

THE HONORABLE RICARDO S. MARTINEZ

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
SEATTLE DIVISION

SECURITIES AND EXCHANGE COMMISSION,  
Plaintiff,  
vs.  
KIRK SPERRY, and  
SPERRY AND SONS CAPITAL INVESTMENTS,  
LLC,  
Defendants.

Civil Action No. 2:20-cv-01337-RSM

**CONSENT OF DEFENDANT KIRK  
SPERRY**

1. Defendant Kirk Sperry (“Defendant”) acknowledges having been served with the complaint in this action, enters a general appearance, and admits the Court’s jurisdiction over Defendant and over the subject matter of this action.

2. Without admitting or denying the allegations of the complaint (except as provided herein in paragraph 11 and except as to personal and subject matter jurisdiction, which Defendant admits), Defendant hereby consents to the entry of the Judgment in the form attached hereto (the “Judgment”) and incorporated by reference herein, which, among other

1 things, permanently restrains and enjoins Defendant from violation of Section 10(b) of the  
2 Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5  
3 promulgated thereunder [17 C.F.R. § 240.10b-5] and Section 17(a) of the Securities Act of  
4 1933 (the “Securities Act”) [15 U.S.C. § 77q(a)].

5 3. Defendant agrees that the Court shall order a civil penalty pursuant to Section  
6 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15  
7 U.S.C. § 78u(d)(3)]. Defendant further agrees that the amount of the civil penalty shall be  
8 determined by the Court upon motion of the Commission. Defendant further agrees that in  
9 connection with the Commission’s motion for civil penalties, and at any hearing held on such  
10 a motion: (a) Defendant will be precluded from arguing that he did not violate the federal  
11 securities laws as alleged in the Complaint; (b) Defendant may not challenge the validity of  
12 this Consent or the Judgment; (c) solely for the purposes of such motion, the allegations of the  
13 Complaint shall be accepted as and deemed true by the Court; and (d) the Court may  
14 determine the issues raised in the motion on the basis of affidavits, declarations, excerpts of  
15 sworn deposition or investigative testimony, and documentary evidence, without regard to the  
16 standards for summary judgment contained in Rule 56(c) of the Federal Rules of Civil  
17 Procedure. In connection with the Commission’s motion for civil penalties, the parties may  
18 take discovery, including discovery from appropriate non-parties.

19 4. Defendant waives the entry of findings of fact and conclusions of law pursuant  
20 to Rule 52 of the Federal Rules of Civil Procedure.

21 5. Defendant waives the right, if any, to a jury trial and to appeal from the entry  
22 of the Judgment.

23 6. Defendant enters into this Consent voluntarily and represents that no threats,  
24 offers, promises, or inducements of any kind have been made by the Commission or any  
25 member, officer, employee, agent, or representative of the Commission to induce Defendant  
26 to enter into this Consent.

27 7. Defendant agrees that this Consent shall be incorporated into the Judgment  
28 with the same force and effect as if fully set forth therein.

1           8.       Defendant will not oppose the enforcement of the Judgment on the ground, if  
2 any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure, and  
3 hereby waives any objection based thereon.

4           9.       Defendant waives service of the Judgment and agrees that entry of the  
5 Judgment by the Court and filing with the Clerk of the Court will constitute notice to  
6 Defendant of its terms and conditions. Defendant further agrees to provide counsel for the  
7 Commission, within thirty days after the Judgment is filed with the Clerk of the Court, with  
8 an affidavit or declaration stating that Defendant has received and read a copy of the  
9 Judgment.

