satisfy the first Eitel factor, Plaintiff must show that it will face prejudice if the Court does not enter default judgment. Eitel, 782 F.2d at 1471–72. The Court borrows the standard of prejudice employed by courts when evaluating motions to set aside entry of default judgment—namely, whether a plaintiff's ability to pursue its claim will be hindered if the application for default judgment is not granted. See TCI Group Life Ins. Plan v. Knoebber, 244 F.3d 691, 701 (9th Cir. 2001). In other words, the plaintiff must show more than mere delay resulting from a denial of its application; it must establish that it will suffer "tangible harm such as loss of evidence, increased difficulties of discovery, or greater opportunity for fraud or collusion" if the application is denied. Thompson v. Am. Home Assur. Co., 95 F.3d 429, 433–34 (6th Cir. 1996). Additionally, courts have held that prejudice is shown where a plaintiff has no "other recourse for recovery" against the defendant. PepsiCo, Inc. v. Cal. Sec. Cans, 238 F. Supp. 2d 1172, 1177 (C.D. Cal. 2002).

The Court concludes that Plaintiff would suffer significant prejudice if the Court were to deny its motion. Notably, Plaintiff will be left without other recourse for recovery. See id. If default judgment were not entered, Plaintiff would have no way to enforce the Securities Act or the Exchange Act against Defaulting Defendants. They would effectively be permitted to violate both without liability or consequence.

Because Plaintiff would suffer substantial prejudice if default judgment were not entered, the first Eitel factor weighs in favor of granting default judgment.

2. SUBSTANTIVE MERITS AND SUFFICIENCY OF THE COMPLAINT

The second and third Eitel factors have been interpreted by courts to require a plaintiff to state a claim upon which he or she may recover. Id. at 1175. This means simply that the Court must examine the complaint to determine whether Plaintiff has adequately pleaded its claims.

Plaintiff asserts claims under: (1) the security registration provisions of Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. § 77e(a), (c); (2) the antifraud provisions of Section 17(a) of the same Act, 15 U.S.C. § 77q(a); (3) Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and the corresponding Rule 10b-5, 17 C.F.R. § 240.10b-5; and (4) Section 15(a) of the Exchange Act, 15 U.S.C. § 78o(a). (Compl. ¶¶ 81–95.) The Court addresses these claims below.

a. Sections 5(a) and 5(c) of the Securities Act

The registration provisions of 15 U.S.C. §§ 77e(a), and (c) prohibit the unregistered offer or sale of securities in interstate commerce. See Anderson v. Aurotek, 774 F.2d 927, 929 (9th Cir. 1985); SEC v. Murphy, 626 F.2d 633, 649 (9th Cir. 1980). In order to establish a violation of Section 5, the SEC must demonstrate that: (1) defendants offered or sold securities; (2) no registration was in effect or filed with the SEC for those securities; and (3) interstate transportation or communication or the mails were used in connection with the offer an sale. See SEC v. Phan, 500 F.3d 895, 902 (9th Cir. 2007). A defendant may rebut this showing by demonstrating that an exemption to the registration requirement applies. SEC v. Platforms Wireless Int'l Corp., 617 F.3d 1072, 1086 (9th Cir. 2010) (citing SEC v. Murphy, 626 F.2d at 641.)

A security includes "any . . . stock [or] investment contract." 15 U.S.C. § 77b(a)(1). In this case, the conduct at issue consisted of the sale of investment contracts and stocks—both of which are securities. (Compl. ¶¶ 5, 6.) In the Maxum Gold Trade Program, Pedras and Bryan sold investment contracts issued by Maxum Ltd. and

Maxum LLC; in the FMP Renal Program, Pedras and Bryan offered stock in, and cooperated with, FMP Ltd. and FMP LLC. (Id.) Accordingly, Pedras, Bryan, Maxum Ltd., and Maxum LLC engaged in the sale or offer of securities for the Maxum Gold Trade Program. Pedras, Bryan, FMP Ltd., and FMP LLC engaged in the sale or offer of securities for the FMP Renal Program.

Neither the Maxum investment contracts nor the FMP stocks were registered with the SEC. (Id. ¶ 8.) And the securities were offered for sale to investors throughout the United States, via telephone calls and email, thereby making use of "interstate . . . communication or the mails." (Id. ¶¶ 40, 61.)

In light of these allegations, Plaintiff has stated an adequate claim for violation of Sections 5(a) and 5(c) against all Defaulting Defendants.

b. Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act, and Rule 10b-5

Section 17 of the Securities Act and Section 10 of the Exchange Act both prohibit fraudulent conduct or practices in connection with the offer or sale of securities. See SEC v. Dain Rauscher, Inc., 254 F.3d 852, 855 (9th Cir. 2001); 15 U.S.C. §§ 77q(a) and 78j(b); 17 C.F.R. 21 240.10b-5. Violations of these provisions occur when a defendant's omissions and misstatements, made in connection with the offer or sale of securities, concern material facts. Basic Inc. v. Levinson, 485 U.S. 224, 231–232 (1988). A fact is material if there is a substantial likelihood that a reasonable investor would consider it important in making an investment decision. TSC Indus., Inc. v. Northway, Inc., 426 U.S. 438, 449 (1976). Liability arises not only from affirmative representations, but also from failures to disclose material information. Dain Rauscher, 254 F.3d at 855–856. The antifraud provisions impose "a duty to disclose material facts that are necessary to make disclosed statements, whether mandatory or volunteered, not misleading." SEC v. Fehn, 97 F.3d 1276, 1290 n.12. (9th Cir. 1996).

