

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Miami Division

CASE NO: 13-23486-CIV-MARTINEZ-MCALILEY

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

OM INVESTMENT MANAGEMENT LLC,
GIGNESH MOVALIA, and
EDWIN V. GAW

Defendants.

**ORDER AND FINAL JUDGMENT SETTING DISGORGEMENT AND CIVIL
PENALTY AMOUNTS AS TO DEFENDANTS OM INVESTMENT MANAGEMENT
LLC AND GIGNESH MOVALIA**

THIS MATTER is before the Court upon Plaintiff Securities and Exchange Commission's Motion and Memorandum of Law for Final Judgment Setting Disgorgement and Civil Penalty Amounts as to Defendants OM Investment Management LLC and Gignesh Movalia (D.E. No. 10).

On October 4, 2013, this court entered a Judgment of Permanent Injunction and Other Relief by consent as to Defendant OM Investment Management LLC ("OMIM") (D.E. No. 5), and on October 9, 2013, the Court entered a Judgment of Permanent Injunction and Other Relief by consent as to Defendant Gignesh Movalia ("Movalia") (D.E. No. 6). These Judgments provide that upon motion of the Commission, the Court shall determine the amount of disgorgement, prejudgment interest and a civil penalty that OMIM and Movalia shall pay

pursuant to Section 20(d) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C. § 77t(d); Section 21(d)(3) of the Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. § 78u(d)(3); Section 209(e) of the Investment Advisers Act of 1940 (“Advisers Act”), 15 U.S.C. § 80b-9(e); and Section 42(e) of the Investment Company Act of 1940 (“Investment Company Act”), 15 U.S.C. § 80a-41(e). (D.E. No. 5 at 12-13; D.E. No. 6 at 12-13).

Upon consideration of the instant motion and being otherwise fully advised in the premises, it is hereby

ORDERED AND ADJUDGED that Plaintiff’s Motion and Memorandum of Law for Final Judgment Setting Disgorgement and Civil Penalty Amounts as to Defendants Om Investment Management LLC and Gignesh Movalia (D.E. No. 10) is **GRANTED**. Final Judgment is hereby entered against OMIM and Movalia as follows:

I. DISGORGEMENT AND PREJUDGMENT INTEREST AGAINST OMIM AND MOVALIA JOINTLY AND SEVERALLY

IT IS FURTHER ORDERED AND ADJUDGED that OMIM and Movalia jointly and severally are liable for disgorgement in the amount of \$1,691,538.88, representing profits gained as a result of the conduct alleged in the Complaint (D.E. No. 1), together with prejudgment interest thereon in the amount of \$38,261.16. OMIM and Movalia shall satisfy this obligation by paying the total amount of \$1,729,800.04 to the Commission within 14 days after entry of this Final Judgment.

OMIM and Movalia may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment also may be made directly from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>. OMIM and Movalia also may pay by certified

check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to

Enterprise Services Center
Accounts Receivable Branch
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

and shall be accompanied by a letter (i) identifying the case title, civil action number, and name of this Court; (ii) identifying OMIM and Movalia as defendants in this action; and (iii) specifying that payment is made pursuant to this Final Judgment.

OMIM and Movalia shall simultaneously transmit photocopies of evidence of payment and case identifying information to the Commission's counsel in this action:

Patrick R. Costello, Esq.
Securities & Exchange Commission
801 Brickell Avenue, Suite 1800
Miami, FL 33131
costello@sec.gov

By making this payment, OMIM and Movalia relinquish all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to them. The Commission shall hold the funds (collectively, the "Fund") and may propose a plan to distribute the Fund subject to the Court's approval. Such a plan may provide that the Fund shall be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. The Court shall retain jurisdiction over the administration of any distribution of the Fund. If the Commission staff determines that the Fund will not be distributed, the Commission shall send the funds paid pursuant to this Final Judgment to the United States Treasury.

The Commission may enforce this Final Judgment for disgorgement and prejudgment interest by moving for civil contempt (and/or through other collection procedures authorized by

law) at any time after 14 days following entry of this Final Judgment. OMIM and Movalia shall pay post judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

II. CIVIL PENALTY AGAINST MOVALIA

IT IS FURTHER ORDERED AND ADJUDGED that Movalia shall pay a civil penalty in the amount of \$300,000, pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d); Section 21(d) of the Exchange Act, 15 U.S.C. § 78u(d); Section 209(e) of the Advisers Act, 15 U.S.C. § 80b-9(e); and Section 42(e) of the Investment Company Act, 15 U.S.C. § 80a-41(e). OMIM shall make this payment to the Commission within 14 days after entry of this Final Judgment.

Movalia may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment also may be made directly from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>. Movalia also may pay by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to

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Oklahoma city, OK 73169

and shall be accompanied by a letter (i) identifying the case title, civil action number, and name of this Court; (ii) identifying Movalia as a defendant in this action; and (iii) specifying that payment is made pursuant to this Final Judgment.

Movalia shall simultaneously transmit photocopies of evidence of payment and case identifying information to the Commission's counsel in this action:

Patrick R. Costello, Esq.
Securities & Exchange Commission
801 Brickell Avenue, Suite 1800
Miami, FL 33131
costello@sec.gov

By making this payment, Movalia relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to him. Movalia shall pay post judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961. The Commission shall hold the funds (collectively, the "Fund") and may propose a plan to distribute the Fund subject to the Court's approval. Such a plan may provide that the Fund shall be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. The Court shall retain jurisdiction over the administration of any distribution of the Fund. If the Commission staff determines that the Fund will not be distributed, the Commission shall send the funds paid pursuant to this Final Judgment to the United States Treasury.

Regardless of whether any such Fair Fund distribution is made, amounts ordered to be paid as a civil penalty pursuant to this Final Judgment shall be treated as a penalty paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Movalia shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on Movalia's payment of disgorgement in this action, argue that he is entitled to, nor shall he further benefit by, offset or reduction of such compensatory damages award by the amount of any part of Movalia's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Movalia shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset

to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this Final Judgment. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Movalia by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this Action (D.E. No. 1).

III. BANKRUPTCY NONDISCHARGEABILITY

IT IS FURTHER ORDERED AND ADJUDGED that any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Movalia under this Final 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 Movalia 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).

IV. DISMISSAL OF CLAIM FOR CIVIL PENALTY AGAINST OMIM

IT IS FURTHER ORDERED AND ADJUDGED that upon entry of this Final Judgment, the Commission's claim for a civil penalty against OMIM is dismissed.

V. RETENTION OF JURISDICTION

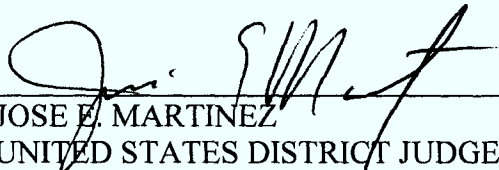
IT IS FURTHER ORDERED AND ADJUDGED that this court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

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 Final Judgment forthwith and without further notice.

DONE AND ORDERED in Chambers at Miami, Florida, this 28 day of May, 2014.



JOSE E. MARTINEZ
UNITED STATES DISTRICT JUDGE

Copies provided to:
Magistrate Judge McAiley
All Counsel of Record