10          10.       Consistent with 17 C.F.R. § 202.5(f), this Consent resolves only the claims  
11 asserted against Defendant in this civil proceeding. Defendant acknowledges that no promise  
12 or representation has been made by the Commission or any member, officer, employee, agent,  
13 or representative of the Commission with regard to any criminal liability that may have arisen  
14 or may arise from the facts underlying this action or immunity from any such criminal  
15 liability. Defendant waives any claim of Double Jeopardy based upon the settlement of this  
16 proceeding, including the imposition of any remedy or civil penalty herein. Defendant further  
17 acknowledges that the Court's entry of a permanent injunction may have collateral  
18 consequences under federal or state law and the rules and regulations of self-regulatory  
19 organizations, licensing boards, and other regulatory organizations. Such collateral  
20 consequences include, but are not limited to, a statutory disqualification with respect to  
21 membership or participation in, or association with a member of, a self-regulatory  
22 organization. This statutory disqualification has consequences that are separate from any  
23 sanction imposed in an administrative proceeding. In addition, in any disciplinary proceeding  
24 before the Commission based on the entry of the injunction in this action, Defendant  
25 understands that he shall not be permitted to contest the factual allegations of the complaint in  
26 this action.

27          11.       Defendant understands and agrees to comply with the terms of 17 C.F.R.  
28 § 202.5(e), which provides in part that it is the Commission's policy "not to permit a



1 defendant or respondent to consent to a judgment or order that imposes a sanction while  
2 denying the allegations in the complaint or order for proceedings,” and “a refusal to admit the  
3 allegations is equivalent to a denial, unless the defendant or respondent states that he neither  
4 admits nor denies the allegations.” As part of Defendant’s agreement to comply with the  
5 terms of Section 202.5(e), Defendant: (i) will not take any action or make or permit to be  
6 made any public statement denying, directly or indirectly, any allegation in the complaint or  
7 creating the impression that the complaint is without factual basis; (ii) will not make or permit  
8 to be made any public statement to the effect that Defendant does not admit the allegations of  
9 the complaint, or that this Consent contains no admission of the allegations, without also  
10 stating that Defendant does not deny the allegations; (iii) upon the filing of this Consent,  
11 Defendant hereby withdraws any papers filed in this action to the extent that they deny any  
12 allegation in the complaint; and (iv) stipulates solely for purposes of exceptions to discharge  
13 set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, that the allegations in the  
14 complaint are true, and further, that any debt for disgorgement, prejudgment interest, civil  
15 penalty or other amounts due by Defendant under the Judgment or any other judgment, order,  
16 consent order, decree or settlement agreement entered in connection with this proceeding, is a  
17 debt for the violation by Defendant of the federal securities laws or any regulation or order  
18 issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C.  
19 § 523(a)(19). If Defendant breaches this agreement, the Commission may petition the Court  
20 to vacate the Judgment and restore this action to its active docket. Nothing in this paragraph  
21 affects Defendant’s: (i) testimonial obligations; or (ii) right to take legal or factual positions in  
22 litigation or other legal proceedings in which the Commission is not a party.

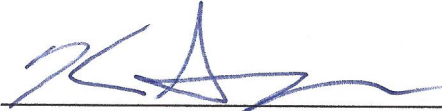
23 12. Defendant hereby waives any rights under the Equal Access to Justice Act, the  
24 Small Business Regulatory Enforcement Fairness Act of 1996, or any other provision of law  
25 to seek from the United States, or any agency, or any official of the United States acting in his  
26 or her official capacity, directly or indirectly, reimbursement of attorney’s fees or other fees,  
27 expenses, or costs expended by Defendant to defend against this action. For these purposes,  
28 Defendant agrees that Defendant is not the prevailing party in this action since the parties

1 have reached a good faith settlement.

2 13. Defendant agrees that the Commission may present the Judgment to the Court  
3 for signature and entry without further notice.

4 14. Defendant agrees that this Court shall retain jurisdiction over this matter for  
5 the purpose of enforcing the terms of the Judgment.

