

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-20208

In the Matter of

**REGINALD BUDDY RINGGOLD,
III, *aka* RASOOL ABDUL RAHIM
EL,**

Respondent.

**DECLARATION OF DANIEL BLAU IN
SUPPORT OF DIVISION OF
ENFORCEMENT'S MOTION
FOR ENTRY OF DEFAULT
JUDGMENT AND REMEDIAL
SANCTIONS**

I, Daniel Blau, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am an attorney admitted to practice law by the State Bar of California. I am currently a Trial Counsel in the Los Angeles Regional Office of the SEC. I am the attorney assigned to this matter. I have personal knowledge of the matters set forth below, or knowledge based upon my review of the file, and, if called as a witness, could and would testify competently thereto under oath.

2. A true and correct copy of the Order Instituting Administrative Proceedings Pursuant to Section 203(f) of the Investment Advisers Act of 1940 ("OIP"), Advisers Act Release No. 5671 (January 21, 2021), is attached hereto as Exhibit 1.

3. A true and correct copy of the December 15, 2020, Final Judgment, ECF 134, in the civil action entitled *Securities and Exchange Commission v. Ringgold, et al.*, Civil Action Number 18-CV-02287, in the United States District Court for the Southern District of California, is attached hereto as Exhibit 2.

4. A true and correct copy of the May 29, 2020, Order Adopting Report and

Recommendation, ECF 117, in the civil action entitled *Securities and Exchange Commission v. Ringgold, et al.*, Civil Action Number 18-CV-02287, in the United States District Court for the Southern District of California, is attached hereto as Exhibit 3.

5. On August 8, 2021, the process server served Mr. Ringgold by personally serving Connie Cristiana as co-resident/co-occupant of Mr. Ringgold, under SEC Rule of Practice Rule 201.141(a)(2)(i), at [REDACTED]. Attached hereto as Exhibit 4 is a true and correct copy of the proof of service from the process server.

6. A true and correct copy of the Order to Show Cause (“OSC”), Advisers Act Release No. 5992 (April 4, 2022), is attached hereto as Exhibit 5.

7. I have reviewed the Division of Enforcement’s file for this matter, and it does not contain any Answer by Respondent to the Order Instituting Proceedings.

8. I have reviewed the Division of Enforcement’s file for this matter, and it does not contain any response by Respondent to the Order to Show Cause issued by the Commission on April 4, 2022.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 16th day of May, 2022, in Los Angeles, California.

DOB

Daniel Blau

In the Matter of Reginald Buddy Ringgold, III, aka Rasool Abdul Rahim El
Administrative Proceeding File No. 3-20208
SERVICE LIST

Pursuant to Commission Rule of Practice 151 (17 C.F.R. §201.151), I certify that the attached:

**DECLARATION OF DANIEL BLAU IN SUPPORT OF DIVISION OF
ENFORCEMENT'S MOTION FOR ENTRY OF DEFAULT JUDGMENT AND
REMEDIAL SANCTIONS**

was served on May 16, 2022, upon the following parties:

Vanessa Countryman, Secretary
Securities and Exchange Commission
100 F. Street, N.E., Mail Stop 1090
Washington, DC 20549-1090

(By eFAP only)

Reginald B. Ringgold III

(By UPS Overnight)


(Respondent)

Dated: May 16, 2022

DOB

Daniel Blau

EXHIBIT 1

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 5671 / January 21, 2021

ADMINISTRATIVE PROCEEDING
File No. 3-20208

In the Matter of

**REGINALD BUDDY
RINGGOLD, III, *aka*
RASOOL ABDUL RAHIM
EL,**

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
PROCEEDINGS PURSUANT TO
SECTION 203(f) OF THE INVESTMENT
ADVISERS ACT OF 1940
AND NOTICE OF HEARING**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against Reginald Buddy Ringgold, III, *aka* Rasool Abdul Rahim El (“Respondent” or “Ringgold”).

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENT

1. Ringgold, 36 years old, is a resident of San Diego, California. From April 2018 until March 2019, Ringgold acted as founder and chief executive officer of Blockvest LLC, a private company formed in Wyoming that purported to provide various cryptocurrency-related financial products and services for which it raised funds through the sale of digital tokens known as “BLVs.” During this same time frame, Ringgold also controlled various affiliated entities that he founded including Rosegold Investments LLP (“Rosegold”) and the Blockchain

Exchange Commission (“BEC”). Ringgold has never been registered with the Commission in any capacity, nor has he been associated with any firms in the securities industry. Nevertheless, he has purported to offer investment advisory services through several of the entities he controlled including during the time frame covered by the court’s injunction. In particular, Ringgold through Rosegold advised clients concerning investments in digital asset securities, including offering and selling BLVs to at least 16 Rosegold clients. In addition, Ringgold through Blockvest purported to offer BLV tokenholders an “Analytical and Management Interface,” through which tokenholders would receive “investment portfolio structuring and management” services.

B. ENTRY OF THE INJUNCTION

2. On December 15, 2020, a final judgment was entered against Ringgold, permanently enjoining him from future violations of Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933 (“Securities Act”), and Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 10b-5 thereunder, in the civil action entitled Securities and Exchange Commission v. Ringgold, et al., Civil Action Number 18-CV-02287, in the United States District Court for the Southern District of California.

3. The Commission’s complaint alleged the fraudulent offer and sale of unregistered securities by Blockvest and Ringgold. According to the complaint, between April 2018 and October 2018, Blockvest and Ringgold solicited investors, including Rosegold clients, for a planned \$100 million initial coin offering (“ICO”) of BLV tokens, scheduled for December 2018. Blockvest and Ringgold promoted the ICO, and engaged in pre-ICO sales, through a series of misrepresentations and deceptive conduct designed to create the impression that government regulators had “approved” Blockvest’s offering or its planned financial products, including using the SEC seal in their promotional materials and creating a fictitious regulatory agency, the BEC.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative proceedings be instituted to determine:

A. Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford Respondent an opportunity to establish any defenses to such allegations; and

B. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 203(f) of the Advisers Act.

IV.

IT IS ORDERED that a public hearing before the Commission for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be

fixed by further order of the Commission, pursuant to Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondent shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220(b) of the Commission's Rules of Practice, 17 C.F.R. § 201.220(b).

IT IS FURTHER ORDERED that the Division of Enforcement and Respondent shall conduct a prehearing conference pursuant to Rule 221 of the Commission's Rules of Practice, 17 C.F.R. § 201.221, within fourteen (14) days of service of the Answer. The parties may meet in person or participate by telephone or other remote means; following the conference, they shall file a statement with the Office of the Secretary advising the Commission of any agreements reached at said conference. If a prehearing conference was not held, a statement shall be filed with the Office of the Secretary advising the Commission of that fact and of the efforts made to meet and confer.

If Respondent fails to file the directed Answer, or fails to appear at a hearing or conference after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against him upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310.

This Order shall be served forthwith upon Respondent by any means permitted by the Commission's Rules of Practice.

The Commission finds that it would serve the interests of justice and not result in prejudice to any party to provide, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), that notwithstanding any contrary reference in the Rules of Practice to service of paper copies, service to the Division of Enforcement of all opinions, orders, and decisions described in Rule 141, 17 C.F.R. § 201.141, and all papers described in Rule 150(a), 17 C.F.R. § 201.150(a), in these proceedings shall be by email to the attorneys who enter an appearance on behalf of the Division, and not by paper service.

Attention is called to Rule 151(b) and (c) of the Commission's Rules of Practice, 17 C.F.R. § 201.151(b) and (c), providing that when, as here, a proceeding is set before the Commission, all papers (including those listed in the following paragraph) shall be filed with the Office of the Secretary and all motions, objections, or applications will be decided by the Commission. The Commission requests that an electronic courtesy copy of each filing should be emailed to APFilings@sec.gov in PDF text-searchable format. Any exhibits should be sent as separate attachments, not a combined PDF.

The Commission finds that it would serve the interests of justice and not result in prejudice to any party to provide, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), that notwithstanding any contrary reference in the Rules of Practice to filing with or disposition by a hearing officer, all filings, including those under Rules 210, 221, 222, 230, 231, 232, 233, and 250 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.210, 221, 222, 230,

231, 232, 233, and 250, shall be directed to and, as appropriate, decided by the Commission. This proceeding shall be deemed to be one under the 75-day timeframe specified in Rule of Practice 360(a)(2)(i), 17 C.F.R. § 201.360(a)(2)(i), for the purposes of applying Rules of Practice 233 and 250, 17 C.F.R. §§ 201.233 and 250.

The Commission finds that it would serve the interests of justice and not result in prejudice to any party to provide, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), that the Commission shall issue a decision on the basis of the record in this proceeding, which shall consist of the items listed at Rule 350(a) of the Commission's Rules of Practice, 17 C.F.R. § 201.350(a), and any other document or item filed with the Office of the Secretary and accepted into the record by the Commission. The provisions of Rule 351 of the Commission's Rules of Practice, 17 C.F.R. § 201.351, relating to preparation and certification of a record index by the Office of the Secretary or the hearing officer are not applicable to this proceeding.

The Commission will issue a final order resolving the proceeding after one of the following: (A) The completion of post-hearing briefing in a proceeding where the public hearing has been completed; (B) The completion of briefing on a motion for a ruling on the pleadings or a motion for summary disposition pursuant to Rule 250 of the Commission's Rules of Practice, 17 C.F.R. § 201.250, where the Commission has determined that no public hearing is necessary; or (C) The determination that a party is deemed to be in default under Rule 155 of the Commission's Rules of Practice, 17 C.F.R. § 201.155, and no public hearing is necessary.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

For the Commission, by its Secretary, pursuant to delegated authority.

Vanessa A. Countryman
Secretary



By: J. Lynn Taylor
Assistant Secretary

EXHIBIT 2

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

BLOCKVEST, LLC and REGINALD
BUDDY RINGGOLD, III a/k/a RASOOL
ABDUL RAHIM EL,

Defendants.

Case No.: 18CV2287-GPB(MSB)

**AMENDED FINAL JUDGMENT
AGAINST DEFENDANTS
BLOCKVEST, LLC and REGINALD
BUDDY RINGGOLD, III a/k/a
RASOOL ABDUL RAHIM EL**

Pursuant to the SEC’s ex parte motion to correct the final judgment filed on December 10, 2020, the Court grants the ex parte motion and files an amended final judgment to correct two errors that were a result of clerical mistakes or oversight pursuant to Federal Rule of Civil Procedure 60(a). (Dkt. No. 133.)

