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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION
11

12 SECURITIES AND EXCHANGE COMMISSION, Case No. 11-1404 SC

13 Plaintiff,

14 v.

15 MARK A. DUFFELL,

16 Defendant.

~~PROPOSED~~ FINAL JUDGMENT AS TO
MARK A. DUFFELL

17
18 The Securities and Exchange Commission having filed a Complaint and Defendant Mark A.
19 Duffell having entered a general appearance; consented to the Court’s jurisdiction over Defendant
20 and the subject matter of this action; consented to entry of this Final Judgment without admitting or
21 denying the allegations of the Complaint (except as to jurisdiction); waived findings of fact and
22 conclusions of law; and waived any right to appeal from this Final Judgment:

23 I.

24 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant’s
25 agents, servants, employees, attorneys, and all persons in active concert or participation with them
26 who receive actual notice of this Final Judgment by personal service or otherwise are permanently
27 restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities
28 Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated

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

11 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is
12 liable for disgorgement of \$162,500, representing profits gained as a result of the conduct alleged in
13 the Complaint, together with prejudgment interest thereon in the amount of \$7,163, and a civil
14 penalty in the amount of \$162,500 pursuant to Section 21A(a)(1)(A) of the Exchange Act [15 U.S.C.
15 § 78u-1(a)(1)(A)], for a total of \$332,163. Defendant shall satisfy this obligation by paying \$332,163
16 within ten (10) business days after entry of this Final Judgment by certified check, bank cashier's
17 check, or United States postal money order payable to the Securities and Exchange Commission.
18 The payment shall be delivered or mailed to the Office of Financial Management, Securities and
19 Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop 0-3, Alexandria,
20 Virginia 22312, and shall be accompanied by a letter identifying Mark A. Duffell as a defendant in
21 this action; setting forth the title and civil action number of this action and the name of this Court;
22 and specifying that payment is made pursuant to this Final Judgment. Defendant shall
23 simultaneously transmit photocopies of such payment and letter to the attention of Marc J. Fagel,
24 Regional Director, at the Commission's San Francisco Regional Office, 44 Montgomery Street, Suite
25 2600, San Francisco, California 94104. By making this payment, Defendant relinquishes all legal
26 and equitable right, title, and interest in such funds, and no part of the funds shall be returned to
27 Defendant. Defendant shall pay post-judgment interest on any delinquent amounts pursuant to 28
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1 U.S.C. § 1961. The Commission shall remit the funds paid pursuant to this paragraph to the United
2 States Treasury.

3 III.

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

7 IV.

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

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11
12 Dated: May 4, 2011

13
14 UNITED STATES DISTRICT JUDGE

15
16 Approved as to form:

17 /s/

18 _____
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