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

13 SECURITIES AND EXCHANGE COMMISSION,

Case No. CV-11-4795-RS (KW)

14 Plaintiff,

15 v.

16 KURT S. HOVAN, LISA B. HOVAN,
EDWARD J. HOVAN, JR., and HOVAN
17 CAPITAL MANAGEMENT, LLC,

18 Defendants.
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**[PROPOSED] FINAL JUDGMENT AS TO
DEFENDANT EDWARD J. HOVAN, JR.**

1 Plaintiff Securities and Exchange Commission (“Commission”), having filed a
2 complaint in this matter, and defendant Edward J. Hovan, Jr. (“defendant” or “Edward
3 Hovan”) having entered a general appearance and executed the Consent of Defendant Edward
4 J. Hovan, Jr. to Entry of Final Judgment (“Consent”), in which among other things, defendant
5 consented to the Court’s jurisdiction over her and the subject matter of this action; consented
6 to entry of this Final Judgment without admitting or denying the allegations of the complaint
7 (except as to jurisdiction, which defendant admits); waived findings of fact and conclusions of
8 law; and waived any right to appeal from this Final Judgment:

9 I.

10 IT IS HEREBY ORDERED THAT defendant Edward Hovan and his agents, servants,
11 employees, attorneys, and those persons in active concert or participation with any of them,
12 who receive actual notice of this Final Judgment, by personal service or otherwise, and each
13 of them, are permanently restrained and enjoined from, directly or indirectly, by the use of
14 any means or instrumentality of interstate commerce, or of the mails, or of any facility of any
15 national securities exchange:

- 16 a. employing any device, scheme, or artifice to defraud;
17 b. making any untrue statement of a material fact or omitting to state a material
18 fact necessary in order to make the statements made, in the light of the
19 circumstances under which they were made, not misleading; or
20 c. engaging in any act, practice, or course of business which operates or would
21 operate as a fraud or deceit upon any person;

22 in connection with the purchase or sale of any security, in violation of Section 10(b) of the
23 Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. § 78j(b), and Exchange Act
24 Rule 10b-5 [17 C.F.R. § 240.10b-5.

25 II.

26 IT IS FURTHER ORDERED THAT defendant Edward Hovan and his agents,
27 servants, employees, attorneys, and those persons in active concert or participation with any
28 of them, who receive actual notice of this Final Judgment, by personal service or otherwise,

1 and each of them, are permanently restrained and enjoined from, directly or indirectly, while
2 acting as an investment adviser, by use of the mails or any means or instrumentality of
3 interstate commerce:

4 (1) employing any device, scheme, or artifice to defraud any client or
5 prospective client; or

6 (2) engaging in any transaction, practice, or course of business which operates
7 as a fraud or deceit upon any client or prospective client,

8 in violation of Section 206(1) and (2) of the Investment Advisers Act of 1940 (“Advisers
9 Act”), 15 U.S.C. §§ 80b-6(1) & (2).

10 III.

11 IT IS FURTHER ORDERED THAT defendant Edward Hovan and his agents, servants,
12 employees, attorneys, and those persons in active concert or participation with any of them,
13 who receive actual notice of this Final Judgment, by personal service or otherwise, and each of
14 them, are permanently restrained and enjoined, while affiliated with a registered investment
15 company or with any person affiliated with such a registered investment company, from
16 accepting compensation (other than regular salary or wages from a registered investment
17 company) for the purchase or sale of property to or for the registered investment company (or
18 any controlled company thereof), in violation of Section 17(e)(1) of the Investment Company
19 Act of 1940 (“Investment Company Act”), 15 U.S.C. § 80a-17(e)(1).

20 IV.

21 IT IS FURTHER ORDERED THAT defendant Edward Hovan is liable for
22 disgorgement of \$50,000, representing money obtained as a result of the conduct alleged in
23 the complaint. Based on defendant Edward Hovan’s sworn representations in his Statement
24 of Financial Condition dated March 19, 2012, and the materials provided to the Commission
25 in support, however, the Court is not ordering defendant to pay a civil penalty and payment of
26 disgorgement is waived. The determination not to impose a civil penalty and to waive
27 payment of disgorgement is contingent upon the accuracy and completeness of defendant’s
28 Statement of Financial Condition. If at any time following the entry of this Final Judgment

1 the Commission obtains information indicating that defendant's representations to the
2 Commission concerning his assets, income, liabilities, or net worth were fraudulent,
3 misleading, inaccurate, or incomplete in any material respect as of the time such
4 representations were made, the Commission may, at its sole discretion and without prior
5 notice to defendant, petition the Court for an order requiring defendant to pay the unpaid
6 portion of the disgorgement and post-judgment interest thereon, and the maximum civil
7 penalty allowable under the law. In connection with any such petition, the only issue shall be
8 whether the financial information provided by defendant was fraudulent, misleading,
9 inaccurate, or incomplete in any material respect as of the time such representations were
10 made. In its petition, the Commission may move this Court to consider all available
11 remedies, including, but not limited to, ordering defendant to pay funds or assets, directing the
12 forfeiture of any assets, or sanctions for contempt of this Final Judgment. The Commission
13 may also request additional discovery. Defendant may not, by way of defense to such
14 petition: (1) challenge the validity of the Consent or this Final Judgment; (2) contest the
15 allegations in the complaint filed by the Commission; (3) assert that payment of disgorgement
16 and post-judgment interest or a civil penalty should not be ordered; (4) contest the amount of
17 disgorgement or post-judgment interest; (5) contest the imposition of the maximum civil
18 penalty allowable under the law; or (6) assert any defense to liability or remedy, including,
19 but not limited to, any statute of limitations defense. Defendant shall also pay post-judgment
20 interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

21 V.

22 IT IS FURTHER ORDERED THAT the Consent is incorporated herein with the same
23 force and effect as if fully set forth herein, and that defendant Edward Hovan shall comply
24 with all of the undertakings and agreements set forth therein.
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VI.

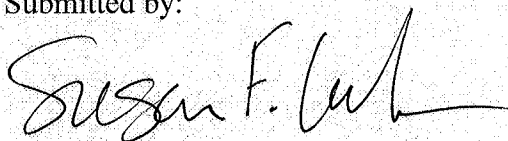
IT IS FURTHER ORDERED THAT this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

IT IS SO ORDERED.

Date: 1/14, 2013


UNITED STATES DISTRICT JUDGE

1 Submitted by:

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