

1 CHRISTINE NESTOR, Fla. Bar No. 597211

2 Email: nestorc@sec.gov

3 STEPHANIE N. MOOT, Fla. Bar No. 30377

4 Email: moots@sec.gov

5 ANDREW O. SCHIFF, Pa. Bar No. 43641

6 Email: schiffa@sec.gov

7 Attorneys for Plaintiff

8 Securities and Exchange Commission

9 801 Brickell Avenue, Suite 1950

10 Miami, FL 33131

11 Telephone: (305) 982-6300

12 Facsimile: (305) 516-4154

13 LOCAL COUNSEL

14 DONALD W. SEARLES, Cal. Bar No. 135705

15 Email: searlesd@sec.gov

16 Securities and Exchange Commission

17 444 S. Flower Street, Suite 900

18 Los Angeles, CA 90071

19 Telephone: (323) 965-3398

20 Facsimile: (213) 443-1904

21 **UNITED STATES DISTRICT COURT**
22 **CENTRAL DISTRICT OF CALIFORNIA**

23 CV 18-10481 FMO (JCx)

24 SECURITIES AND EXCHANGE
25 COMMISSION,

26 Plaintiff,

27 **FINAL JUDGMENT AS TO**
28 **DEFENDANT RICHARD FRITTS**

29 vs.

30 ROBERT DAVIS, JR., et al.

31 Defendants.

32 This cause comes before the Court upon the Unopposed Motion by Plaintiff
33 Securities and Exchange Commission for Entry of Final Judgments against Certain
34

1 Defendants (“Motion”). By the Consent attached hereto, and without admitting or denying
2 the allegations of the Amended Complaint (except as to subject matter and personal
3 jurisdiction, which are admitted, and except as provided in paragraph III herein), Richard
4 Fritts (“Fritts” or “Defendant”) has: entered a general appearance; consented to entry of
5 this Final Judgment; waived findings of fact and conclusions of law; and waived any right
6 to appeal from this Final Judgment. The Court finds that good cause exists for entry of the
7 Final Judgment. Accordingly, the Commission’s Motion is **GRANTED**. The Court
8 further orders as follows:

9 **I.**

10 **CIVIL PENALTY**

11 **IT IS ORDERED, ADJUDGED, AND DECREED** that Fritts is liable for a civil
12 penalty in the amount of \$100,000 pursuant to Section 20(d) of the Securities Act of 1933
13 (“Securities Act”) and Section 21(d)(3) of the Securities Exchange Act of 1934 (“Exchange
14 Act”). Defendant shall satisfy this obligation by paying \$100,000 to the Securities and
15 Exchange Commission within 30 days after entry of this Final Judgment.

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

22 Enterprise Services Center
23 Accounts Receivable Branch
24 6500 South MacArthur Boulevard
25 Oklahoma City, OK 73169

26 and shall be accompanied by a letter identifying the case title, civil action number, and
27 name of this Court; Fritts as a defendant in this action; and specifying that payment is made
28 pursuant to this Final Judgment.

1 Defendant shall simultaneously transmit photocopies of evidence of payment and
2 case identifying information to the Commission’s counsel in this action. By making this
3 payment, Defendant relinquishes all legal and equitable right, title, and interest in such
4 funds and no part of the funds shall be returned to Defendant.

5 The Commission may enforce the Court’s judgment for penalties by the use of all
6 collection procedures authorized by law, including the Federal Debt Collection Procedures
7 Act, 28 U.S.C. § 3001 et seq., and moving for civil contempt for the violation of any Court
8 orders issued in this action. Defendant shall pay post judgment interest on any amounts
9 due after 30 days of the entry of this Final Judgment pursuant to 28 U.S.C. § 1961. The
10 Commission shall hold the funds, together with any interest and income earned thereon
11 (collectively, the “Fund”), pending further order of the Court.

12 The Commission may propose a plan to distribute the Fund subject to the Court’s
13 approval. Such a plan may provide that the Fund shall be distributed pursuant to the Fair
14 Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. The Court shall
15 retain jurisdiction over the administration of any distribution of the Fund and the Fund may
16 only be disbursed pursuant to an Order of the Court.

17 Regardless of whether any such Fair Fund distribution is made, amounts ordered to
18 be paid as civil penalties pursuant to this Judgment shall be treated as penalties paid to the
19 government for all purposes, including all tax purposes. To preserve the deterrent effect
20 of the civil penalty, Defendant shall not, after offset or reduction of any award of
21 compensatory damages in any Related Investor Action based on Defendant’s payment of
22 disgorgement in this action, argue that he is entitled to, nor shall he further benefit by,
23 offset or reduction of such compensatory damages award by the amount of any part of
24 Defendant’s payment of a civil penalty in this action (“Penalty Offset”). If the court in any
25 Related Investor Action grants such a Penalty Offset, Defendant shall, within 30 days after
26 entry of a final order granting the Penalty Offset, notify the Commission’s counsel in this
27 action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair
28 Fund, as the Commission directs. Such a payment shall not be deemed an additional civil

1 penalty and shall not be deemed to change the amount of the civil penalty imposed in this
2 Judgment. For purposes of this paragraph, a “Related Investor Action” means a private
3 damages action brought against Defendant by or on behalf of one or more investors based
4 on substantially the same facts as alleged in the Complaint in this action.

5 **II.**

6 **INCORPORATION OF CONSENT**

7 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the Consent
8 is incorporated herein with the same force and effect as if fully set forth herein, and that
9 Fritts shall comply with all of the undertakings and agreements set forth therein.

10 **III.**

11 **BANKRUPTCY NONDISCHARGEABILITY**

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

21 **IV.**

22 **RETENTION OF JURISDICTION**

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 Final
25 Judgment.
26
27
28

V.

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, Los Angeles California, this 21st day of January, 2021.

/s/

FERNANDO M. OLGUIN
UNITED STATES DISTRICT JUDGE