In this case, Defaulting Defendants made several affirmative misrepresentations. Among other things, Pedras and Bryan indicated that money would be used for investments, when instead it was diverted directly to Pedras' pockets. (Compl. ¶ 7.) All Defaulting Defendants indicated that the respective investment programs had a guaranteed rate of return, when in reality there were no investment programs whatsoever. (Id. ¶¶ 5–7.)

Finally, violations of Section 17(a)(1) of the Securities Act, Section 10(b) of the Exchange Act, and Rule 10b-5 thereunder, only transpire when defendants act with scienter. Aaron v. SEC, 446 U.S. 680, 691 (1980). In the Ninth Circuit, scienter may be established by a showing of either "deliberate recklessness" or "conscious recklessness." Dain Rauscher, 254 F.3d at 856. Reckless conduct "consists of a highly unreasonable act, or omission, that is an extreme departure from the standards of ordinary care, and which presents a danger of misleading buyers or sellers that is either known to the defendant or is so obvious that the actor must have been aware of it." Id.

Defendants Pedras and Bryan each knew that they were using false offering and marketing materials to solicit investors. (Compl. ¶¶ 48–52, 64–60, 70–75.) Likewise, by offering investment contracts and stocks based on non-existent investment strategies or projects, Maxum Ltd., Maxum LLC, FMP Ltd., and FMP LLC, knew that false offering and marketing materials were being used to solicit investors. (Id.) Neither the Maxum Gold Trade Program nor the FMP Renal Program offered any legitimate returns on investment, let alone the promised market-beating percentages. (Id. ¶ 7.)

In light of these facts, Plaintiff has stated an adequate claim against all Defaulting Defendants under Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act, and Rule 10b-5.

c. Section 15(a) of the Exchange Act

Section 15(a) of the Exchange Act requires brokers or dealers who "effect any transactions in, or induce or attempt to induce the purchase or sale of, any security" to be registered with the SEC or, if the broker-dealer is a natural person, to be associated

with a registered broker or dealer that is not a natural person. 15 U.S.C. § 78o(a); SEC v. Homestead Properties, L.P., 2009 WL 5173685 at *4–5 (C.D. Cal. Dec. 18, 2009).

All the SEC must demonstrate in order to have pled its claim is that an unregistered person "engaged in the business of effecting transactions in securities for the account of others." 15 U.S.C. § 78c(a)(4); SEC v. Interlink Data Network, 1993 U.S. Dist. LEXIS 20163 at *46 (C.D. Cal. Nov. 15, 1993).

The SEC only brings its claim under this Section against Pedras and Bryan. (Compl.) Pedras and Bryan directly solicited investors for the Maxum and FMP Programs. (Compl. ¶¶ 24, 27–28, 48.) They both recruited sales agents in order to promote the programs, and they both paid those sales agents commissions. (Id. ¶¶ 76–80.) Bryan even received commissions herself. (Id. ¶ 78.) Neither is registered with the SEC, nor are they associated with a registered broker. (Id. ¶¶ 12, 14.)

In light of these facts, Plaintiff has stated an adequate claim against Pedras and Bryan under Section 15(a) of the Exchange Act.

d. Control Person

Finally, the Court notes that one individual may be held liable for another person's violation of the Exchange Act as a "control person." 15 U.S.C. § 78t(a). To demonstrate that this liability is appropriate, the SEC must establish: (1) a violation of the Exchange Act, and (2) that the control person directly or indirectly controlled the primary violator. SEC v. Todd, 642 F.3d 1207, 1223–24 (9th Cir. 2011). Pedras and Gray were the only directors or shareholders of Defendants Maxum Ltd., Maxum LLC, FMP Ltd., and FMP LLC. (Compl. ¶ 92.) In his capacity as one of the directors or shareholders, Pedras led Maxum Ltd., Maxum LLC, FMP Ltd., and FMP LLC to undertake the violations described above. (Id.) He may therefore be classified as a control person for violations of the Exchange Act.

3. AMOUNT AT STAKE

The fourth Eitel factor requires the Court to consider the amount of money at stake. Eitel, 782 F.2d at 1471–72. The Court must evaluate the amount at stake

because default judgments are disfavored where the amount at stake "is too large or unreasonable in light of [the] defendant's actions." Truong Giang Corp. v. Twinstar Tea Corp., 2007 WL 1545173, at *12 (N.D. Cal. May 29, 2007).