Before the Court is Plaintiff Securities and Exchange Commission’s (“SEC”) motion for permanent injunction and monetary relief based on the default judgments entered against Defendants Blockvest, LLC (“Blockvest”), (Dkt. No. 128), and Reginald Buddy Ringgold, III a/k/a Rasool Abdul Rahim El (“Ringgold”), (Dkt. No. 118), (collectively “Defendants”). (Dkt. No. 129.) Defendants did not file an opposition. On November 9, 2020, Plaintiff filed a reply noting that Defendants did not file an

1 opposition; therefore, the Court should grant the motion as unopposed. (Dkt. No. 131.)
2 Based on the reasoning below, and Defendants' non-opposition, the Court GRANTS the
3 SEC's motion for permanent injunction and monetary relief against Defendants Ringgold
4 and Blockvest.

5 **Procedural Background**

6 On October 3, 2018, the SEC filed a Complaint against Defendants Blockvest and
7 Ringgold alleging violations of Section 10(b) of the Securities Exchange Act of 1934
8 ("Exchange Act") and Rules 10b-5(a)-(c); fraud in violation of Sections 17(a)(1)-(3) of
9 the Securities Act of 1933 ("Securities Act"); and violations of Sections 5(a) and 5(c) of
10 the Securities Act for the offer and sale of unregistered securities. (Dkt. No. 1, Compl.)
11 Plaintiff also concurrently filed an *ex parte* motion for temporary restraining order
12 seeking to halt Defendants' fraudulent conduct, freezing their assets, prohibiting the
13 destruction of documents, seeking expedited discovery and an accounting of Defendants'
14 assets. (Dkt. No. 3.) On October 5, 2018, the Court granted Plaintiff's *ex parte* motion
15 for temporary restraining order. (Dkt. Nos. 5, 6.) After briefing from both parties, (Dkt.
16 Nos, 23, 24, 25, 27, 28), a hearing on the order to show cause was held on November 16,
17 2018, (Dkt. No. 37), and on November 27, 2018, the Court denied a preliminary
18 injunction. (Dkt. No. 41.) On December 14, 2018, Defendants Ringgold and Blockvest
19 filed an Answer. (Dkt. No. 43.)

20 On December 17, 2018, the SEC filed a motion for reconsideration. (Dkt. No. 44.)
21 Subsequently, defense counsel filed a motion to withdraw as counsel on December 27,
22 2018. (Dkt. No. 47 at 5-6.) On February 14, 2019, the Court granted Plaintiff's motion
23 for partial reconsideration of the denial of a preliminary injunction against Defendants for
24 future violations of Section 17(a) of the Securities Act and issued an order preliminarily
25 enjoining Defendants from violating Section 17(a). (Dkt. No. 61.) On the same day, the
26 Court also granted defense counsel's motion to withdraw as counsel. (Dkt. No. 62.) In
27 that order, the Court informed Blockvest that, as an LLC, it needed to retain counsel in
28 order to defend the case, and in the event substitute counsel was not obtained, it could be

1 subject to default proceedings. (*Id.* at 3-4.) Although Blockvest was given leave for an
2 extension of time to obtain substitute counsel until March 29, 2019, (Dkt. No. 64), it
3 never retained counsel. Defendant Ringgold, on the other hand, proceeded without
4 counsel but stopped defending the case around May 6, 2020, his last filing in the case.
5 (Dkt. No. 115.) On May 29, 2020, the Court adopted the Magistrate Judge's report and
6 recommendation and granted Plaintiff's motion for terminating sanctions in the form of
7 default judgment against Defendant Ringgold for filing fraudulent declarations with the
8 Court. (Dkt. No. 117.) Default judgment was entered against Ringgold on all claims in
9 the Complaint. (Dkt. No. 118.)

10 On July 14, 2020, the Court issued an order to show cause why Blockvest's answer
11 should not be stricken, default and default judgment entered. (Dkt. No. 123.) While
12 Blockvest did not respond, the SEC filed a reply on August 11, 2020 indicating it had not
13 received an opposition from Blockvest and requested that the Court strike Blockvest's
14 answer, enter default, and enter default judgment against Blockvest. (Dkt. No. 125.) On
15 August 26, 2020, the Court granted default judgment against Blockvest LLC. (Dkt. No.
16 128.) On September 25, 2020, the SEC filed a motion for permanent injunction and
17 monetary relief against Defendants Ringgold and Blockvest. (Dkt. No. 129.) On
18 November 9, 2020, the SEC filed a reply. (Dkt. No. 131.)

19 Discussion

20 In this case, default judgment on liability was imposed against Ringgold and
21 Blockvest. (Dkt. Nos. 118, 128.) Rule 55(b)(2) requires a district court to make an
22 independent assessment of damages when deciding a motion for default judgment.
23 *S.E.C. v. Mgmt. Dynamic, Inc.*, 515 F.2d 801, 814 (2d Cir. 1975). Damages may be
24 proven through either an evidentiary hearing, or through affidavits, other documents that
25 provide a factual basis for determining the amount of a default judgment award. *See Fed.*
26 *R. Civ. P. 55(b)(2)*. The SEC carries the burden of showing it is entitled to the requested
27 relief. *S.E.C. v. Vazquez*, Case No.: SACV 18-00047-CJC(KESx), 2018 WL 10539626,
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1 at *4 (C.D. Cal. Aug. 7, 2018) (citing *Bd. of Trustees of the Boilermaker Vacation Trust*
2 *v. Skelly, Inc.*, 389 F. Supp. 2d 1222, 1226 (N.D. Cal. 2005)).

3 Here, the SEC, as a government agency, seeks a permanent injunction,
4 disgorgement of funds received from Defendants' illegal conduct, and civil penalties.
5 (Dkt. No. 129.)

6 **A. Permanent Injunction**

7 The SEC seeks a judgment permanently enjoining Defendants from future
8 violations of the registration and antifraud provisions of the federal securities law under
9 Sections 17(a)(1)-(3) of the Securities Act, Section 10(b) of the Exchange Act and Rule
10 10b-5, and Sections 5(a) and (c) of the Exchange Act. (Dkt. No. 129-1 at 18-19.) It
11 argues that the uncontested evidence it has provided during this case show that
12 Defendants acted with high degree of scienter during the course of their offering and sale
13 of unregistered securities and during the defense of this case by attempting to conceal
14 their fraud from the Court.

15 Both the Securities Act and the Exchange Act authorize the issuance of permanent
16 injunctions. *See* 15 U.S.C. § 77t(b); 15 U.S.C. § 78u(d)(1). To obtain an injunction
17 against Defendants, the SEC must show that there is “a reasonable likelihood of future
18 violations of the securities laws.” *S.E.C. v. Murphy*, 626 F.2d 633, 655 (9th Cir. 1980)
19 (citing *United States v. W. T. Grant Co.*, 345 U.S. 629, 635 (1953)). In addition, “[t]he
20 existence of past violations may give rise to an inference that there will be future
21 violations; and the fact that the defendant is currently complying with the securities laws
22 does not preclude an injunction.” *Id.* (citing *S.E.C. v. Koracorp Indus., Inc.*, 575 F.2d at
23 698. “In predicting the likelihood of future violations, a court must assess the totality of
24 the circumstances surrounding the defendant and his violations . . . and “it considers
25 factors such as the degree of scienter involved; the isolated or recurrent nature of the
26 infraction; the defendant's recognition of the wrongful nature of his conduct; the
27 likelihood, because of defendant's professional occupation, that future violations might
28

1 occur; and the sincerity of his assurances against future violations.” *Id.* (citations
2 omitted).

3 Default judgment was imposed against both Defendants on liability on the anti-
4 fraud and registration provisions of the securities laws; therefore, it is established that
5 they committed fraud in the connection with the purchase or sale of securities, committed
6 fraud in the offer or sale of securities, and unlawfully offered and sold unregistered
7 securities. (Dkt. Nos. 118, 128.) Specifically, Defendants misrepresented that the initial
8 coin offering was “registered” with and “approved” by the SEC and used SEC’s logo,
9 (Dkt. No. 3-18, Wilner Decl., Ex. 41 at 81¹; Dkt. No. 3-23, Suppl. Wilner Decl., Ex. 1 at
10 18, 59); misrepresented the regulatory status with respect to the Commodity Futures
11 Trading Commission (“CFTC”) and the National Futures Association (“NFA”) by
12 utilizing their logos and seals, (Dkt. No. 3-23, Suppl. Wilner Decl., Ex. 1 at 6, 22, 48,
13 77), and continued to do so after NFA issued Blockvest a cease and desist letter; falsely
14 asserted they “partnered” with and was “audited by” Deloitte Touche Tohmatsu Limited,
15 (Dkt. No. 3-3, Barnes Decl. ¶ 7); and created a fictitious regulatory agency, the
16 Blockchain Exchange Commission (“BEC”), creating its own fake government seal,
17 logo, and mission statement that are nearly identical to the SEC’s seal, logo, mission
18 statement as well as using the same address as the SEC’s headquarters. (Dkt. No. 3-13,
19 Wilner Decl., Exs. 13-19 at 28-51.)

20 In addition, during the litigation, the Court found that Ringgold fabricated
21 evidence, suborned perjury and coached witnesses to lie regarding material issues in the
22 case. (Dkt. No. 117 at 22.) Despite the misconduct, the Court noted that he continued to
23 deny responsibility and deflected blame to others, such as the SEC. (*Id.*) The Court
24 concluded Ringgold’s conduct was willful and in bad faith. (*Id.*)
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28 ¹ Page numbers are based on the CM/ECF pagination.

1 In assessing the totality of the circumstances where Defendants committed
2 securities fraud with a high degree of scienter, fabricated evidence, suborned perjury and
3 coached witnesses to lie, where Ringgold has never recognized the wrongful nature of his
4 conduct and has not provided any assurances that future violations will not recur, the
5 Court concludes that there is a reasonably likelihood that Defendants will continue to
6 violate securities laws absent an injunction. *See Murphy*, 626 F.2d at 655. Accordingly,
7 the Court GRANTS the SEC’s request for a permanent injunction.

8 **B. Disgorgement**

9 Plaintiff also seeks an order of disgorgement, joint and severally, for Defendants’
10 ill-gotten gains in the amount of \$332,370.99 plus pre-judgment interest in the amount of
11 \$31,355.92 for a total disgorgement of \$363,726.91. (Dkt. No. 129-1 at 22-23.)

12 In a recent case, the United States Supreme Court held that in an enforcement
13 proceeding, the SEC may seek a “disgorgement award that does not exceed a
14 wrongdoer's net profits and is awarded for victims” under 15 U.S.C. § 78u(d)(5).² *Liu v.*
15 *S.E.C.*, 140 S. Ct. 1936, 1940 (2020). The Court reasoned that disgorgement falls within
16 the ““categories of relief that were typically available in equity,”” as “equity practice long
17 authorized courts to strip wrongdoers of their ill-gotten gains.” *Id.* at 1942 (quoting
18 *Mertens v. Hewitt Assocs.*, 508 U.S. 248, 256 (1993)). “Disgorgement need be ‘only a
19 reasonable approximation of profits causally connected to the violation.’” *SEC v.*
20 *Platforms Wireless Int’l Corp.*, 617 F.3d 1072, 1096 (9th Cir. 2010) (citation omitted).
21 In *Liu*, the Court also recognized the imposition of joint and several liability “for partners
22 engaged in concerted wrongdoing.” *Liu*, 140 S. Ct. at 1949.