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8 Dated: 4/20/21

  
Kirk Sperry

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10 Approved as to form:

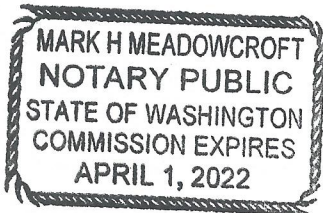
11  
12 Edward P.  
13 Weigelt, Jr

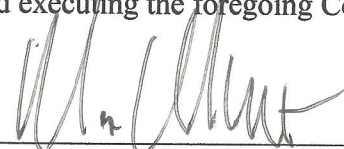
Digitally signed by Edward P. Weigelt, Jr  
DN: cn=Edward P. Weigelt, Jr, o,  
ou=Commercial Law Group, PS,  
email=eweigeltjr@msn.com, c=US  
Date: 2021.04.28 15:12:52 -07'00'

14 Edward P. Weigelt, Jr. Esq.  
15 Law Offices of Edward P. Weigelt, Jr.  
16 9222 36th Ave. S.E.  
Everett, WA 98208  
(425) 346-1646

17 Attorney for Defendant Kirk Sperry

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21 On 4/20/21, 2021, Kirk Sperry, a person known to me,  
22 personally appeared before me and acknowledged executing the foregoing Consent.



  
Notary Public  
Commission expires: 4/1/22

THE HONORABLE RICARDO S. MARTINEZ

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
SEATTLE DIVISION

<p>SECURITIES AND EXCHANGE COMMISSION,  Plaintiff,  vs.  KIRK SPERRY, and SPERRY AND SONS CAPITAL INVESTMENTS, LLC,  Defendants.</p>	<p>Civil Action No. 2:20-cv-01337-RSM  <b>[PROPOSED] JUDGMENT AS TO DEFENDANT KIRK SPERRY</b></p>
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The Securities and Exchange Commission having filed a Complaint and Defendant Kirk Sperry (“Defendant”) having entered a general appearance; consented to the Court’s jurisdiction over him and the subject matter of this action; consented to entry of this Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction and except as otherwise provided herein in paragraph V); waived findings of fact and conclusions of law; and waived any right to appeal from this Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is

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

- 6 (a) to employ any device, scheme, or artifice to defraud;
- 7 (b) to make any untrue statement of a material fact or to omit to state a material  
8 fact necessary in order to make the statements made, in the light of the  
9 circumstances under which they were made, not misleading; or
- 10 (c) to engage in any act, practice, or course of business which operates or would  
11 operate as a fraud or deceit upon any person.

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

17 II.

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

- 23 (a) to employ any device, scheme, or artifice to defraud;
- 24 (b) to obtain money or property by means of any untrue statement of a material  
25 fact or any omission of a material fact necessary in order to make the  
26 statements made, in light of the circumstances under which they were made,  
27 not misleading; or
- 28 (c) to engage in any transaction, practice, or course of business which operates or

1 would operate as a fraud or deceit upon the purchaser.

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

7 III.

8 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that  
9 Defendant shall pay a civil penalty pursuant to Section 20(d) of the Securities Act [15 U.S.C.  
10 § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. The Court shall  
11 determine the amount of the civil penalty upon motion of the Commission. In connection  
12 with the Commission's motion for civil penalties, and at any hearing held on such a motion:  
13 (a) Defendant will be precluded from arguing that he did not violate the federal securities laws  
14 as alleged in the Complaint; (b) Defendant may not challenge the validity of the Consent or  
15 this Judgment; (c) solely for the purposes of such motion, the allegations of the Complaint  
16 shall be accepted as and deemed true by the Court; and (d) the Court may determine the issues  
17 raised in the motion on the basis of affidavits, declarations, excerpts of sworn deposition or  
18 investigative testimony, and documentary evidence, without regard to the standards for  
19 summary judgment contained in Rule 56(c) of the Federal Rules of Civil Procedure. In  
20 connection with the Commission's motion for civil penalties, the parties may take discovery,  
21 including discovery from appropriate non-parties.

22 IV.

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

26 V.

27 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, solely for  
28 purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11



1 U.S.C. § 523, the allegations in the complaint are true and admitted by Defendant, and further,  
2 any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by  
3 Defendant under this Judgment or any other judgment, order, consent order, decree or  
4 settlement agreement entered in connection with this proceeding, is a debt for the violation by  
5 Defendant of the federal securities laws or any regulation or order issued under such laws, as  
6 set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

7 VI.

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

10 VII.

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

14  
15 Dated: \_\_\_\_\_, 2021

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17 \_\_\_\_\_  
Ricardo S. Martinez  
UNITED STATES DISTRICT JUDGE