Here, Plaintiff seeks disgorgement of $3,185,152, plus prejudgment interest, from Pedras, Maxum Ltd., Maxum LLC, FMP Ltd., and FMP LLC. (Mem. at 13.) Additionally, Plaintiff seeks disgorgement of $226,676, plus prejudgment interest, from Bryan. Plaintiff also seeks penalties of $1,985,152 from Pedras and $150,000 from Bryan. (Id.)

Defendants raised at least $5.6 million from investors. Given this starting amount, the disgorgement requested and penalties sought are reasonable. This factor therefore weighs in favor of granting default judgment.

4. POSSIBILITY OF DISPUTE

The fifth Eitel factor requires the Court to consider the possibility of disputes regarding material facts in the case. Eitel, 782 F.2d at 1471–72. As explained above, upon entry of default, a court must presume the truth of all well-pleaded facts in the complaint except those relating to damages. TeleVideo, 826 F.2d at 917–18.

Here, Plaintiff's complaint, which the Court takes as true, alleges sufficient facts to establish its claims for relief. By failing to respond, Defaulting Defendants have failed to rebut the presumption that Plaintiff's allegations are true. Thus, no genuine dispute exists, or is likely to exist, regarding the material facts at issue in this case. This Eitel factor therefore favors entering default judgment.

5. POSSIBILITY OF EXCUSABLE NEGLECT

In considering the sixth Eitel factor, the Court must account for the possibility that Defaulting Defendants' default resulted from excusable neglect. Due process requires that all interested parties be given notice reasonably calculated to apprise them of the pendency of the action, and that they be afforded an opportunity to present their objections before a final judgment is rendered. Mullane v. Cent. Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950).

Plaintiff served a copy of the complaint on all Defaulting Defendants. (Docket Nos. 25, 26, 29, 30, 31, 32, 33, 35, 36, 37.) Several Defendants received a copy of the complaint both via email and via personal service. (Id.) The Court is therefore satisfied that Defaulting Defendants have been effectively served.

Defaulting Defendants have had ample time to resolve this matter by filing motions or interposing an answer, but have done nothing. The Court thus concludes that their default was the result of an affirmative decision not to litigate the action rather than excusable neglect. The sixth Eitel factor favors entering default judgment.

6. POLICY FAVORING DECISIONS ON THE MERITS

The seventh Eitel factor requires the Court to account for the policy favoring decisions on the merits. Eitel, 782 F.2d at 1471–72. The very existence of Rule 55(b), however, indicates that "this preference, standing alone, is not dispositive." PepsiCo, 238 F. Supp. 2d at 1177 (internal quotation marks omitted) (quoting Kloepping, 1996 WL 75314, at *3). Rule 55(a) permits a district court to render a judgment before adjudicating the merits of the case where the defendant fails to defend against the action. Fed. R. Civ. P. 55(a); see also Schwarzer, supra, § 6:102, at 6-26.

Here, Defaulting Defendants' failure to answer the complaint or otherwise respond in this matter renders the Court unable to adjudicate the case on the merits. Accordingly, the policy of deciding cases on the merits does not preclude the Court from entering default judgment.

7. CONCLUSION RE: EITEL FACTORS

After analyzing each Eitel factor, the Court concludes that, on balance, the factors weigh in favor of entering default judgment against Defaulting Defendants. Accordingly, Plaintiff's motion for entry of default judgment is **GRANTED**.

C. REMEDIES

The Court proceeds to assess whether Plaintiff is entitled to the remedies it seeks. District courts do not automatically presume the truth of allegations relating to damages upon entry of default; rather, the plaintiff must "prove up" damages. Philip Morris

USA, Inc. v. Castworld Prods., Inc., 219 F.R.D. 494, 501 (C.D. Cal. 2003). When determining the amount of damages to be awarded in a default judgment proceeding, a plaintiff is required to prove all damages sought in the complaint. See Geddes v. United Fin. Grp., 559 F.2d 557, 560 (9th Cir. 1977) (stating the general rule of law that allegations in the complaint are not accepted as true with regard to damages). Accordingly, the demand for relief must be specific, Fed. R. Civ. P. 8(a), and the damages sought cannot "differ in kind from, or exceed in amount, what is demanded in the pleadings." Fed. R. Civ. P. 54(c). These rules limit the scope of relief and ensure fundamental fairness as required by due process. Schwarzer, supra, § 6:131, at 6–33.

A plaintiff's burden in "proving up" damages is relatively lenient. This Court has ruled that "[i]f proximate cause is properly alleged in the complaint, it is admitted upon default." Castworld Prods., Inc., 219 F.R.D. at 498 (citing Greyhound Exhibitgroup, Inc. v. E.L.U.L. Realty Corp., 973 F.2d 155, 159 (2d Cir. 1992)). The plaintiff need only prove that the compensation sought relates to the damages that flow naturally from the well-pleaded injuries. See id. (citation omitted). However, if the facts necessary to determine damages are not contained in the complaint or are legally insufficient, they are not established by default. See Cripps v. Life Ins. Co. of N. Am., 980 F.2d 1261, 1267 (9th Cir. 1992). Finally, damages calculation may not be "clearly erroneous" and must have some basis in declarations, testimony, deposition transcripts, or other material evidence. Swoboda v. Pala Min., Inc., 844 F.2d 654, 659 (9th Cir. 1988).