23 The SEC seeks a disgorgement order against both Defendants, joint and severally,
24 in the amount of \$332,370.99 representing the total investments they raised so that it may
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27 ² “In any action or proceeding brought or instituted by the Commission under any provision of the
28 securities laws, the Commission may seek, and any Federal court may grant, any equitable relief that
may be appropriate or necessary for the benefit of investors.” 15 U.S.C. § 78u(d)(5).

1 return those funds to the defrauded investors. (Dkt. No. 129-1 at 20-22.) According to
2 the evidence produced by the SEC, Defendants acknowledged raising \$149,700 from the
3 sale of unregistered securities in the form of digital assets called BLV to investors who
4 purchased through Rosegold. (Dkt. No. 32, Ringgold Decl. ¶ 16.) Plus, during
5 discovery, evidence was produced showing another \$182,670.99 raised from five dozen
6 BLV purchases. (Dkt. No. 129-2, Wilner Decl., Ex. 1.) Therefore, the total amount
7 Defendants raised from investors amount to \$332,370.99 and represent Defendants' ill-
8 gotten gains³ and is subject to disgorgement.

9 Defendant Ringgold is the chairman, founder and majority owner of Blockvest.
10 (Dkt. No. 24, Ringgold Decl. ¶ 4.) It was through Blockvest that Ringgold conducted
11 pre-sales of BLVs in March 2018 and promoted the BLVs on its website, whitepaper and
12 social media. (Dkt. No. 109-2, Ringgold's Response to SSUF No. 7; Dkt. No. 1, Compl.
13 ¶¶ 25, 30.) Ringgold, as the founder of Blockvest, approved its website and whitepaper,
14 made its investment decisions, and developed its business plan. (Dkt. No. 109-2,
15 Ringgold's Response to SSUF No. 2.) Because Ringgold and Blockvest acted jointly to
16 commit securities fraud violations, joint and several liability is warranted. *See Hateley v.*
17 *S.E.C.*, 8 F.3d 653, 656 (9th Cir. 1993) (joint and several liability is appropriate between
18 defendants who acted collectively or defendants who were controlling or controlled
19 persons).

20 The SEC also seeks pre-judgment interest imposed on Defendants determined by
21 26 U.S.C. § 6621(a)(2), the interest used by the Internal Revenue Service ("IRS") to
22 calculate underpayment penalties. (Dkt. No. 129-1 at 23.) "The ill-gotten gains include
23 pre-judgment interest to ensure that the wrongdoer does not profit from the illegal
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25
26 ³ The only "business expense" that could be subject to deduction from the disgorgement amount was
27 \$147,000 Ringgold claimed to have paid for technology development; however, he made that payment
28 for an apartment lease and directed Amanda Vaculik to lie to the SEC and submit a false declaration to
the Court. (Dkt. No. 117 at 21; Dkt. No. 93-2, Wilner Decl., Ex. 18 at 135.) Therefore, no deduction is
warranted.

1 activity.” *S.E.C. v. Cross Fin. Servs.*, 908 F. Supp. 718, 734 (C.D. Cal. 1995). The Ninth
 2 Circuit approved the calculation of prejudgment interest based on the tax underpayment
 3 rate set forth in 26 U.S.C. § 6621(a)(2)⁴ on a disgorgement order sought by the SEC in a
 4 civil enforcement action. *S.E.C. v. Platforms Wireless Int’l Corp.*, 617 F.3d 1072, 1099
 5 (9th Cir. 2010) (district court did not abuse its discretion by calculating pre-judgment
 6 interest based on tax underpayment rate, 26 U.S.C. § 6621, instead of 28 U.S.C. § 1961,
 7 the treasury bill rate).

8 Here, the SEC calculated the amount of prejudgment interest to be \$31,355.92
 9 using the rate of interest used by the IRS for the underpayment of federal income tax as
 10 set forth in 26 U.S.C. § 6621(a)(2) for the period from October 3, 2018 (the date the SEC
 11 complaint was filed) to August 26, 2020 (the date the Court entered default judgment
 12 against Blockvest).⁵ (Dkt. No. 129-2, Wilner Decl. ¶ 4.)

13 Thus, the Court GRANTS the SEC’s request for an order of disgorgement, joint
 14 and severally, against Defendants in the amount of \$332,370.99. Defendants shall also
 15 pay prejudgment interest which totals \$31,355.92. Therefore, the total amount of
 16 disgorgement and prejudgment interest that will be assessed jointly and severally against
 17 Defendants is **\$363,726.91**.

18 C. Civil Penalty

19 The SEC requests that the Court impose a third-tier civil penalty on Ringgold in
 20 the amount of his gross pecuniary gain of \$332,370.99.

21 The Exchange Act and the Securities Act provide that the Court may impose civil
 22 monetary penalties for violations of the federal securities laws. *See* 15 U.S.C. §

23
 24
 25 ⁴“Underpayment rate.--The underpayment rate established under this section shall be the sum of--
 26 (A) the Federal short-term rate determined under subsection (b), plus (B) 3 percentage points.” 26
 U.S.C. § 6621(a)(2).

27 ⁵ The Court notes that the attached prejudgment interest report attached to Wilner’s declaration indicates
 28 the interest was calculated from November 1, 2018 to July 31, 2020 but appears to be somewhat equal to
 the numbers of days between October 3, 2018 to August 26, 2020. (Dkt. No. 129-2, Wilner Decl., Ex.
 2.)

1 78u(d)(3)(A); 15 U.S.C. § 77t(d)(2). A third-tier penalty is proper where the violations:
 2 (1) involve fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory
 3 requirement, and (2) directly or indirectly resulted in substantial losses or created a
 4 significant risk of substantial losses to other persons. 15 U.S.C. §§ 77t(d)(2)(C),
 5 78u(d)(3)(B)(iii). Third-tier civil penalties may be calculated either by multiplying a
 6 defendant's violations by a dollar amount or imposing a flat penalty equal to a defendant's
 7 gross pecuniary gain. *See* 15 U.S.C. §§ 77t(d)(2)(C), 78u(d)(3)(B)(iii).

8 Similar to permanent injunctions, civil penalties are imposed to deter the
 9 wrongdoer from similar conduct in the future, so courts frequently apply the *Murphy*
 10 factors for permanent injunctions when assessing civil penalties. *See S.E.C. v. Wilde*, No.
 11 SACV 11–0315 DOC(AJWx), 2012 WL 6621747, at *16 (C.D. Cal. Dec. 17, 2012)
 12 (“[B]ecause this factor test supported the imposition of a permanent injunction, it also
 13 supports the imposition of civil penalties.”); *S.E.C. v. Abellan*, 674 F. Supp. 2d 1213,
 14 1222 (W.D. Wash. 2009) (“Like a permanent injunction, civil penalties are imposed to
 15 deter the wrongdoer from similar violations in the future; therefore those same factors
 16 governing the imposition of a permanent injunction apply here.”) (citing *S.E.C. v. Alpha*
 17 *Telcom, Inc.*, 187 F. Supp. 2d 1250, 1263 (D. Or. 2002) (citing *Murphy*, 626 F.2d at
 18 655)). Because the Court has imposed a permanent injunction and considered the factors
 19 under *Murphy*, the Court also GRANTS the SEC’s request for civil penalties under tier
 20 three in the amount of **\$332,370.99** equal to the amount of Defendants’ gross pecuniary
 21 gain.

22 In conclusion, the Court GRANTS the SEC’s unopposed motion for permanent
 23 injunction and monetary relief and HEREBY ORDERS the following:

24 **I.**

25 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendants
 26 Blockvest and Ringgold be and hereby are permanently restrained and enjoined from
 27 violating, directly or indirectly, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)]
 28 and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or

1 instrumentality of interstate commerce, or of the mails, or of any facility of any national
2 securities exchange, in connection with the purchase or sale of any security:

3 (a) to employ any device, scheme, or artifice to defraud;

4 (b) to make any untrue statement of a material fact or to omit to state a material
5 fact necessary in order to make the statements made, in the light of the circumstances
6 under which they were made, not misleading; or

7 (c) to engage in any act, practice, or course of business which operates or would
8 operate as a fraud or deceit upon any person.

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

15 II.

16 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
17 Defendants Blockvest and Ringgold be and hereby are permanently restrained and
18 enjoined from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)] in the
19 offer or sale of any security by the use of any means or instruments of transportation or
20 communication in interstate commerce or by use of the mails, directly or indirectly:

21 (a) to employ any device, scheme, or artifice to defraud;

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

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

27 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in
28 Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the

1 following who receive actual notice of this Order by personal service or otherwise: (a)
2 Defendants' officers, agents, servants, employees, and attorneys; and (b) other persons in
3 active concert or participation with any of the Defendants or with anyone described in
4 (a).

5 **III.**

6 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
7 Defendants Blockvest and Ringgold be and hereby are permanently restrained and
8 enjoined from violating Section 5 of the Securities Act [15 U.S.C. § 77e] by, directly or
9 indirectly, in the absence of any applicable exemption:

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

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

17 (c) Making use of any means or instruments of transportation or communication
18 in interstate commerce or of the mails to offer to sell or offer to buy through the use or
19 medium of any prospectus or otherwise any security, unless a registration statement has
20 been filed with the Commission as to such security, or while the registration statement is
21 the subject of a refusal order or stop order or (prior to the effective date of the registration
22 statement) any public proceeding or examination under Section 8 of the Securities Act
23 [15 U.S.C. § 77h].

24 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in
25 Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the
26 following who receive actual notice of this Order by personal service or otherwise: (a)
27 Defendants Blockvest's and Ringgold's officers, agents, servants, employees, and
28

1 attorneys; and (b) other persons in active concert or participation with defendant
2 Blockvest or Ringgold or with anyone described in (a).

3 **IV.**

4 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
5 Defendant Ringgold, his agents, servants, employees, attorneys, subsidiaries, and
6 affiliates, and those in active concert or participation with him, who receive actual notice
7 of this Order, by personal service or otherwise, and each of them, be and hereby be and
8 hereby are permanently restrained and enjoined from participating, directly or indirectly,
9 in any offering of any securities, including any digital asset securities, and from making
10 any misstatements or misrepresentations about SEC approval or other regulatory approval
11 in connection with any offering of any securities, including any digital asset securities;
12 provided, however, that such injunction shall not prevent Ringgold from purchasing or
13 selling securities for his own behalf in his own personal accounts.

14 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in
15 Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the
16 following who receive actual notice of this Order by personal service or otherwise: (a)
17 Defendant Ringgold's officers, agents, servants, employees, and attorneys; and (b) other
18 persons in active concert or participation with Defendant Ringgold or with anyone
19 described in (a).

