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SECURITIES AND EXCHANGE COMMISSION

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

<b>SECURITIES AND EXCHANGE</b>	)	Case No. 3:17-cv-02086-JAH-JLB
<b>COMMISSION,</b>	)	
	)	<b>ORDER FOR DEFAULT</b>
<b>Plaintiff,</b>	)	<b>JUDGMENT AS TO DEFENDANT</b>
<b>vs.</b>	)	<b>CARLOS JAVIER MOCTEZUMA</b>
	)	<b>VELASCO</b>
<b>GERARDO DE NICOLÁS</b>	)	
<b>GUTIERREZ, CARLOS JAVIER</b>	)	
<b>MOCTEZUMA VELASCO, RAMÓN)</b>	)	
<b>LAFARGA BÁTIZ, and NOE</b>	)	
<b>CORRALES REYES,</b>	)	
	)	
<b>Defendants.</b>	)	
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1 The Securities and Exchange Commission (the “SEC” or “Commission”) having  
2 filed a First Amended Complaint, Defendant Carlos Javier Moctezuma Velasco  
3 (“Defendant”) having been duly served a summons and the First Amended Complaint, but  
4 failed to answer or otherwise defend, the Clerk of the Court having entered a default against  
5 the Defendant, and the SEC having duly noticed its Motion for Default Judgment against  
6 the Defendant under Rule 55(b)(2) of the Federal Rules of Civil Procedure and Defendant  
7 having failed to oppose said motion and failed to appear in court for the hearing on the  
8 same, and for the reasons stated on the record and good cause appearing, this Court enters  
9 the following Default Judgment against the Defendant:

10 I.

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

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

17 (b) to obtain money or property by means of any untrue statement of a  
18 material fact or any omissions of a material fact necessary in order to make the statements  
19 made, in light of the circumstances under which they were made, not misleading; or

20 (c) to engage in any transaction, practice, or course of business which  
21 operates or would operate as a fraud or deceit upon the purchaser.

22 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that, as provided  
23 in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the  
24 following who receive actual notice of this Default Judgment by personal service or  
25 otherwise: (a) Defendant’s officers, agents, servants, employees, and attorneys; and (b)  
26 other persons in active concert or participation with any Defendant or with anyone  
27 described in (a).  
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II.

1 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Defendant is  
2 permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of  
3 the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. § 78j(b)] and Rule  
4 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or  
5 instrumentality of interstate commerce, or of the mails, or of any facility of any national  
6 securities exchange, in connection with the purchase or sale of any security:

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

8 (b) to make any untrue statement of a material fact or to omit to state a  
9 material fact necessary in order to make the statements made, in the light of the  
10 circumstances under which they were made, not misleading; or

11 (c) to engage in any act, practice, or course of business which operates or  
12 would operate as a fraud or deceit upon any person.

13 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that, as provided  
14 in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the  
15 following who receive actual notice of this Default Judgment by personal service or  
16 otherwise: (a) Defendant’s officers, agents, servants, employees, and attorneys; and (b)  
17 other persons in active concert or participation with any Defendant or with anyone  
18 described in (a).

19 III.

20 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Defendant is  
21 permanently restrained and enjoined from violating Section 13(b)(5) of the Exchange Act  
22 [15 U.S.C. § 78m(b)(5)] and Rule 13b2-1 thereunder [17 C.F.R. § 240.13b2-1] by  
23 knowingly circumventing or knowingly failing to implement a system of internal  
24 accounting controls or knowingly falsifying any book, record, or account and directly or  
25 indirectly falsifying or causing to be falsified any book, record, or account described in  
26 Section 13(b)(2) of the Exchange Act [15 U.S.C. § 78m(b)(2)].

27 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that, as provided  
28 in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the

1 following who receive actual notice of this Default Judgment by personal service or  
2 otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b)  
3 other persons in active concert or participation with any Defendant or with anyone  
4 described in (a).

5 IV.

6 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Defendant is  
7 permanently restrained and enjoined from violating Exchange Act Rule 13b2-2 [17 C.F.R.  
8 § 240.13b2-2] by directly or indirectly, and in connection with any audit or examination of  
9 the financial statements of an issuer and the preparation and filing of statements and reports  
10 required to be filed with the Commission, making or causing to be made materially false  
11 or misleading statements to accountants and omitting to state, or causing another person to  
12 omit to state to accountants, material facts necessary in order to make statements made to  
13 the accountants, in light of the circumstances under which such statements were made, not  
14 misleading.

15 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that, as provided  
16 in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the  
17 following who receive actual notice of this Default Judgment by personal service or  
18 otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b)  
19 other persons in active concert or participation with any Defendant or with anyone  
20 described in (a).

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23 V.