Plaintiff requests monetary relief as follows: (1) that Pedras, Maxum Ltd., Maxum LLC, FMP Ltd., and FMP LLC, be held jointly and severally liable for $3,185,152 in ill-gotten gains, plus $31,492.64 in prejudgment interest, for a total of $3,216,644.64 (the "Total Amount"); (2) that Comptroller Ltd. be held jointly and severally liable for $558,875.38 of the Total Amount; (3) that Bryan be held jointly and

severally liable for $228,917.22 of the Total Amount;[3] (4) that third-tier penalties be imposed on Pedras for an additional $1,985,152; and (5) that third-tier penalties be imposed on Bryan for an additional $150,000. (Mem. at 2.)

Plaintiff requests injunctive relief as follows: (1) that all Defaulting Defendants other than Comptroller Ltd. be enjoined from violating Sections 5(a) and 5(c) of the Securities Act; (2) that all Defaulting Defendants other than Comptroller Ltd. be enjoined from violating Section 17(a) of the Securities Act and Rule 10b-5 thereunder; and (3) that Pedras and Bryan be enjoined from violating Section 15(a) of the Exchange Act. (Mem. at 1.)

The Court finds that the requested relief is warranted. The Court provides its reasoning below.

1. MONETARY RELIEF

"[A] district court has broad equity powers to order the disgorgement of ill-gotten gains obtained through violation of the securities laws." SEC v. Platforms Wireless, 617 F.3d at 1096. "Disgorgement is designed to deprive a wrongdoer of unjust enrichment, and to deter others from violating securities laws by making violations unprofitable." Id. "The amount of disgorgement should include all gains flowing from the illegal activities." Id. This includes the total amount of proceeds raised in an offering fraud, less whatever was paid back to the investors. See SEC v. JT Wallenbrock & Assocs., 440 F.3d 1109, 1113 (9th Cir. 2006). In cases such as these, the SEC need only present evidence of a "reasonable approximation" of the defendant's ill-gotten gains. SEC v. Platforms Wireless, 617 F.3d at 1096.

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[3]It is not entirely clear from Plaintiff's motion that it believes Bryan's obligation to be a subset of the Total Amount. (See Mem. at 20–21.) Plaintiff does not indicate that she should be held jointly and severally liable, and discusses Bryan's portion of the ill-gotten gains separately from the Total Amount. (Id.) However, the numbers provided to the Court indicate that it must be so.

If Defendants raised $5.6 million in investor funds, and $2.4 million was returned to investors, roughly $3.2 million would remain outstanding. (Id. at 19.) Not coincidentally, this roughly matches the Total Amount. But treating Bryan's obligation as separate from the Total Amount would result in a combined disgorgement order of roughly $3.4 million—$200,000 more than would be necessary, if $2.4 million has already been returned to investors.

Defaulting Defendants here raised at least $5.6 million in investor funds. (Compl. ¶¶ 34–35.) Of that amount, $2.4 million was paid back to investors. (Id. ¶ 34.) Sales commissions comprised a further $1.2 million—including $226,676 in sales commissions paid to Bryan. (Id.) Defendant Pedras misappropriated $1,985,152 for his personal use. (Id. ¶ 35; Docket No. 73 [Suppl. Mem. in Support of Default ("Supp.")] at 4.) Comptroller Ltd. received $553,403.70. (Compl. ¶ 32; Mem. at 4.) A total of $3,185,152 was never returned to investors. (Mem. at 20.)

Defendants Maxum Ltd., Maxum LLC, FMP Ltd., and FMP LLC, as the issuing entities for fraudulent securities—and as companies whose close relationships furthered a fraudulent scheme—are jointly and severally liable for all ill-gotten gains obtained through their scheme. See SEC v. JT Wallenbrock & Assocs., 440 F.3d 1109, 1117 (9th Cir. 2006) ("[W]here two or more individuals or entities collaborate or have a close relationship in engaging in the violations of the securities laws, they [may be] held jointly and severally liable for the disgorgement of illegally obtained proceeds.") (quoting SEC v. First Pac. Bancorp, 142 F.3d 1186, 1191 (9th Cir. 1998)). Pedras, as a control person for all four of these companies, is likewise jointly and severally liable for the ill-gotten gains. Id.

Accordingly, Defendants Pedras, Maxum Ltd., Maxum LLC, FMP Ltd., and FMP LLC are jointly liable for the entire $3,185,152 still outstanding and kept from investors. Because she was not a control person, Bryan's share of this is limited to the $226,676 she received in sales commissions. Comptroller Ltd.'s liability is limited to the $553,403.70 it actually received.