20 **V.**

21 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants are
22 jointly and severally liable for disgorgement of \$332,370.99, representing ill-gotten gains
23 obtained as a result of the conduct alleged in the Complaint, plus prejudgment interest
24 thereon in the amount of \$31,355.92, for a total of \$363,726.91. Defendants shall satisfy
25 this obligation by paying \$363,726.91 to the SEC within 14 days after entry of this
26 Judgment. Defendants may transmit payment electronically to the SEC, which will
27 provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be
28 made directly from a bank account via Pay.gov through the SEC website at

1 <http://www.sec.gov/about/offices/ofm.htm>. Defendants may also pay by certified check,
2 bank cashier's check, or United States postal money order payable to the Securities and
3 Exchange Commission, which shall be delivered or mailed to:

4 Enterprise Service Center
5 Accounts Receivable Branch
6 6500 South MacArthur Boulevard
7 Oklahoma City, OK 73169

8 and shall be accompanied by a letter identifying the case title, civil action number, and
9 name of this Court; Ringgold and Blockvest as defendants in this action; and specifying
10 that payment is made pursuant to this Judgment.

11 Defendants shall simultaneously transmit photocopies of evidence of payment and
12 case identifying information to the SEC's counsel in this action. By making this
13 payments Defendants relinquish all legal and equitable right, title, and interest in such
14 funds and no part of the funds shall be returned to Defendants.

15 The SEC may enforce the Court's judgment for disgorgement and prejudgment
16 interest by moving for civil contempt (and/or through other collection procedures
17 authorized by law) at any time after 14 days following entry of this Judgment.

18 Defendants shall pay post judgment interest on any delinquent amounts pursuant to 28
19 U.S.C. § 1961.

20 VI.

21 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant
22 Ringgold shall pay a third tier civil penalty in the amount of \$332,370.99, respectively,
23 pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3)
24 of the Exchange Act, 15 U.S.C. § 78u(d)(3). Defendants shall make the required
25 payments within 14 days after entry of this Final Judgment by certified check, bank
26 cashier's check, or United States postal money order payable to the Securities and
27 Exchange Commission. The payments shall be delivered or mailed to the Enterprise
28 Services Center, Accounts Receivable Branch, 6500 South MacArthur Boulevard,

1 Oklahoma City, OK 73169, and shall be accompanied by a letter identifying the
2 respective defendant making the payment and identifying him or it as a defendant in this
3 action; setting forth the title and civil action number of this action and the name of this
4 Court; and specifying that payment is made pursuant to this Final Judgment. A copy of
5 the letter and payment shall be simultaneously served on counsel for the Commission in
6 this action. Defendants shall pay post-judgment interest on any delinquent amounts
7 pursuant to 28 U.S.C. § 1961. The Commission shall remit the funds paid pursuant to
8 this paragraph to the United States Treasury.

9 **VII.**

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

19 **VIII.**

20 IT IS FURTHER ORDERED that this Court shall retain jurisdiction over this
21 action for the purpose of implementing and carrying out the terms of all orders and
22 decrees which may be entered herein and to entertain any suitable application or motion
23 for additional relief within the jurisdiction of this Court.

24 IT IS SO ORDERED.

25 Dated: December 15, 2020

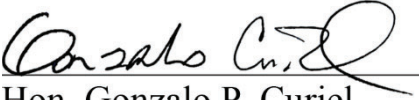
26 
27 Hon. Gonzalo P. Curiel
28 United States District Judge

EXHIBIT 3

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

BLOCKVEST, LLC and REGINALD
BUDDY RINGGOLD, III a/k/a RASOOL
ABDUL RAHIM EL,

Defendants.

Case No.: 18CV2287-GPB(MSB)

**ORDER ADOPTING REPORT AND
RECOMMENDATION AND
GRANTING PLAINTIFF’S MOTION
FOR TERMINATING SANCTIONS
AS TO DEFENDANT RINGGOLD**

[Dkt. No. 93.]

Before the Court is Plaintiff Securities and Exchange Commission’s (“SEC” or “Plaintiff”) motion for terminating sanctions seeking entry of default judgment against Defendants Blockvest LLC and Reginald Buddy Ringgold (collectively “Defendants”) on all claims in the complaint. (Dkt. No. 93.) Defendant Reginald Buddy Ringgold III (“Ringgold” or “Defendant”) filed an opposition and the SEC filed its reply. (Dkt. Nos. 99, 102.)

On April 20, 2020, pursuant to 28 U.S.C. § 636(b)(1), the Honorable Michael S. Berg, United States Magistrate Judge (“Magistrate Judge”), submitted a Report and Recommendation (“R&R”) to this Court recommending that terminating sanctions be

1 imposed and default judgment entered against Defendants. (Dkt. No. 113.) Ringgold
2 filed an objection to the R&R and the SEC filed a reply. (Dkt. No. 1115, 116.)

3 The motion raises three questions: (1) whether Defendants submitted false
4 declarations to defend against the SEC's case; (2) if so, were false declarations submitted
5 willfully; and (3) if so, whether a terminating sanction is the appropriate remedy for
6 presenting the false declarations in this litigation. The Court finds that the evidence
7 establishes that Defendants willfully filed false declarations to defend against the SEC
8 allegations, and, in so doing, willfully deceived the Court and adversely affected the
9 administration of justice. For the reasons stated below, the Court ADOPTS the R&R and
10 GRANTS the SEC's motion for terminating sanctions as to Defendant Ringgold.

11 **Procedural Background**

12 On October 3, 2018, the SEC filed a Complaint against Defendants Blockvest,
13 LLC ("Blockvest") and Reginald Buddy Ringgold, III a/k/a Rasool Abdul Rahim El
14 ("Ringgold" or "Defendant") alleging violations of Section 10(b) of the Securities
15 Exchange Act of 1934 ("Exchange Act") and Rule 10b-5(b); violations under Section
16 10(b) of the Exchange Act and Rule 10b-5(a) and Rule 10b-5(c); fraud in violation of
17 Section 17(a)(2) of the Securities Act of 1933 ("Securities Act"); fraud in violation of
18 Sections 17(a)(1) and 17(a)(3) of the Securities Act; and violations of Sections 5(a) and
19 5(c) of the Securities Act for the offer and sale of unregistered securities. (Dkt. No. 1,
20 Compl.) Plaintiff also concurrently filed an *ex parte* motion for temporary restraining
21 order seeking to halt Defendants' fraudulent conduct and freezing their assets, prohibiting
22 the destruction of documents, seeking expedited discovery and an accounting of
23 Defendants' assets. (Dkt. No. 3.) On October 5, 2018, the Court granted Plaintiff's *ex*
24 *parte* motion for temporary restraining order. (Dkt. Nos. 5, 6.) In compliance with the
25 temporary restraining order, Defendants filed Ringgold's Declaration of Accounting on
26 October 26, 2018, and a First Supplemental Declaration of Ringgold on November 2,
27 2018. (Dkt. Nos. 18, 21.) Defendants also filed a response to the order to show cause on
28 November 2, 2018. (Dkt. Nos. 23, 24, 25.) On November 7, 2018, Plaintiff filed a reply.

1 (Dkt. Nos. 27, 28.) A hearing on the order to show cause was held on November 16,
2 2018, (Dkt. No. 37), and on November 27, 2018, the Court denied a preliminary
3 injunction. (Dkt. No. 41.)

4 On December 17, 2018, the SEC filed a motion for reconsideration. (Dkt. No. 44.)
5 Subsequently, defense counsel filed a motion to withdraw as counsel on December 27,
6 2018, and, among other things, cited attempts by defendants to file documents without
7 counsel's knowledge or signature. (Dkt. No. 47 at 5-6.) On February 14, 2019, the Court
8 granted Plaintiff's motion for partial reconsideration of the denial of a preliminary
9 injunction against Defendants for future violations of Section 17(a) of the Securities Act
10 and issued an order preliminarily enjoining Defendants from violating Section 17(a).
11 (Dkt. No. 61.) However, relying on the declarations filed by Defendants, the Court found
12 disputed issues of fact precluded the issuance of a preliminary injunction as to the 32 test
13 investors and 17 individual investors. On the same day, the Court also granted defense
14 counsel's motion to withdraw as counsel. (Dkt. No. 62.) Although Blockvest, as an
15 LLC, was given leave to obtain substitute counsel until March 29, 2019, (Dkt. No. 64), it
16 has not retained counsel.¹ Defendant Ringgold has been proceeding without counsel
17 since his counsel's withdrawal.

18
19
20 ¹ The SEC has not sought default proceedings against Blockvest. Blockvest LLC was dissolved in
21 Wyoming as of March 19, 2019. *See*
22 [https://wyobiz.wyo.gov/Business/FilingDetails.aspx?eFNum=2331060110190691821491662302031061](https://wyobiz.wyo.gov/Business/FilingDetails.aspx?eFNum=233106011019069182149166230203106193101100185208)
23 [93101100185208](https://wyobiz.wyo.gov/Business/FilingDetails.aspx?eFNum=233106011019069182149166230203106193101100185208) (last visited 5/13/20). According to Ringgold, because it has no interests, no assets, no
24 bank account, no EIN or TIN or employees, Blockvest does not need any representation and can answer
25 on its own. Further, citing California law, Ringgold argues that because Blockvest, as a dissolved LLC,
26 has no assets or shareholders, it does not need to respond. (Dkt. No. 99-1 at 5.) Despite its dissolution,
27 Plaintiff seeks terminating sanctions against Blockvest LLC without providing legal authority as to its
28 capacity to be sued. Under Federal Rule of Civil Procedure 17(b), the capacity to sue or be sued in
federal court is determined by the law under which the corporation was organized. Fed. R. Civ. P.
17(b). Whether an LLC is treated the same as a corporation is also subject to state law. *See First*
American Mortg. Inc. v. First Home Builders of Fla., Civil Action No. 10-CV-0824-RBJ-MEH, 2011
WL 4963924, at *12 (D. Colo. 2011) (while Michigan law gives limited liability companies "all powers
granted to corporations", such a provision is not provided in Colorado law). Ringgold's reliance on
California law is misplaced. Also, because the SEC has not provided legal authority whether Blockvest
LLC can be sued in its capacity as a dissolved LLC, the Court declines to address the motion as it

Factual Background

The Complaint alleges that Defendants offered and sold alleged unregistered securities in the form of digital assets called BLV’s through an initial coin offering (“ICO”). (Dkt. No. 1, Compl. ¶¶ 1-4, 6.) According to the Complaint, Blockvest conducted pre-sales of BLVs in March 2018 in several stages: 1) a private sale (with a 50% bonus) that ran through April 30, 2018; 2) a “pre-sale” (with a 20% bonus) from July 1, 2018 through October 6, 2018; and 3) the \$100 million ICO launch on December 1, 2018. (*Id.* ¶ 30.) According to the SEC, Blockvest and Ringgold falsely claim their ICO has been “registered” and/or “approved” by the SEC, the Commodity Futures Trading Commission (“CFTC”) and the National Futures Association (“NFA”), when in fact, it has not. (*Id.* ¶¶ 77-88.) Defendants further falsely assert they are “partnered” with and “audited by” Deloitte Touche Tohmatsu Limited (“Deloitte”) but that is also not true. (*Id.* ¶¶ 89-93.) Finally, in order to create legitimacy and an impression that their investment is safe, Defendants created a fictitious regulatory agency, the Blockchain Exchange Commission (“BEC”), creating its own fake government seal, logo, and mission statement that are nearly identical to the SEC’s seal, logo and mission statement. (*Id.* ¶¶ 112-28.)

