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

SECURITIES AND EXCHANGE  
COMMISSION,  
  
Plaintiff,  
  
vs.  
  
JONATHAN WILLIAM MIKULA,  
CHRISTIAN FERNANDEZ, AMIT  
RAJ BERI, SWAY ENERGY  
CORPORATION, AVTAR SINGH  
DHILLON, EMERALD HEALTH  
PHARMACEUTICALS INC., and  
JAMES M. DEMESA  
  
Defendants.

Case No. 2:22-cv-07096-SB-PLA

**FINAL JUDGMENT AS TO JAMES  
M. DEMESA**

1 The Securities and Exchange Commission having filed a Complaint and  
2 Defendant James M. Demesa (hereinafter “Defendant”) having entered a general  
3 appearance; consented to the Court’s jurisdiction over Defendant and the subject  
4 matter of this action; consented to entry of this Final Judgment without admitting or  
5 denying the allegations of the Complaint (except as to jurisdiction and except as  
6 otherwise provided herein in paragraph VI); waived findings of fact and conclusions  
7 of law; and waived any right to appeal from this Final Judgment:

8 **I.**

9 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is  
10 permanently restrained and enjoined from violating, directly or indirectly, Section  
11 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C.  
12 § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using  
13 any means or instrumentality of interstate commerce, or of the mails, or of any  
14 facility of any national securities exchange, in connection with the purchase or sale of  
15 any security:

- 16 (a) to employ any device, scheme, or artifice to defraud;  
17 (b) to make any untrue statement of a material fact or to omit to state a  
18 material 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) to engage in any act, practice, or course of business which operates or  
21 would operate as a fraud or deceit upon any person.

22 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as  
23 provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also  
24 binds the following who receive actual notice of this Final Judgment by personal  
25 service or otherwise: (a) Defendant’s officers, agents, servants, employees, and  
26 attorneys; and (b) other persons in active concert or participation with Defendant or  
27 with anyone described in (a).  
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**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;
- (b) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- (c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

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).

**III.**

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that, pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)] and/or Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)], Defendant is prohibited, for five (5) years following the date of entry of this Final Judgment, from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

1 IV.

2 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that,  
3 Defendant is liable for a civil penalty in the amount of \$103,591 pursuant to Section  
4 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange  
5 Act [15 U.S.C. § 78u(d)(3)]. Defendant shall satisfy this obligation pursuant to the  
6 terms of the payment schedule set forth in paragraph V below after entry of this Final  
7 Judgment.

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

14 Enterprise Services Center  
15 Accounts Receivable Branch  
16 6500 South MacArthur Boulevard  
17 Oklahoma City, OK 73169

18 and shall be accompanied by a letter identifying the case title, civil action number,  
19 and name of this Court; James M. DeMesa as a defendant in this action; and  
20 specifying that payment is made pursuant to this Final Judgment.

21 Defendant shall simultaneously transmit photocopies of evidence of payment  
22 and case identifying information to the Commission's counsel in this action. By  
23 making this payment, Defendant relinquishes all legal and equitable right, title, and  
24 interest in such funds and no part of the funds shall be returned to Defendant.

25 The Commission may enforce the Court's judgment for penalties by the use of  
26 all collection procedures authorized by law, including the Federal Debt Collection  
27 Procedures Act, 28 U.S.C. § 3001 et seq., and moving for civil contempt for the  
28 violation of any Court orders issued in this action. Defendant shall pay post

1 judgment interest on any amounts due after 30 days of the entry of this Final  
2 Judgment pursuant to 28 U.S.C. § 1961. The Commission shall hold the funds,  
3 together with any interest and income earned thereon (collectively, the “Fund”),  
4 pending further order of the Court.

5 The Commission may propose a plan to distribute the Fund subject to the  
6 Court’s approval. Such a plan may provide that the Fund shall be distributed  
7 pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of  
8 2002. The Court shall retain jurisdiction over the administration of any distribution  
9 of the Fund and the Fund may only be disbursed pursuant to an Order of the Court.

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

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**V.**

Defendant shall pay the total penalty due of \$103,591 in four installments to the Commission according to the following schedule: (1) \$25,897.75 within ten days of entry of this Final Judgment; (2) \$25,897.75 within 120 days of the entry of this Final Judgment; (3) \$25,897.75 within 240 days of the entry of this Final Judgment; and (4) \$25,897.75 within 365 days of the entry of this Final Judgment. Payments shall be deemed made on the date they are received by the Commission and shall be applied first to post judgment interest, which accrues pursuant to 28 U.S.C. § 1961 on any unpaid amounts due after 30 days of the entry of Final Judgment. Prior to making the final payment set forth herein, Defendant shall contact the staff of the Commission for the amount due for the final payment.

If Defendant fails to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Final Judgment, including post-judgment interest, minus any payments made, shall become due and payable immediately at the discretion of the staff of the Commission without further application to the Court.

**VI.**

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the allegations in the complaint are true and admitted by Defendant, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Defendant 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 Defendant 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).

**VII.**

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court

1 shall retain jurisdiction of this matter for the purposes of enforcing the terms of this  
2 Final Judgment.

3 **VIII.**

4 There being no just reason for delay, pursuant to Rule 54(b) of the Federal  
5 Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith  
6 and without further notice.

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8 Dated: October 20, 2022

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11 Stanley Blumenfeld, Jr.  
12 United States District Judge  
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