Interest on the total amount outstanding is $31,492.64. (Docket No. 64 [Longo Decl.] ¶ 5); see SEC v. Platforms Wireless, 617 F.3d at 1099 (approving an award of prejudgment interest). Bryan's share of the interest, based on the total she will be required to disgorge, stands at $2,241.22. (Longo Decl. ¶ 6.) Comptroller Ltd.'s share is $5,471.68. (Suppl. Longo Decl. ¶ 8.)

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Adding the disgorgement amounts and prejudgment interest together, the Court hereby **ORDERS**: (1) Defendants Pedras, Maxum Ltd., Maxum LLC, FMP Ltd., and FMP LLC to pay the Total Amount of $3,216,644.64, for which they shall be jointly and severally liable; (2) Bryan to pay $228,917.22 of the Total Amount, for which she shall be jointly and severally liable; and (3) Comptroller Ltd. to pay $558,875.38 of the Total Amount, for which it shall be jointly and severally liable.

2. INJUNCTIVE RELIEF

Plaintiff additionally seeks permanent injunctions under Section 20(b) of the Securities Act and Section 21(d)(1) of the Exchange Act. (Compl. at 19–20; Mem. at 16.) It seeks to enjoin all Defaulting Defendants, other than Comptroller Ltd., from future violations of: (1) Sections 5(a), 5(c), and 17(a) of the Securities Act; (2) Section 10(b) of the Exchange Act; and (3) Rule 10b-5 thereunder. (Mem. at 1, 17.) It also seeks to enjoin Pedras and Bryan from violating Section 15(a) of the Exchange Act. (Id.) Before such an injunction will issue, the SEC must establish that there is a reasonable likelihood of future violations. SEC v. Murphy, 626 F.2d at 655. "The existence of past violations may give rise to an inference that there will be future violations; and the fact that the defendant is currently complying with the securities laws does not preclude an injunction." Id. (citing SEC v. Koracorp Industries, Inc., 575 F.2d 692, 698 (9th Cir. 1978)). In predicting the likelihood of future violations, a court must assess the totality of the circumstances surrounding the defendant and his violations; it considers factors such as (1) the degree of scienter involved; (2) the isolated or recurrent nature of the infraction; (3) the defendant's recognition of the wrongful nature of his conduct; (4) the likelihood, because of defendant's professional occupation, that future violations might occur; and (5) the sincerity of his assurances against future violations. Id. (citing SEC v. Bonastia, 614 F.2d 908, 912 (3d Cir. 1980)). A permanent injunction may especially be proper where a violation was "founded on systemic wrongdoing rather than an isolated occurrence," or involved a "high degree of scienter." SEC v. Berger, 244 F.Supp. 2d 180, 193 (S.D.N.Y. 2001).

Defaulting Defendants here have committed prior violations "founded on systemic wrongdoing," and they have not offered any assurances against future violations. Because "[t]he existence of past violations may give rise to an inference that there will be future violations," the Court is satisfied that a permanent injunction—as described above, and covering each of the types of violations in which Defaulting Defendants engaged—would be appropriate in this case. SEC v. Murphy, 626 F.2d at 655. Accordingly, Plaintiff's requested injunctive relief is **GRANTED**.

3. THIRD-TIER PENALTIES

Finally, their violations of the Securities Act and the Exchange Act make Pedras and Bryan potentially liable for penalties under Section 20(d) and Section 21(d)(3) of each Act, respectively. 15 U.S.C. §§ 77t(d) and 78u(d)(3). Civil penalties are meant to punish wrongdoers and to deter them and others from future securities law violations. SEC v. Kenton Capital, Ltd., 69 F. Supp. 2d 1, 17 (D.D.C. 1998).

The two Acts provide for three tiers of penalties. The most severe type of penalty—third-tier penalties, such as those requested here—apply to violations that involve "fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement," and "directly or indirectly result[] in substantial losses or create[] a significant risk of substantial losses to other persons." 15 U.S.C. § 77t(d)(2)(B); 15 U.S.C. § 78u(d)(3)(B)(ii). These penalties may not exceed the greater of (1) $150,000 or (2) the gross amount of pecuniary gain. Id.; 17 C.F.R. § 201.1004, Table IV.

Civil penalties are "determined by the court in light of the facts and circumstances." See 15 U.S.C. § 78u(d)(3)(B). In determining the amount of civil penalties, courts routinely consider the five factors established in SEC v. Murphy. See SEC v. Wilde, 2012 U.S. Dist. LEXIS 183252, at *45 (C.D. Cal. Dec. 17, 2012); SEC v. CMKM Diamonds, 635 F. Supp. 2d 1185, 1192 (D. Nev. 2009). This is the same test described in the previous section regarding injunctions. Because it supported the imposition of a permanent injunction, this test also supports the imposition of civil penalties.

Given the fraudulent nature of their action, resulting in substantial losses to investors, the Court therefore finds that Pedras and Bryan should be required to pay third-tier civil penalties. See SEC v. Wilde, 2012 U.S. Dist. LEXIS 183252, at *46 (granting the same request). For Pedras, this should equal total gross pecuniary gain. For Bryan, the SEC has requested only the statutory fine. (Mem. at 23.)