24 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Defendant is  
25 permanently restrained and enjoined from violating Exchange Act Rule 13a-14 [17 C.F.R.  
26 § 240.13a-14] which requires that for each report filed under Section 13(a) of the Exchange  
27 Act [15 U.S.C. § 78m(a)], or a report on Form 20-F filed under 17 C.F.R. § 240.13a-19,  
28 each principal executive and principal financial officer of the issuer must make a

1 certification as to the accuracy of the financial statements within the report and that the  
2 report is not false or misleading.

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

9 VI.

10 **IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED** that  
11 Defendant is permanently restrained and enjoined from aiding and abetting any violation  
12 of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20, 13a-1 and  
13 13a-16 thereunder [17 C.F.R. §§ 240.12b-20, 240.13a-1, and 240.13a.16] by knowingly or  
14 recklessly providing substantial assistance to an issuer that files with the Commission  
15 reports required under Rules 13a-1 and 13a-16 that do not contain any untrue statement of  
16 a material fact or omit to state a material fact necessary in order to make the statements  
17 made, in light of the circumstances under which such statements were made, not  
18 misleading.

19 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that, as provided  
20 in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the  
21 following who receive actual notice of this Final Judgment by personal service or  
22 otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b)  
23 other persons in active concert or participation with Defendant or with anyone described  
24 in (a).

25 VII.

26 **IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED** that  
27 Defendant is permanently restrained and enjoined from aiding and abetting any violation  
28 of Sections 13(b)(2)(A) and (B) of the Exchange Act [15 U.S.C. §§ 78m(b)(2)(A) and (B)]

1 by knowingly or recklessly providing substantial assistance to an issuer that fails to make  
2 or keep books, records and accounts that in reasonable detail accurately and fairly reflected  
3 its transactions and the disposition of its assets or fails to devise and maintain a system of  
4 internal accounting controls sufficient to provide reasonable assurances that the issuer's  
5 corporate transactions were executed in accordance with management's authorization and  
6 in a manner to permit the preparation of financial statements in conformity with GAAP.

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

13 VIII.

14 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that, pursuant to  
15 Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], Defendant is prohibited  
16 from acting as an officer or director of any issuer that has a class of securities registered  
17 pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file  
18 reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

19 IX.

20 **IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED** that  
21 Defendant is liable for a civil penalty in the amount of \$160,000. Defendant shall satisfy  
22 his obligation by paying \$160,000 to the Securities and Exchange Commission within 30  
23 days after entry of this Default Judgment.

24 Defendant may transmit payment electronically to the Commission, which will provide  
25 detailed ACH transfer/Fedwire instructions upon request. Payment may also be made  
26 directly from a bank account via Pay.gov through the SEC website at  
27 <http://www.sec.gov/about/offices/ofm.htm>. Defendant may also pay by certified check,  
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1 bank cashier's check, or United States postal money order payable to the Securities and  
2 Exchange Commission, which shall be delivered or mailed to:

3 Enterprise Services Center

4 Accounts Receivable Branch

5 6500 South MacArthur Boulevard

6 Oklahoma City, OK 73169 and shall be accompanied by a letter identifying the case  
7 title, civil action number, and name of this Court; Carlos Javier Moctezuma Velasco as a  
8 defendant in this action; and specifying that payment is made pursuant to this Default  
9 Judgment.

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

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

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

26 Regardless of whether any such Fair Fund distribution is made, amounts ordered to  
27 be paid as civil penalties pursuant to this Judgment shall be treated as penalties paid to the  
28 government for all purposes, including all tax purposes. To preserve the deterrent effect

1 of the civil penalty, Defendant shall not, after offset or reduction of any award of  
2 compensatory damages in any Related Investor Action based on Defendant’s payment of  
3 disgorgement in this action, argue that he is entitled to, nor shall he further benefit by,  
4 offset or reduction of such compensatory damages award by the amount of any part of  
5 Defendant’ payment of a civil penalty in this action (“Penalty Offset”). If the court in any  
6 Related Investor Action grants such a Penalty Offset, Defendant shall, within 30 days after  
7 entry of a Default order granting the Penalty Offset, notify the Commission’s counsel in  
8 this action and pay the amount of the Penalty Offset to the United States Treasury or to a  
9 Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional  
10 civil penalty and shall not be deemed to change the amount of the civil penalty imposed in  
11 this Judgment. For purposes of this paragraph, a “Related Investor Action” means a private  
12 damages action brought against any Defendant by or on behalf of one or more investors  
13 based on substantially the same facts as alleged in the Complaint in this action.

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15 X.

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

25 XI.

26 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that this Court  
27 shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Default  
28 Judgment.

XII.

1 For reasons stated on the record and good cause appearing, pursuant to Rule 54(b)  
2 of the Federal Rules of Civil Procedure, **IT IS HEREBY ORDERED** the Clerk of Court  
3 shall enter this Default Judgment forthwith and without further notice.

4 **IT IS SO ORDERED.**

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7 Dated: June 29, 2021

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10 JOHN A. HOUSTON  
11 UNITED STATES DISTRICT JUDGE  
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