In response, Ringgold asserted that there had not been any actual investors in Blockvest’s sale of digital “BLV” tokens. Instead, Defendants claimed that dozens of “friends and family” paid money: (1) to an affiliated entity without expecting to receive Blockvest tokens (the “Rosegold investors”), or (2) to help develop the Blockvest platform without expecting to receive real tokens (the “testers”). Ringgold declared that Blockvest had never sold any tokens to the public and had only one investor, Rosegold Investments LLP, (“Rosegold”) which is run by him and in which he has invested more than \$175,000 of his own money. (Dkt. No. 24, Ringgold Decl. ¶ 5.) During the testing

concerns Blockvest. However, if legally supported, the SEC may seek default proceedings against Blockvest.

1 and development phase prior to the anticipated ICO, 32 testers put a total of less than
2 \$10,000 of Bitcoin and Ethereum onto the Blockvest Exchange. (*Id.* ¶ 6.) Ringgold
3 further claimed that the BLV tokens were only designed for testing the platform and no
4 tokens were released to the 32 testing participants. (*Id.*) In addition, 17 individuals
5 loaned or invested money in Rosegold Investments who are Ringgold’s friends and
6 family and Michael Sheppard’s, Blockvest’s CFO, friends and family. (*Id.* ¶ 12.) These
7 investors loaned Ringgold or Sheppard money personally and they in turn, invested the
8 money into Rosegold as their personal investment. (*Id.* ¶ 11.) Declarations from nine
9 individuals affirm they did not buy BLV tokens or rely on any of the representations the
10 SEC has alleged were false. (*Id.* ¶ 13; Dkt. No. 24-2, Ringgold Decl., Ex. 2.) Each of the
11 individuals declared under oath that they did not rely on any specific representation when
12 investing. (Dkt. No. 24, Ringgold Decl. ¶ 13.)

13 At the preliminary injunction stage, Defendants solely challenged the SEC’s claims
14 arguing that the test BLV tokens were not “securities”. Under the *Howey*² test defining a
15 security, the Court, relying on Ringgold’s declaration and nine investor declarations,
16 concluded there was a disputed issue of fact whether the BLV token offered and sold to
17 the 32 testers was a “security” and whether the 17 identified individuals who invested in
18 Rosegold purchased “securities.” (Dkt. No. 41 at 13-14.)

19 On November 13, 2018, Defendants filed the declarations of Christopher Russell
20 (“Russell”), Jacquelin Wartanian (“Wartanian”), Quintin Dorsey (“Dorsey”), and
21 Amanda Vaculik (“Vaculik”) in opposition to the motion for preliminary injunction.
22 (Dkt. Nos. 32-6; 32-8; 40-2.)

23 During discovery, it was revealed that the declaration of Russell was forged,
24 misrepresentations were made in Wartanian’s declaration, and false statements were
25

26
27 ² *SEC v. W.J. Howey Co.*, 328 U.S. 293, 298-99 (1946). *Howey*’s three-part test requires “(1) an
28 investment of money (2) in a common enterprise (3) with an expectation of profits produced by the
efforts of others.” *SEC v. Rubera*, 350 F.3d 1084, 1090 (9th Cir. 2003) (internal quotation marks
omitted).

1 made in Dorsey and Vaculik’s declarations. The SEC moves for terminating sanctions
2 seeking default judgment against Defendant for his fraudulent conduct in submitting
3 these forged and false declarations. Ringgold opposes without presenting any
4 contradicting evidence and does not dispute the evidence submitted by the SEC. Instead,
5 he presents denials and argument in his opposition and Objections.

6 **A. Quintin Dorsey**

7 On November 13, 2018, Defendants filed Quintin Dorsey’s declaration, as a tester,
8 in support of their opposition to Plaintiff’s motion for a preliminary injunction. (Dkt. No.
9 32-8 at 6; *see also* Dkt. No. 93-2, Wilner Decl., Ex. 8.) Dorsey was deposed on July 15,
10 2019 and testified he was a former student of Ringgold at the Online Trading Academy.
11 Wilner Decl., Ex. 23, Dorsey Depo. at 37:14-25.)

12 In conversations, Ringgold represented to Dorsey that he could double his money
13 within two to three months after the ICO. (*Id.* at 71:5-72:5.) Contrary to his declaration,
14 Ringgold never told Dorsey that the purchase of BLV tokens were fake or “test tokens.”
15 (*Id.* at 73:16-74:8.) He stated that he bought \$5,000 of BLV tokens and hoped to profit
16 once the ICO was complete. (*Id.* at 71:8-74:8.) He additionally testified that he made the
17 investment decision relying on Ringgold’s representations and representations contained
18 in promotional materials, including the website, Whitepaper, promotional videos, the
19 pitch deck and Ringgold’s and Blockvest’s social media accounts. (*Id.* at 191:3-21; *see*
20 *also* Dkt. No. 93-2, Wilner Decl., Exs. 10, 11.)

21 Ringgold called Dorsey to ask about signing a declaration and emailed a draft
22 declaration through DocuSign. (Dkt. No. 93-2, Wilner Decl., Ex. 23, Dorsey Depo. at
23 169:16-170:4.) After persistent requests by Ringgold to sign the declaration, Dorsey
24 testified that he signed his declaration without reviewing it so he could get Ringgold “out
25 of [his] hair . . . because he was dealing with [his] family.” (*Id.* at 173:14-174:23.) At
26 that time, his wife had recently given birth to a baby, his wife was in serious medical
27 condition, and he was also working. (*Id.* at 172:4-173:6; *see also* Dkt. No. 93-2, Wilner
28 Decl., Exs. 13, 14.) Dorsey did not draft the declaration, did not read the declaration and

1 was given no information or explanation as to the purpose of the declaration or the
2 existence of the litigation. (Dkt. No. 93-2, Wilner Decl., Ex. 23, Dorsey Depo. at 170:2-
3 14.) Dorsey was not aware that his declaration had been filed for the SEC litigation until
4 June 2019 when he was served with a subpoena. (*Id.* at 177:22-178:8.) He testified that
5 his declaration is 100% false except for his signature. (*Id.* at 197:3-16.) He also testified
6 he did not know who drafted the declaration but assumed it was someone at Blockvest.
7 (*Id.* at 197:20-24.)

8 At his deposition, Ringgold stated that he did not solicit Dorsey to invest, did not
9 recall if Dorsey purchased \$5,000 worth of BLVs in April 2018 through Blockvest's
10 website, denied talking to Dorsey on the phone before he invested, and did not recall
11 whether Ringgold sent Dorsey the Whitepaper, the pitch deck and website by email.
12 (Dkt. No. 93-2, Wilner Decl., Ex. 28, Ringgold Depo. at 450:9-455:20.) He explained
13 that Dorsey dealt with Mike Sheppard. (*Id.* at 450:9-16; 453:17-25.)

14 **B. Jacqueline Wartanian**

15 On November 13, 2018, Defendants filed Jacqueline Wartanian's declaration, as a
16 tester, in support of their opposition to Plaintiff's motion for a preliminary injunction.
17 (Dkt. No. 32-8 at 4; *see also* Dkt. No. 93-2, Wilner Decl., Ex. 9.) Wartanian was a
18 former student of Ringgold at the Online Trading Academy. (Dkt. No. 93-2, Wilner
19 Decl., Ex. 24, Wartanian Depo. at 27:4-16.)

20 She testified that she and her mother purchased \$3,000 of Blockvest tokens in
21 2018. (*Id.* at 15:17-16:14.) She gave \$3,000 for the Blockvest ICO presale with the
22 expectation that she would receive issued tokens once the ICO was complete and make
23 money from it. (*Id.* at 58:22-59:4.) She believed that she purchased Blockvest tokens
24 based on her account statement on the Blockvest Website. (*Id.* at 114:4-118:5; Dkt. No.
25 93-2, Wilner Decl., Ex. 16 at 130.) She also testified that she helped test the functionality
26 of the Blockvest platform but that was "separate" from her investment. (*Id.* at 59:5-20;
27 154:21-155:18.) She stated that the "Deloitte" account firm's logo as well as SEC
28 approval gave her confidence to invest in Blockvest. (*Id.* at 85:20-87:5; 88:5-16.)

1 As to her declaration, she testified that she was asked to send a declaration which
2 she asked Ringgold to draft. (*Id.* at 149:12-22.) Ringgold did not go over what he wrote
3 in the declaration but she read it stating “I read it and, you know, I understood what I
4 understood.” (*Id.* at 150:1-2.) He emailed her the declaration and told her to look at it
5 and sign it. (*Id.* at 150:15-17.) Although Ringgold gave her an opportunity to make
6 changes to the declaration he drafted, she did not. (*Id.* at 151:4-8.) She had not read the
7 SEC’s complaint prior to signing her declaration. (*Id.* at 152:1-16.) As to the content of
8 her declaration, she testified that the contents were correct as to her role as tester but that
9 it omitted material information that she also invested in Blockvest. (*Id.* at 153:9-165:3.)
10 At his deposition, Ringgold testified he did not recall Wartanian, did not remember if she
11 invested in Blockvest and whether she was a tester. (Dkt. No. 93-2, Wilner Decl., Ex. 28,
12 Ringgold Depo. at 548:15-549:5.) He did not recall Wartanian’s declaration and whether
13 he had any involvement in obtaining her declaration. (*Id.* at 608:12-14; 609:4-6.) He
14 testified that if Wartanian invested money, she probably drafted another declaration as his
15 attorney wanted separate declarations from testers even if they were investors and testers.
16 (*Id.* at 608:19-609:3.) However, in stark contrast to his deposition, Ringgold states, in his
17 Objections, that even before Blockvest, he had a longstanding relationship with
18 Wartanian because her brother in-law, Munir Koja, was the Senior Network Developer.
19 (Dkt. No. 115-1 at 7.) Similarly, in a declaration filed in support of his opposition to
20 Plaintiff’s pending motion for summary judgment, Ringgold states that he was a close
21 friend and mentor to Wartanian. (Dkt. No. 109-1, Ringgold Decl. ¶ 24.) He also noted
22 that Wartanian’s brother-in-law, Munir Koja, worked for Blockvest as Senior Network
23 Developer. (*Id.*)

24 **C. Christopher Russell Declaration**

25 On November 13, 2018, Defendants filed Christopher Russell’s declaration, as a
26 Rosegold investor, in support of their opposition to Plaintiff’s motion for a preliminary
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1 injunction. (Dkt. No. 32-6 at 67-68³; *see also* Dkt. No. 93-2, Wilner Decl., Ex. 3 at 97-
2 98.) However, Russell did not submit his edited, final, approved version until November
3 14, 2018 which contains materially different statements than the one filed on November
4 13, 2018. The parties do not dispute that his declaration was forged but it is unknown
5 who forged Russell's declaration.