The Court therefore **ORDERS** Pedras to pay a civil fine of $1,985,152, and Bryan to pay a civil fine of $150,000.

IV.

CONCLUSION

Consistent with the reasoning above, Plaintiff's motion for default judgment is **GRANTED**. Pedras, Bryan, Maxum Ltd., Maxum LLC, FMP Ltd., and FMP LLC are **ENJOINED** as set forth above.

Defendants Pedras, Maxum Ltd., Maxum LLC, FMP Ltd., and FMP LLC are hereby **ORDERED to disgorge** a Total Amount of **$3,216,644.64**, for which they shall be jointly and severally liable. Bryan is **ORDERED to disgorge $228,917.22** of the Total Amount, for which she shall be jointly and severally liable. Comptroller Ltd. is **ORDERED to disgorge $558,875.38** of the Total Amount, for which it shall be jointly and severally liable.

Defendant Pedras is further **ORDERED to pay** a third-tier civil penalty of **$1,985,152** in addition to the Total Amount. Bryan is also **ORDERED to pay** a third-tier civil penalty. Her penalty shall be **$150,000**, also in addition to the amount she pays in disgorgement.

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The Court will defer entering final judgment until the claims against Defendant Gray have been resolved.

IT IS SO ORDERED.

DATED: April 16, 2014

Judge Gary Allen Feess
United States District Court

I hereby attest and certify on 10/21/16 that the foregoing document is a full, true and correct copy of the original on file in my office, and in my legal custody.

CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DEPUTY CLERK

(1099)

EXHIBIT 2

JS-6

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

CHRISTOPHER A.T. PEDRAS (aka CHRIS PEDRAS aka ANTONE THOMAS PEDRAS); SYLVESTER M. GRAY II; ALICIA BRYAN; MAXUM GOLD BNK HOLDINGS LIMITED; MAXUM GOLD BNK HOLDINGS LLC; FMP MEDICAL SERVICES LIMITED; and FMP MEDICAL SERVICES LLC,

Defendants, and

COMPTROLLER 2013 LIMITED,

Relief Defendant.

Case No. CV 13-07932-GAF (MRWx)

FINAL JUDGMENT BY DEFAULT AGAINST DEFENDANTS CHRISTOPHER A.T. PEDRAS, ALICIA BRYAN, MAXUM GOLD BNK HOLDINGS LIMITED, MAXUM GOLD BNK HOLDINGS LLC, FMP MEDICAL SERVICES LIMITED, AND FMP MEDICAL SERVICES LLC, AND RELIEF DEFENDANT COMPTROLLER 2013 LIMITED

On April 16, 2014, the Court granted the motion of Plaintiff Securities and Exchange Commission ("SEC") for entry of a default judgment against Defendants Christopher A.T. Pedras, Alicia Bryan, Maxum Gold Bnk Holdings Limited, Maxum Gold Bnk Holdings LLC, FMP Medical Services Limited, and FMP Medical Services LLC, and Relief Defendant Comptroller 2013 Limited pursuant to Fed. R. Civ. P. 55(b)(2) and Local Rule 55-1. Accordingly:

I.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendants Christopher A.T. Pedras, Alicia Bryan, Maxum Gold Bnk Holdings Limited, Maxum Gold Bnk Holdings LLC, FMP Medical Services Limited, and FMP Medical Services LLC and their officers, agents, servants, employees, attorneys, subsidiaries and affiliates, and those persons in active concert or participation with any of them, who receive actual notice of this Final Judgment, by personal service or otherwise, and each of them, be and hereby are permanently restrained and enjoined from, directly or indirectly:

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 SEC 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;

in violation of Sections 5(a) and 5(c) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. §§ 77e(a) & 77e(c).

II.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendants Christopher A.T. Pedras, Maxum Gold Bnk Holdings Limited, Maxum Gold Bnk Holdings LLC, FMP Medical Services Limited, and FMP Medical Services LLC, and their officers, agents, servants, employees, attorneys, subsidiaries and affiliates, and those persons in active concert or participation with any of them, who receive actual notice of this Final Judgment, by personal service or otherwise, and each of them, be and hereby are permanently restrained and enjoined from, directly or indirectly, in the offer or sale of any securities, by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails:

A. employing any device, scheme or artifice to defraud;

B. obtaining money or property by means of any untrue statement of a material fact or any omission to state 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. engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser;

in violation of Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

III.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Alicia Bryan, and her agents, servants, employees, and attorneys, and those persons in active concert or participation with any of them, who receive actual notice of this Final Judgment, by personal service or otherwise, and each of them, be and hereby

are permanently restrained and enjoined from, directly or indirectly, in the offer or sale of any securities, by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, obtaining money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, in violation of Section 17(a)(2) of the Securities Act, 15 U.S.C. § 77q(a)(2).

