

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 22-60162-CIV-SINGHAL

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

GERMAN NINO,

Defendant.

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**JUDGMENT AS TO DEFENDANT GERMAN NINO**

The Securities and Exchange Commission having filed a Complaint and Defendant German Nino (“Nino”) having entered a general appearance; consented to the Court’s jurisdiction over Defendant and the subject matter of this action; consented to entry of this Judgment<sup>1</sup>; waived findings of fact and conclusions of law; and waived any right to appeal from this Judgment, the Court finds as follows:

**I. PERMANENT INJUNCTIVE RELIEF**

**A. Section 17(a) of the Securities Act of 1933 (“Securities Act”)**

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

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

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<sup>1</sup> In light of the parties’ submission of a Consent Judgment, the Court has used the parties’ language save for editing the submission.

(b) to obtain money or property by means of any untrue statement of a material fact or any omission of 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) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser by, directly or indirectly, (i) creating a false appearance or otherwise deceiving any person, or (ii) disseminating false or misleading documents, materials, or information or making, either orally or in writing, any false or misleading statement in any communication with any investor or prospective investor, about:

- (A) any investment strategy or investment in securities,
- (B) the use of investor funds, or
- (C) the misappropriation of investor funds or investment proceeds.

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

**B. Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5**

**IT IS FURTHER ORDERED AND ADJUDGED** that Nino is permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any

facility of any national securities exchange, in connection with the purchase or sale of any security:

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

by, directly or indirectly, (i) creating a false appearance or otherwise deceiving any person, or (ii) disseminating false or misleading documents, materials, or information or making, either orally or in writing, any false or misleading statement in any communication with any investor or prospective investor, about:

- (A) any investment strategy or investment in securities,
- (B) the use of investor funds, or
- (C) the misappropriation of investor funds or investment proceeds.

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

**C. Sections 206(1) and (2) of the Investment Advisers Act of 1940 ("Advisers Act")**

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Nino is permanently restrained and enjoined from violating, directly or indirectly, Sections 206(1)

and (2) of the Advisers Act [15 U.S.C. §§ 80b-6(1) and (2)], by using any means or instrumentality of interstate commerce:

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

by, directly or indirectly, (i) creating a false appearance or otherwise deceiving any person, or (ii) disseminating false or misleading documents, materials, or information or making, either orally or in writing, any false or misleading statement in any communication with any investor or prospective investor, about:

- (A) any investment strategy or investment in securities,
- (B) the use of investor funds, or
- (C) the misappropriation of investor funds or investment proceeds.

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

## II.

### **MONETARY RELIEF**

**IT IS FURTHER ORDERED AND ADJUDGED** that Nino shall pay disgorgement of ill-gotten gains, prejudgment interest on disgorgement, and a civil penalty pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)], and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-

9(e)]. The Court shall determine the amounts of the disgorgement and civil penalty upon motion of the Commission, which the Commission shall file no later than 60 days after sentencing or other termination of proceedings before the district court in *United States v. German Nino*, No. 22cr20020 (S.D. Fla.). Prejudgment interest on disgorgement shall be calculated from February 1, 2020, based on the rate of interest used by the Internal Revenue Service for the underpayment of federal income tax as set forth in 26 U.S.C. § 6621(a)(2). In connection with the Commission's motion for disgorgement or a civil penalty, and at any hearing held on such a motion: (i) Nino will be precluded from arguing that he did not violate the federal securities laws as alleged in the Amended Complaint; (ii) Nino may not challenge the validity of the Consent or this Judgment; (iii) solely for the purposes of such motion, the allegations of the Complaint shall be accepted as and deemed true by the Court; and (iv) the Court may determine the issues raised in the motion on the basis of affidavits, declarations, excerpts of sworn deposition or investigative testimony, and documentary evidence, without regard to the standards for summary judgment contained in Rule 56(c) of the Federal Rules of Civil Procedure. In connection with the Commission's motion for disgorgement and a civil penalty, the parties may take discovery, including discovery from appropriate non-parties.

**III.**

**INCORPORATION OF CONSENT**

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

**IV.**

**RETENTION OF JURISDICTION**

This Court shall retain jurisdiction over this matter for the purposes of enforcing the terms of this Judgment.

**V.**

**BANKRUPTCY NONDISCHARGEABILITY**

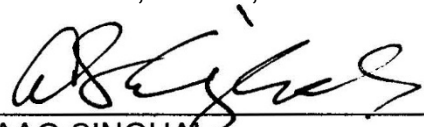
**IT IS FURTHER ORDERED AND ADJUDGED** that, for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the allegations in the Complaint are true and admitted by Nino, and further, any debt for disgorgement, prejudgment interest, or civil penalty or other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

VI.

**RULE 54(b) CERTIFICATION**

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

**DONE** and **ORDERED** in Chambers, Fort Lauderdale, Florida, this 31st day of May 2022.

  
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RAAG SINGHAL  
UNITED STATES DISTRICT JUDGE

Copies furnished counsel via CM/ECF