6 On November 13, 2018, at 1:38 p.m., Russell's friend, Blockvest sales agent Chase
7 Pfohl, emailed Russell a proposed version of his declaration drafted by Defendants in
8 Word format. (Dkt. No. 93-2, Wilner Decl., Ex. 4 at 100-02.) Russell reviewed the
9 declaration and made changes to it. (Dkt. No. 93-2, Wilner Decl., Ex. 22, Russell Depo.
10 at 118:5-14.) At his deposition, Russell stated he changed the statement that claimed he
11 was a sophisticated investor as he did not have the income nor the years of experience to
12 fall in the category of a sophisticated or accredited investor. (*Id.* at 118:12-119:1.) He
13 recalled telling Chase he would not sign the declaration as provided and Chase responded
14 that it was completely fine to make whatever changes he wanted. (*Id.* at 118:21-119:5.)
15 Later that evening on November 13, 2018 at 8:36 p.m., Mike Sheppard emailed Russell
16 requesting that he send in the investor declaration, stating "[o]ur defense attorney is
17 almost certain we will receive a settlement offer if we advise that we have 100% of all
18 investors with a signed declaration. The only one we need is yours to be 100% complete.
19 . . . We will get 100% of your investment back to you when this is over." (Dkt. No. 93-2,
20 Wilner Decl., Ex. 5 at 104.) The next day, November 14, 2018 at 2:34 p.m., Russell
21 responded to Sheppard's email apologizing for the delay and attached his actual signed
22 and edited investor declaration. (*Id.*; *see also* Dkt. No. 93-2, Wilner Decl., Ex. 6 at 106-
23 07.) Russell testified that he sent his declaration in PDF format so that it could not be
24 changed by anyone. (Dkt. No. 93-2, Wilner Decl., Ex. 22, Russell Depo. at 156:2-19.)
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28 ³ Unless otherwise noted, page numbers are based on the CM/ECF pagination.

1 The version of Russell’s declaration filed with the Court on November 13, 2018
2 was not approved by him and his signature was forged. (*Id.* at 160:23-161:14; 162:13-
3 19.) The declaration Russell authorized and signed differed significantly from the
4 declaration Defendants filed on his behalf. (*Compare* Dkt. No. 93-2, Wilner Decl., Ex. 3
5 *with* Dkt. No. 93-2, Wilner Decl., Ex. 6.) For example, Russell omitted the word
6 “sophisticated” from “I consider myself a sophisticated investor,” which appears in the
7 Court-filed version of the declaration. (Dkt. No. 93-2, Wilner Decl., Ex. 22, Russell
8 Depo. at 126:18-128:1; 163:14-18.) Further, according to Russell’s deposition testimony,
9 Defendants’ version of the declaration contained statements that Russell had never seen,
10 including the statement that he had never reviewed or relied on Blockvest’s promotional
11 materials or website. (*Id.* at 164:14-168:22.) However, he testified that he had reviewed
12 numerous marketing materials and information about Blockvest on the Internet, and those
13 materials and information influenced his decision to make the \$3,000 purchase of
14 Blockvest tokens. (*Id.* at 168:3-22.) After reviewing Blockvest’s promotional materials
15 and other representations by the company’s personnel, Russell expected to profit from
16 those tokens based on the efforts of Ringgold and Blockvest’s management to make the
17 company successful. (*Id.* at 77:6-78:4; 140:7-142:17.) After his investment, Russell
18 continued to believe he had acquired BLV tokens based on his account statement
19 available on Blockvest’s website. (*Id.* at 70:3-72:16.) He stated that the version of the
20 declaration filed with the Court is “false.” (*Id.* at 164:11-13.)

21 At his deposition, Ringgold testified that he did not forge Russell’s signature on
22 the declaration and he did not know who forged it. (Dkt. No. 93-2, Wilner Decl., Ex. 28,
23 Ringgold Depo. at 529:20-23.) When asked whether Russell had sent his signed
24 declaration after Ringgold had already filed one with the Court, Ringgold testified that he
25 had no idea about it until then. (*Id.* at 519:13-20.) Yet, when asked why he did not take
26 any steps to inform the Court after he received Russell’s signed declaration, he responded
27 that he did not know how to do so and was bombarded with numerous filings as he was
28 proceeding pro per. (*Id.* at 525:21-25; 529:20-530:5.) He also explained that there were

1 several signed versions of the declarations and each investor probably signed about two
2 or three different versions because there were corrections and errors. (*Id.* at 519:21-25;
3 520:13-17.) Then he testified that he was under the impression that Chase forged
4 Russell’s signature. (*Id.* at 520:1-6.) Ringgold explains that if Chase submitted the
5 Russell declaration, he would not have any way of knowing if Chase forged Russell’s
6 signature. (*Id.* at 525:8-16.) He has no idea what happened except that the declaration
7 came from Chase. (*Id.* at 525:17-20.) He further states that he had no way of knowing at
8 the time the declaration was sent to him whether it was accurate or not. (*Id.* at 529:14-
9 19.)

10 **D. Amanda Vaculik Declaration**

11 On November 19, 2018, the SEC filed a supplemental declaration of David S.
12 Brown regarding a \$147,000 wire transfer. (Dkt. No. 39.) Ringgold was questioned
13 regarding this wire transfer and the source of the monies at his deposition on November
14 6, 2018. (Dkt. No. 39-8.) Thereafter, on November 20, 2018, Defendants filed Amanda
15 Vaculik’s declaration.⁴ (Dkt. No. 40-2 at 2; *see also* Dkt. No. 93-2, Wilner Decl., Ex.
16 17.) In the declaration, Vaculik stated that, in April 2018, she entered into a lease for a
17 condo located on 5th Street in Santa Monica, California. (Dkt. No. 40-2 at 2.) She
18 claimed that her boyfriend, Christopher Black, paid rent on the 5th Street condo for a
19 year in advance. (*Id.*) Black worked in Blockchain exchange software development.
20 (*Id.*) Black told Vaculik that “Reginald Ringgold agreed to pay Mr. Black \$147,000 in
21 exchange for Mr. Black’s software development services. Mr. Black told me that he
22 asked Mr. Ringgold to make payment for Mr. Black’s services to my landlord, ‘5th ST
23 LLC’” on April 18, 2018. (*Id.*) The contents of Vaculik’s declaration was later
24 discovered to be false.

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28 ⁴ As noted by the SEC, Vaculik’s declaration was stricken and not considered by the Court in its denial
of preliminary injunction. (Dkt. No. 41 at 17.)

1 In line with Vaculik’s declaration, on November 6, 2018, Ringgold testified during
2 his initial deposition, which was conducted during the expedited discovery phase, that a
3 \$147,000 payment from his personal account for a Santa Monica apartment for Vaculik
4 was compensation to “Chris” and his company for “development” of Blockvest’s
5 platform, and the source of funds was “my money that I had I just had in my safe.” (Dkt.
6 No. 93-2, Wilner Decl., Ex. 27, Ringgold Depo. at 357:17-361:16.)

7 On November 15, 2018, Plaintiff conducted a telephonic interview of Vaculik.
8 (Dkt. No. 93-2, Wilner Decl. ¶ 23.) Vaculik answered the call but asked the SEC
9 interviewers to call her back in thirty minutes. (*Id.*) During the subsequent call, Vaculik
10 told the SEC interviewers that Black was her boyfriend, that he was involved with
11 technology, and that the payment was for Black’s services for an apartment in which
12 Vaculik would live. (*Id.*) She then repeated the above statements in her declaration filed
13 with the District Court on November 20, 2018. (Dkt. No. 40-2 at 2.)

14 On April 24, 2019, Vaculik gave a proffer to the Department of Justice that was
15 attended by two SEC attorneys. (Dkt. No. 93-2, Wilner Decl. ¶ 25.) During the proffer,
16 Vaculik told the interviewers that: (1) Black was not her boyfriend; (2) she did not live in
17 the Santa Monica apartment; (3) she did not know the source or purpose of the funds for
18 the apartment, and (4) she became involved because Ringgold and his affiliates paid her
19 \$10,000 to put the apartment application in her name. (*Id.*) Vaculik also stated that on
20 November 15, 2018, she spoke to Ringgold during the intervening thirty minutes between
21 phone calls with the SEC, and Ringgold instructed her to tell the false story about the
22 apartment transaction to the SEC staff. (*Id.*) During her subsequent deposition on
23 September 9, 2019, Vaculik asserted her Fifth Amendment right as to all questions
24 concerning the transaction, the declaration, and the SEC interview. (Dkt. No. 93-2,
25 Wilner Decl., Ex. 25, Vaculik Depo. at 18-61.)

26 At a later deposition on October 22, 2019, Ringgold testified that he did not know
27 or recall Vaculik or Black and did not recall any transaction with her or Black related to
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1 supposed development services or the apartment. (Dkt. No. 93-2, Wilner Decl., Ex. 28,
2 Ringgold Depo. at 394:23-399:4; 611:21-631:12.)

3 Discussion

4 A. Legal Standard of Magistrate Judge’s Report and Recommendation

5 In reviewing a magistrate judge’s report and recommendation, a district court
6 “must make a de novo determination of those portions of the report . . . to which
7 objection is made,” and “may accept, reject, or modify, in whole or in part, the findings
8 or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ.
9 P. 72(b). A district court is not required to review a magistrate judge's report and
10 recommendation where no objections have been filed. *See United States v. Reyna–Tapia*,
11 328 F.3d 1114 (9th Cir. 2003). While “the [§ 636(b)(1)(C)] does not require the judge to
12 review an issue de novo if no objections are filed, it does not preclude further review by
13 the district judge, sua sponte or at the request of a party, under a de novo or any other
14 standard.” *Thomas v. Arn*, 474 U.S. 140, 154 (1985).