IV.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendants Christopher A.T. Pedras, Maxum Gold Bnk Holdings Limited, Maxum Gold Bnk Holdings LLC, FMP Medical Services Limited, and FMP Medical Services LLC and their officers, agents, servants, employees, attorneys, subsidiaries and affiliates, and those persons in active concert or participation with any of them, who receive actual notice of this Final Judgment, by personal service or otherwise, and each of them, be and hereby are permanently restrained and enjoined from, directly or indirectly, in connection with the purchase or sale of any security, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange:

A. employing any device, scheme or artifice to defraud;

B. making any untrue statement of a material fact or omitting 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. engaging in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person;

in violation of Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

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V.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Alicia Bryan, and her agents, servants, employees, and attorneys, and those persons in active concert or participation with any of them, who receive actual notice of this Final Judgment, by personal service or otherwise, and each of them, be and hereby are permanently restrained and enjoined from, directly or indirectly, in connection with the purchase or sale of any security, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, making any untrue statement of a material fact or omitting 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, in violation of Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5(b) thereunder, 17 C.F.R. § 240.10b-5(b).

VI.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendants Christopher A.T. Pedras and Alicia Bryan, and their agents, servants, employees, and attorneys, and those persons in active concert or participation with any of them, who receive actual notice of this Final Judgment, by personal service or otherwise, and each of them, be and hereby are permanently restrained and enjoined from, directly or indirectly, unless they are registered with the SEC in accordance with Section 15(b) of the Exchange Act, 15 U.S.C. § 78o(b), making use of the mails, or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills), in violation of Section 15(a) of the Exchange Act, 15 U.S.C. § 78o(a).

VII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendants Christopher A.T. Pedras, Maxum Gold Bnk Holdings Limited, Maxum Gold Bnk

Holdings LLC, FMP Medical Services Limited, and FMP Medical Services LLC, are jointly and severally liable for disgorgement of $3,185,152, which represents profits gained in connection with the Defendants' offering of securities as alleged in the Complaint, and prejudgment interest thereon in the amount of $31,492.64, for a total of $3,216,644.64. Of this total of $3,216,644.64, Defendant Alicia Bryan is liable to pay disgorgement of her ill-gotten gains totaling $226,676, which represents her profits gained in connection with her offering of securities as alleged in the Complaint, and prejudgment interest thereon of $2,241.22, for a total of $228,917.22. Additionally, of the total of $3,216,644.64, Relief Defendant Comptroller 2013 Limited is liable to pay disgorgement of its ill-gotten gains totaling $553,403.70, and prejudgment interest thereon of $5,471.68, for a total of $558,875.38. Defendants shall satisfy this obligation by paying $3,216,644.64 ($228,917.22 in the case of Alicia Bryan and $558,875.38 in the case of Comptroller 2013 Limited) within 14 days after entry of this Final Judgment by certified check, bank cashier's check, or United States postal money order payable to the Clerk of this Court, together with a cover letter identifying the Defendant as a defendant in this action; setting forth the title and civil action number of this action and the name of this Court; and specifying that payment is made pursuant to this Final Judgment. Defendant shall simultaneously transmit photocopies of such payment and letter to the SEC's counsel in this action. By making payments pursuant to this Final Judgment, the Defendants relinquish all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to the Defendants. Pursuant to Local Rule 67-1, the Clerk shall deposit the funds into an interest bearing account. These funds, together with any funds paid by any financial institution or brokerage firm pursuant to paragraph VIII of this Final Judgment in partial satisfaction of this Final Judgment, and any interest and income earned thereon (collectively, the "Fund"), shall be held in the interest bearing account until further order of the Court. In accordance with Local Rule 67-2, the Clerk is authorized and directed, without further order of this Court, to

deduct from the income earned on the money in the Fund a fee not to exceed the amount prescribed by the Judicial Conference of the United States. The SEC may propose a plan to distribute the Fund subject to the Court's approval. Defendants shall pay post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

VIII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, except as otherwise ordered by this Court, the previously ordered freeze placed on all monies and assets (with an allowance for necessary and reasonable living expenses to be granted only upon good cause shown by application to the Court with notice to and an opportunity for the Commission to be heard) in all accounts at any bank, financial institution or brokerage firm, all certificates of deposit, and other funds or assets, held in the name of, for the benefit of, and/or over which account authority is held by any of Defendants Christopher A.T. Pedras, Maxum Gold Bnk Holdings Limited, Maxum Gold Bnk Holdings LLC, FMP Medical Services Limited, and FMP Medical Services LLC, and Relief Defendant Comptroller 2013 Limited or any entity affiliated with any of Defendants Christopher A.T. Pedras, Maxum Gold Bnk Holdings Limited, Maxum Gold Bnk Holdings LLC, FMP Medical Services Limited, and FMP Medical Services LLC, and Relief Defendant Comptroller 2013 Limited, remains in full force and effect, except to the extent that all funds and assets held in any such accounts shall be disgorged by the financial institution or brokerage firm holding the account in partial satisfaction of this Final Judgment, such accounts including but not limited to, the accounts set forth below:

Bank Name	Account Name	Account Number
Wells Fargo Bank, N.A.	Maxum Gold Bnk Holdings LLC	[redacted]

