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9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11 **WESTERN DIVISION**

13 SECURITIES AND EXCHANGE
14 COMMISSION,

15 Plaintiff,

16 vs.

17 PLCMGMT LLC, dba
18 PROMETHEUS LAW, JAMES A.
CATIPAY, and DAVID A.
ALDRICH,

19 Defendants.

Case No. 2:16-cv-02594-TJH-FFM

~~PROPOSED~~ **FINAL JUDGMENT**
INCLUDING MONETARY RELIEF
AS TO DEFENDANT JAMES A.
CATIPAY [97]

21 The Securities and Exchange Commission having filed a Complaint and
22 Defendant James A. Catipay (“Defendant”) having entered a general appearance;
23 having previously consented to the Court’s jurisdiction over Defendant and the
24 subject matter of this action and previously consented to entry of judgment (*see*
25 Docket No. 42, Amended Judgment Against Defendant James A. Catipay) without
26 admitting or denying the allegations of the Complaint (except as to jurisdiction and
27 except as otherwise provided in paragraph VI of Docket No. 42):
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I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (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.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED 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) Defendant’s officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 (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;

1 (b) to obtain money or property by means of any untrue statement of a
2 material fact or any omission of a material fact necessary in order to
3 make the statements made, in light of the circumstances under which
4 they were made, not misleading; or

5 (c) to engage in any transaction, practice, or course of business which
6 operates or would operate as a fraud or deceit upon the purchaser.

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

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14 **III.**

15 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
16 Defendant is permanently restrained and enjoined from violating Section 5 of the
17 Securities Act [15 U.S.C. § 77e] by, directly or indirectly, in the absence of any
18 applicable exemption:

19 (a) Unless a registration statement is in effect as to a security, making use of
20 any means or instruments of transportation or communication in
21 interstate commerce or of the mails to sell such security through the use
22 or medium of any prospectus or otherwise;

23 (b) Unless a registration statement is in effect as to a security, carrying or
24 causing to be carried through the mails or in interstate commerce, by any
25 means or instruments of transportation, any such security for the purpose
26 of sale or for delivery after sale; or

27 (c) Making use of any means or instruments of transportation or
28 communication in interstate commerce or of the mails to offer to sell or

1 offer to buy through the use or medium of any prospectus or otherwise
2 any security, unless a registration statement has been filed with the
3 Commission as to such security, or while the registration statement is the
4 subject of a refusal order or stop order or (prior to the effective date of
5 the registration statement) any public proceeding or examination under
6 Section 8 of the Securities Act [15 U.S.C. § 77h].

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

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14 **IV.**

15 IT IS IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the
16 Defendant be and hereby is permanently restrained and enjoined from, directly or
17 indirectly, unless the Defendant is registered with the SEC in accordance with
18 Section 15(b) of the Securities Exchange Act of 1934 (the “Exchange Act”), 15
19 U.S.C. § 78o(b), and in the absence of any applicable exemption, acting as a broker
20 and/or a dealer in the United States or otherwise making use of the mails or any
21 means or instrumentality of interstate commerce to effect any transactions in, or to
22 induce or attempt to induce the purchase or sale of, any security, including “binary
23 options” (other than an exempted security or commercial paper, bankers’
24 acceptances, or commercial bills), in the United States, in violation of Section 15(a)
25 of the Securities Exchange Act, 15 U.S.C. § 78o(a).

26 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as
27 provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also
28 binds any of the following who receive actual notice of this Final Judgment by

1 personal service or otherwise: (a) Defendant's officers, agents, servants, employees,
2 and attorneys; and (b) other persons in active concert or participation with Defendant
3 or with anyone described in (a).

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5 **V.**

6 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant
7 is liable for disgorgement of \$11,738,168.00 representing profits gained as a result of
8 the conduct alleged in the Complaint. Defendant shall satisfy this obligation by
9 paying \$11,738,168.00 to the Securities and Exchange Commission within 14 days
10 after entry of this Final Judgment.

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

17 Enterprise Services Center
18 Accounts Receivable Branch
19 6500 South MacArthur Boulevard
20 Oklahoma City, OK 73169

21 and shall be accompanied by a letter identifying the case title, civil action number,
22 and name of this Court, Defendant Catipay as a defendant in this action, and
23 specifying that payment is made pursuant to this Final Judgment.

24 Defendant shall simultaneously transmit photocopies of evidence of payment
25 and case identifying information to the Commission's counsel in this action. By
26 making this payment, Defendant relinquishes all legal and equitable right, title, and
27 interest in such funds and no part of the funds shall be returned to Defendant. The
28 Commission shall send the funds paid pursuant to this Final Judgment to the United

1 States Treasury.

2 The Commission may enforce the Court's judgment for disgorgement and
3 prejudgment interest by moving for civil contempt (and/or through other collection
4 procedures authorized by law) at any time after 14 days following entry of this Final
5 Judgment. Defendant shall pay post judgment interest on any delinquent amounts
6 pursuant to 28 U.S.C. § 1961.

7 Defendant's disgorgement obligation shall be credited by any amounts that
8 Defendant pays as restitution in *USA v. James Catipay*, Case No. 3:16-cr-02453-JAH
9 (S.D. Cal.).

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11 **VI.**

12 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, solely for
13 purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code,
14 11 U.S.C. §523, the allegations in the complaint are true and admitted by Defendant,
15 and further, any debt for disgorgement, prejudgment interest, civil penalty or other
16 amounts due by Defendant under this Final Judgment or any other judgment, order,
17 consent order, decree or settlement agreement entered in connection with this
18 proceeding, is a debt for the violation by Defendant of the federal securities laws or
19 any regulation or order issued under such laws, as set forth in Section 523(a)(19) of
20 the Bankruptcy Code, 11 U.S.C. §523(a)(19).

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22 **VII.**

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

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27 **VIII.**

28 There being no just reason for delay, pursuant to Rule 54(b) of the Federal

1 Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith
2 and without further notice.

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Dated: December 7, 2017



Hon. Terry J. Hatter, Jr.

UNITED STATES DISTRICT JUDGE