

1 JINA L. CHOI (N.Y. Bar No. 154425)  
SHEILA E. O'CALLAGHAN (Cal. Bar No. 130132)  
2 ocallaghans@sec.gov  
ERIC M. BROOKS (Cal. Bar No. 209153)  
3 brookse@sec.gov

4  
5 Attorneys for Plaintiff  
SECURITIES AND EXCHANGE COMMISSION  
6 44 Montgomery Street, Suite 2800  
San Francisco, California 94104  
7 Telephone: (415) 705-2500  
8 Facsimile: (415) 705-2501

9  
10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN JOSE DIVISION

13  
14 SECURITIES AND EXCHANGE COMMISSION,

15 Plaintiff,

16 vs.

17 BARBRA ALEXANDER, BETH PIÑA, MICHAEL E.  
18 SWANSON, AND APS FUNDING, INC.,

19 Defendants.

Case No. 10-cv-04535-LHK

**[PROPOSED] FINAL JUDGMENT  
AS TO DEFENDANT BETH PIÑA**

1 The Securities and Exchange Commission (“Commission”), having filed a Complaint and  
2 Defendant Beth Piña (“Defendant”), having entered a general appearance; consented to the Court’s  
3 jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final  
4 Judgment; waived findings of fact and conclusions of law; and waived any right to appeal from  
5 this Final Judgment:

6 I.

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

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

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

24  
25 II.

26 IT IS FURTHER ORDERED ADJUDGED AND DECREED that Defendant is  
27 permanently restrained and enjoined from violating directly or indirectly, Section 10(b) of the  
28 Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5

1 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of  
2 interstate commerce, or of the mails, or of any facility of any national securities exchange, in  
3 connection with the purchase or sale of any security:

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

10

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

16

17 III.

18 IT IS HEREBY FURTHER ORDERED that Defendant is liable for disgorgement of  
19 \$325,309, representing profits gained as a result of the conduct alleged in the complaint, together  
20 with prejudgment interest thereon in the amount of \$16,122.25, for a total of \$341,431.25.  
21 Defendant's payment of disgorgement and prejudgment interest is deemed satisfied by the order  
22 requiring Defendant to pay restitution in *United States v. Beth Piña*, Crim. No. CR-10-11730-LHK  
23 (N.D. Cal.) (the "Parallel Criminal Action").

IV.

1  
2 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, for purposes of  
3 exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the  
4 allegations in the complaint are true and admitted by Defendant, and further, any debt for  
5 disgorgement, prejudgment interest, civil penalty or other amounts due by Defendant under this  
6 Final Judgment or any other judgment, order, consent order, decree or settlement agreement  
7 entered in connection with this proceeding, is a debt for the violation by Defendant of the federal  
8 securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19)  
9 of the Bankruptcy Code, 11 U.S.C. §523(a)(19).  
10

V.

11  
12 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain  
13 jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.  
14

VI.

15 There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil  
16 Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without further notice.  
17

18  
19 Dated June 15, 2015

  
United States District Judge