Bank Name	Account Name	Account Number
Wells Fargo Bank, N.A.	Maxum Gold Bnk Holdings LLC	[redacted]
Wells Fargo Bank, N.A.	Maxum Gold Bnk Holdings LLC	[redacted]
Wells Fargo Bank, N.A.	Maxum Gold Bnk Holdings LLC	[redacted]
Wells Fargo Bank, N.A.	Maxum Gold Bnk Holdings LLC	[redacted]
Wells Fargo Bank, N.A.	Maxum Gold Bnk Holdings LLC	[redacted]
Wells Fargo Bank, N.A.	FMP Medical Services LLC	[redacted]
Wells Fargo Bank, N.A.	FMP Medical Services LLC	[redacted]
Wells Fargo Bank, N.A.	FMP Medical Services LLC	[redacted]
Wells Fargo Bank, N.A.	FMP Medical Services LLC	[redacted]
Wells Fargo Bank, N.A.	FMP Medical Services LLC	[redacted]
Wells Fargo Bank, N.A.	FMP Medical Services LLC	[redacted]
ANZ (Australia and New Zealand Banking Group	Maxum Gold Bnk Holdings Limited	[redacted]

Bank Name	Account Name	Account Number
Limited)		
ANZ (Australia and New Zealand Banking Group Limited)	Maxum Gold Bnk PCPT Limited	[redacted]
ANZ (Australia and New Zealand Banking Group Limited)	Antone Thomas Pedras	[redacted]
Bank of New Zealand	Maxum Gold Bnk Holdings Limited	[redacted]
Bank of New Zealand	Maxum Gold Bnk Holdings Limited	[redacted]
Bank of New Zealand	Maxum Gold Bnk Limited	[redacted]
Bank of New Zealand	Mr. A T Pedras Associated Business Advisors	[redacted]
Bank of New Zealand	Mr. A T Pedras Associated Business Advisors	[redacted]
Westpac New Zealand Limited	Maxum Gold Bnk Holdings Limited	[redacted]
Westpac New Zealand Limited	Comptroller 2013 Limited	[redacted]

Bank Name	Account Name	Account Number
Westpac New Zealand Limited	Mr. A T. Pedras	[redacted]
Westpac New Zealand Limited	Mr. A T. Pedras	[redacted]
Westpac New Zealand Limited	FMP Medical Services Limited	[redacted]
Westpac New Zealand Limited	FMP Medical Services Limited – Trust Account	[redacted]

IX.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Pedras shall pay a third tier civil penalty in the amount of $1,985,152 and Defendant Bryan shall pay a third tier civil penalty in the amount of $150,000 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). Defendants Pedras and Bryan shall each make their required payment within 14 days after entry of this Final Judgment by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission. The payment shall be delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312, and shall be accompanied by a letter identifying the respective defendant making the payment and identifying him or her as a defendant in this action; setting forth the title and civil action number of this action and the name of this Court; and specifying that payment is made pursuant to this Final Judgment. A copy of the letter and payment shall be simultaneously served on counsel for the Commission in this action. Defendants shall pay post-judgment interest on any delinquent amounts

pursuant to 28 U.S.C. § 1961. The Commission shall remit the funds paid pursuant to this paragraph to the United States Treasury.

X.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment, and for purposes of determining any additional relief in this action.

XI.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, there being no just reason for delay, the Clerk of the Court is hereby directed, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, to enter this Final Judgment forthwith.

Dated: June 9, 2014

HONORABLE GARY FEESS
UNITED STATES DISTRICT JUDGE

JS-6

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2016 OCT 21 PM 4:27
U.S. SEC
LOS ANGELES
REGIONAL OFFICE

I hereby attest and certify on 10/21/16 that the foregoing document is a full, true and correct copy of the original on file in my office, and in my legal custody.

CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DEPUTY CLERK

SEAL OF THE U.S. DISTRICT COURT
CENTRAL DIST. OF CALIFORNIA

(1099)

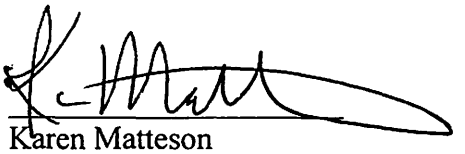
CERTIFICATE OF SERVICE

I hereby certify that a copy of the **RENEWED MOTION BY DIVISION OF ENFORCEMENT FOR A FINDING THAT RESPONDENT CHRISTOPHER A.T. PEDRAS IS IN DEFAULT AND FOR IMPOSITION OF REMEDIAL SANCTIONS; DECLARATION OF KAREN MATTESON; EXHIBITS** was served on October 26, 2016, by email and overnight delivery by United Parcel Service addressed to:

The Honorable Carol Fox Foelak
Administrative Law Judge
Securities and Exchange Commission
100 F Street, N.E., Stop 2557
Washington, D.C. 20549-2557
Email: alj@sec.gov

and by United States Mail addressed to:

Christopher A.T. Pedras (Register [redacted])
MDC Los Angeles
[redacted]
P.O. Box [redacted]
Los Angeles, CA [redacted]
Respondent Pro Se



Karen Matteson