15 Here, Defendant filed an Objection to the R&R; therefore, the Court conducts a *de*
16 *novo* review of the portions of the R&R that Defendant objects. Defendant objects
17 contending that the R&R fails to identify or apply a legal standard and the Magistrate
18 Judge substituted his own discretion for the Sheriff’s without identifying a violation of
19 law. (Dkt. No. 115 at 2.) Further, without legal authority, Ringgold argues that
20 terminating sanctions will violate his Seventh Amendment right to a jury trial. (*Id.*)

21 First, the Magistrate Judge correctly identified the legal standard for terminating
22 sanctions under federal law. In contrast, Ringgold improperly cites to state law cases
23 addressing sanctions for discovery violations. Second, courts may dismiss matters
24 through pretrial proceedings without violating the Seventh Amendment. *See In re U.S.*
25 *Fin. Sec. Litig.*, 609 F.2d 411, 422 & n. 34 (9th Cir. 1979) (“Several procedural devices
26 developed and expanded since 1791 have infringed upon the civil jury’s historic role;
27 nevertheless, they have been found consistent with the Seventh Amendment.”); *Newton v.*
28 *Poindexter*, 578 F. Supp. 277, 283 (E.D. Cal. 1984) (motion to dismiss for lack of subject

1 matter jurisdiction did not violate right to jury trial) (quoting *Gasoline Prods. Co. v.*
2 *Champlin Refining Co.*, 283 U.S. 494 (1931) (“[The Seventh Amendment] does not
3 prohibit the introduction of new methods for ascertaining what facts are in issue . . .”).
4 Therefore, Ringgold’s Objections are without merit. Nonetheless, the Court conducts a
5 review of the R&R on the merits.

6 **B. Legal Standard on Terminating Sanctions**

7 A court has the inherent authority to issue sanctions in response to abusive
8 litigation practices. *Leon v. IDX Sys. Corp.*, 464 F.3d 951, 958 (9th Cir. 2006). One such
9 sanction is the authority to dismiss a case when “a party has engaged deliberately in
10 deceptive practices that undermine the integrity of judicial proceedings” because “courts
11 have inherent power to dismiss an action when a party has willfully deceived the court
12 and engaged in conduct utterly inconsistent with the orderly administration of justice.” *Id.*
13 (quoting *Anheuser–Busch, Inc. v. Natural Beverage Distribs.*, 69 F.3d 337, 348 (9th Cir.
14 1995)). “It is firmly established that the courts have inherent power to dismiss an action
15 or enter a default judgment to ensure the orderly administration of justice and the
16 integrity of their orders.” *Phoceene Sous-Marine, S.A. v. U.S. Phosmarine, Inc.* 682 F.2d
17 802, 806 (9th Cir. 1982) (citations omitted). “Because of their very potency, inherent
18 powers must be exercised with restraint and discretion.” *Chambers v. NASCO, Inc.*, 501
19 U.S. 32, 44 (1991); *Wyle v. R.J. Reynolds Indus., Inc.*, 709 F.2d 585, 589 (9th Cir. 1983)
20 (“[B]ecause dismissal is so harsh a penalty, it should be imposed only in extreme
21 circumstances.”). Terminating sanctions may issue only upon a finding of willful
22 disobedience or bad faith. *In re Exxon Valdez*, 102 F.3d 429, 432 (9th Cir. 1996); *Wyle*,
23 709 F.2d at 589 (the violations must be “due to willfulness, bad faith, or fault of the
24 party”). In addition, the Ninth Circuit has identified five factors that a court must
25 consider before dismissing an action as a sanction:

- 26 (1) the public’s interest in expeditious resolution of litigation;
- 27 (2) the court’s need to manage its docket;
- 28 (3) the risk of prejudice to the other party;
- (4) the public policy favoring disposition of cases on their merits; and

1 (5) the availability of less drastic sanctions.

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3 *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (quoting *Thompson v.*
4 *Housing Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986)). “The first two
5 of these factors favor the imposition of sanctions in most cases, while the fourth cuts
6 against a . . . dismissal sanction. Thus the key factors are prejudice and the availability of
7 lesser sanctions.” *Wanderer v. Johnston*, 910 F.2d 652, 656 (9th Cir. 1990). This five
8 factor test is not a rigid, mechanical test but “a way for a district judge to think about
9 what to do, not a series of conditions precedent before the judge can do anything, and not
10 a script for making what the district judge does appeal-proof.” *Valley Engineers Inc. v.*
11 *Elec. Eng’g Co.*, 158 F.3d 1051, 1057 (9th Cir. 1998).

12 **C. Bad Faith, Willfulness or Fault**

13 Plaintiff argues that Defendant’s misconduct was willful and in bad faith because
14 he knew the declarations were forged or false and yet took no action to correct them and
15 he further attempted to conceal the wrongdoing with false deposition testimony. (Dkt.
16 No. 93-1 at 11.) Ringgold responds with numerous explanations. Ringgold claims his
17 retained counsel “carefully drafted” each declaration and each declarant was instructed to
18 read it carefully and make sure it was true and correct and to make any corrections before
19 sending it back. (Dkt. No. 99-1 at 11; Dkt. No. 115 at 7.) Moreover, his counsel drafted
20 the declarations under intense time constraints opposing the motion for preliminary
21 injunction and “it is highly possible that the defendants counsel inaccurately carried over
22 statements from the prior drafted declarations to those of the Russell, Dorsey &
23 Wartanian . . .” (Dkt. No. 99-1 at 11.) Ringgold claims he never pressured the
24 investors, or testers to sign the declarations and they were signed of their own free will.
25 (Dkt. No. 115 at 7.) He states that the SEC used coercion tactics employed by FBI agents
26 and DOJ to get Dorsey, Wartanian and Vaculik to perjure themselves. (Dkt. No. 99-1 at
27 11; Dkt. No 115 at 7.) Finally, since he is proceeding pro se and unschooled in the law,
28 he was unable or did not know how to correct the forged declaration that was filed with

1 the Court. (Dkt. No. 115 at 7.) Ringgold argues that he did not destroy any evidence in
2 bad faith and did not alter or hide evidence; therefore, terminating sanctions are not
3 warranted.

4 Terminating sanctions may issue only upon a finding of willful disobedience or
5 bad faith. *In re Exxon Valdez*, 102 F.3d 429, 432 (9th Cir. 1996); *Wyle*, 709 F.2d at 589
6 (the violations must be “due to willfulness, bad faith, or fault of the party”). In *Combs*
7 the Ninth Circuit held that “dismissal is an appropriate sanction for falsifying a
8 deposition.” *Combs v. Rockwell Int’l Corp.*, 927 F.2d 486 (9th Cir.) *cert. denied* 502
9 U.S. 859 (1991). In *Combs*, after the deposition of the plaintiff, the parties agreed that
10 the transcript would be forwarded to plaintiff’s counsel in order to have the plaintiff
11 review it and make any changes to correct transcribing errors. *Id.* at 488. The plaintiff
12 stated he was satisfied that his testimony was correct and truthful, but he gave counsel
13 permission to alter any of his responses. *Id.* Counsel made thirty-six changes many of
14 which materially altered the substance of the plaintiff’s testimony. *Id.* Despite Plaintiff’s
15 sworn statement, he never reviewed either the original or the altered deposition
16 transcripts. *Id.* The Ninth Circuit affirmed the district court's dismissal of the complaint
17 for falsifying a deposition by authorizing counsel to alter a deposition in material respects
18 and then signing the revised deposition and swearing, under penalty of perjury, that the
19 plaintiff had reviewed the transcript and made the changes personally. *Id.* at 488-89
20 (“[t]he mendacity of the client and the combined fraud and incompetence of his counsel
21 are so egregious that there is no need to reach the merits of the motion for summary
22 judgment. The case was properly dismissed.”).

23 In *Vogel*, the district court granted dismissal of the case where an ADA plaintiff
24 and his attorney were sanctioned for acting in bad faith and making material
25 misrepresentations to the court about when he encountered barriers at the defendant’s
26 place of business. *Vogel v. Tulaphorn*, No. CV 13-464 PSG (PLAX), 2014 WL
27 12629679, at *6 (C.D. Cal. Jan. 30, 2014) (“Only one thing matters at this late date:
28 Plaintiff and Counsel falsely represented to this Court and Defendant, over many months

1 of litigation, that Plaintiff encountered access barriers during a prefilings visit to the
2 restaurant that he never actually made.”).

3 “To permit the fabrication of spurious corroborating evidence without the
4 imposition of a harsh responsive sanction would constitute an open invitation to abuse of
5 the judicial system of the most egregious kind.” *Asia Pac. Agr. & Forestry Co. v. Sester*
6 *Farms*, No. 3:12-cv-00936-PK, 2013 WL 4742934, *11 (D. Or. Sept. 3, 2013); *see also*
7 *Arnold v. Cnty. of El Dorado*, No. 2:10-cv-3119 KJM GGH PS, 2012 WL 3276979, at
8 *4 (E.D. Cal. Aug. 9, 2012) (“[P]erjury on any material fact strikes at the core of the
9 judicial function and warrants a dismissal of one's right to participate at all in the truth
10 seeking process If one can be punished for perjury with up to five years
11 imprisonment, 18 U.S.C. § 1621, it should not seem out of place that a civil action might
12 be dismissed for the same conduct.”).

13 Based upon its review of the subject declarations, subsequent deposition testimony
14 of the declarants, and Ringgold’s declarations and deposition testimony, the Court
15 concludes that Ringgold willfully deceived the Court in defending against the SEC
16 allegations. The deception, which began shortly after this litigation commenced in 2018,
17 has impacted the Court’s rulings to date and resulted in the abuse and corruption of the
18 judicial process.

19 The R&R found that Ringgold’s conduct was willful and in bad faith and the Court
20 agrees. (Dkt. No. 113 at 20-25.) Early in the litigation, Ringgold filed a declaration in
21 opposition to the motion for preliminary injunction and stated there were a total of 17
22 individuals that had loaned or invested money in Rosegold Investments but did not
23 purchase securities. These 17 investor individuals attested under oath that they did not
24 buy BLV tokens and did not rely on any specific representations when investing. (Dkt.
25 No. 24, Ringgold Decl. ¶ 12.) In addition, Ringgold stated there were 32 testers involved
26 in the Blockvest testing and development phase where they put a total of less than
27 \$10,000 of Bitcoin and Ethereum onto the Blockvest Exchange. (*Id.* ¶¶ 5-6.) BLV
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1 Tokens were never released from the BlockVest platform to the 32 testing participants
2 because they were only designed for testing the platform. (*Id.* ¶ 6.)

3 In a supplemental declaration filed in opposition to the motion, Ringgold declared
4 that the “16⁵ Private Rosegold Investors Have Attested Under Oath that They Did Not
5 Rely on Any of the Alleged Misrepresentations or Omissions and Their Purchases were
6 Not in Connection with Those Alleged Misrepresentations and Omissions.” (Dkt. No.
7 32, Ringgold Decl. at 5.) These 16 investors “also attested that they authorized Michael
8 Sheppard to use his unfettered discretion to us the money in any good manner, provided
9 that he exercises reasonable business judgment. . . that before that they sent money to
10 Rosegold Investments LLP, they did not review or rely on Rosegold Investments LLP’s
11 website or any offering documents or anything on the internet about Rosegold
12 Investments . . . that before sending any money to Rosegold Investments LLP, they never
13 listened to any webinar or video, or attended any seminar on Blockvest LLC . . . [and]
14 did not review or rely on the Blockvest website[] Whitepaper, Facebook page, and or
15 LinkedIn page referencing Blockvest or anything else on the internet about Blockvest.”
16 (*Id.* ¶¶ 18-20.) He also attached “true and correct copies of declarations from nine of the
17 [32] Blockvest authorized testers that the SEC falsely presented to this Court as an
18 investor.” (*Id.* ¶ 28.) The Blockvest Exchange was never operational and was a work-in
19 progress, as was its website, White Paper and entire exchange platform itself. (*Id.* ¶ 32.)
20 The supplemental declarations included the declarations of Russell as a Rosegold
21 investor, and Dorsey and Wartanian, as testers.

22 Dorsey Declaration

23 Discovery has revealed that Ringgold’s declarations filed in opposition to the
24 preliminary injunction contain false statements. Dorsey was not a tester, as stated in his
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27 ⁵ While the initial declaration states there were 17 Rosegold investors, the supplemental declaration
28 states there are technically 18 Rosegold investors but 2 of them are minors and not involved in the
investment decision. (Dkt. No. 32. Ringgold Decl. ¶ 16.)

1 declaration, and believed he was investing in Blockvest. Contrary to Ringgold's
2 supplemental declaration, Dorsey testified that he invested \$5,000 to purchase BLV
3 tokens and hoped to profit once the ICO was complete. (Dkt. No. 93-2, Wilner Decl., Ex.
4 23, Dorsey Depo. at 71:8-14:8.) He relied on representations made by Ringgold as well
5 as representations made in Blockvest's promotional materials, which included the
6 website, Whitepaper, promotional videos, the pitch deck and Ringgold's and Blockvest's
7 social media accounts. (*Id.* at 191:3-21.) In an email dated April 22, 2018, Ringgold
8 personally thanked Dorsey for his investment interest and provided document links on the
9 Blockvest project and private sale. (Dkt. No. 93-2, Wilner Decl., Ex. 11 at 117.) The
10 email also stated "For your \$5,000 investment you will receive 10,000 BLV Tokens at
11 \$.50 per. This offer is only valid through May 1, 2018." (*Id.*) Dorsey believed the BLV
12 tokens were real and not test tokens. (Dkt. No. 93-2, Wilner Decl., Ex. 23, Dorsey Depo.
13 at 161:13-17.)

14 Dorsey also testified that Ringgold contacted him asking him to sign a declaration
15 and emailed a draft declaration. (*Id.* at 169:16-170:4.) Ringgold directed Dorsey to sign
16 the declaration without providing an explanation as to the purpose of the declaration, the
17 contents of the declaration or the pending SEC litigation. Dorsey regrettably testified that
18 he did not read the declaration and wished he had not signed the declaration. (*Id.* at
19 170:10-11; 197:9-19.)

20 Later, at his deposition, Ringgold stated that he did not solicit Dorsey to invest, did
21 not recall if Dorsey purchased \$5,000 worth of BLVs in April 2018 through Blockvest's
22 website, denied talking to Dorsey on the phone before he invested, and did not recall
23 whether Ringgold sent Dorsey the Whitepaper, the pitch deck and website by email.
24 (Dkt. No. 93-2, Wilner Decl., Ex. 28, Ringgold Depo. at 450:9-455:20.)

25 Dorsey's undisputed testimony and the emails sent by Ringgold to Dorsey reveal
26 that Ringgold solicited Dorsey to invest, was aware of the \$5,000 investment and emailed
27 Dorsey promotional materials about the BLV tokens. Dorsey's declaration stating that he
28 was a tester is false. Thus, Ringgold's declaration stating the testers did not purchase

1 BLV tokens because the Blockvest platform was not operational is false. Ringgold's
2 subsequent deposition testimony misrepresenting that Dorsey did not invest and that he
3 had no knowledge about his communications with Dorsey reveals Ringgold's willful
4 conduct in an attempt to obscure and conceal the facts surrounding the offer and sale of
5 BLV tokens to Dorsey.

6 Wartanian Declaration

7 Next, Wartanian was also described as a tester in Ringgold's initial declarations
8 filed with the Court. Wartanian testified she was both a tester and also an investor of
9 Blockvest. (Dkt. No. 93-2, Wilner Decl., Ex. 24, Wartanian Depo. at 58:22-59:4; 59:5-
10 20; 154:21-155:18.) Yet, her declaration omits the investment part of her relationship
11 with Blockvest. At his deposition, Ringgold testified that he did not recall who
12 Wartanian was and whether she invested in Blockvest or whether she was a tester. (Dkt.
13 No. 93-2, Wilner Decl., Ex. 28, Ringgold Depo. at 548:15-549:5.) He also had no
14 recollection whether he was involved in procuring her declaration. (*Id.* at 608:12-14;
15 609:4-6.) However, in his Objections and also in his declaration in opposition to motion
16 for summary judgment, he declares that he is a close friend and mentor to Wartanian that
17 pre-dates Blockvest, and her brother-in-law was the Senior Network Developer at
18 Blockvest. (Dkt. No. 115-1 at 7; Dkt. No. 109-1, Ringgold Decl. ¶ 24.)

19 While Wartanian was a tester of the Blockvest website, she also invested \$3,000 in
20 purchasing BLV tokens. She believed she would make money from the investment and
21 she was able to see her account statement on the Blockvest website. Again, Ringgold hid
22 the truth by testifying that he does not recall who Waratanian is and what role she played
23 with Blockvest even though, in fact, he is a close friend and mentor of Wartanian.

24 The Court agrees with the R&R that the evidence surrounding the false declaration
25 of Dorsey and misrepresentations in Wartanian's declarations reveal that Ringgold was
26 involved in drafting these declarations that were submitted to the Court and, as such, his
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1 conduct was willful and in bad faith.⁶ Moreover, review of the evidence concerning these
2 declarations reveals that Ringgold also provided false statements in his own declarations
3 with the Court.

4 Vaculik Declaration

5 Next, Ringgold coached Vaculik to provide false statements to the SEC in a
6 telephonic interview on November 15, 2018. The false statements related to Vaculik's
7 relationship with Chris Black, a supposed developer, and a \$147,000 payment for an
8 apartment she never lived in. Ringgold included the false statements in a declaration
9 filed on November 20, 2018, (Dkt. No. 93-2, Wilner Decl. ¶ 23; Dkt. No. 93-2, Wilner
10 Decl., Ex. 17), and testified to similar facts at his initial deposition on November 6, 2018.
11 (Dkt. No. 93-2, Wilner Decl., Ex. 27, Ringgold Depo. at 357:17-361:16.) However, on
12 April 24, 2019, Vaculik gave a proffer to Plaintiff's attorney and essentially stated that
13 Ringgold paid her \$10,000 to make statements in her declaration. (Dkt. No. 93-2, Wilner
14 Decl. ¶ 25.) Then, on October 22, 2019, Ringgold testified he did not have any
15 recollection of Vaculik or Black, or any transaction related with her or Black. (Dkt. No.
16 93-2, Wilner Decl., Ex. 28, Ringgold Depo. at 394:23-399:4; 611:21-631:12.) Again,
17 Ringgold's conflicting accounts as to Vaculik's role further demonstrates that his conduct
18 was dishonest and willful.

19 Russell Declaration

20 Finally, Ringgold does not dispute that the signature on the Russell declaration was
21 forged but there is an issue of fact whether Ringgold was responsible or involved in the
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24 ⁶ Sanctions without an evidentiary hearing is warranted where Ringgold does not "argue or provide
25 evidence challenging the authenticity of [SEC's] evidence, particularly the falsified evidence at issue."
26 *See American Rena Int'l Corp. v. Sis-Joyce Int'l Co., Ltd.*, Case No. CV 12-6972 FMO (JEMx), 2015
27 WL 12732433 at*7 n. 6 (C.D. Cal. Dec. 14, 2015) (citing *Profl Seminar Consultants, Inc. v. Sino Am.*
28 *Tech. Exch. Council, Inc.*, 727 F.2d 1470, 1472-73 (9th Cir. 1984) (no abuse of discretion in ordering
sanctions without an evidentiary hearing where district court ruled such a hearing was unnecessary;
party did not contest the authenticity of falsified evidence, and district court made findings of fact on the
record when ordering sanctions)).

1 forgery of Russell’s signature. However, despite learning about the forged declaration
2 prior to his deposition in October 2019, (Dkt. No. 93-2, Wilner Decl., Ex. 28, Ringgold
3 Depo. at 526:6-21), Defendant has not withdrawn the forged declaration and continues to
4 cite the declaration in opposition to his pending motion for summary judgment. (*See* Dkt.
5 No. 109.) This is some evidence of Ringgold’s bad faith.

6 Ringgold’s misconduct concerns the fabrication of evidence material to key issues
7 in this case. Having suborned perjury and coached witnesses to lie, Defendant denies
8 responsibility and, instead, blames the SEC investigators for coercing these witnesses to
9 lie. Ringgold’s conduct as to procuring Vaculik, Wartanian and Dorsey’s declarations
10 and subsequent testimonies denying knowledge about his relationship and/or
11 communications with them demonstrate bad faith and willful misconduct in order to
12 conceal and obscure the truth and has resulted in protracted litigation by SEC to arrive at
13 the truth. Even now, Ringgold continues his willful misconduct by relying on false
14 declarations in opposing the pending summary judgment motion. (*See* Dkt. No. 109.)
15 Given the above facts, the Court does not have the confidence that “it can accept
16 defendant[’s] account of either the law or the facts in this matter” as to the remaining 7
17 tester declarations. *See American Rena Int’l Corp.*, 2015 WL 12732433 at *32. (citing
18 *Newman v. Brandon*, No. 1:10–cv–00687 AWI JLT (PC), 2012 WL 4933478, at *4 (E.D.
19 Cal. Oct. 16, 2012) (submission of perjured testimony going to material issues in the case
20 “was an act of bad faith which undermines the confidence placed in our system of
21 justice”). The Court agrees with the R&R and finds that Ringgold’s misconduct was
22 willful and in bad faith.

23 **D. Malone’s Five Factor Test**

24 **1. Public’s Interest in Expedient Resolution of Litigation**

25 The SEC contends that the false declarations has necessitated protracted litigation
26 to resolve whether Defendant sold Blockvest securities to presale investors which was the
27 only issue in dispute at the motion for preliminary injunction. (Dkt. No. 92-1 at 16.)
28 Defendant did not address this factor. The Magistrate Judge concluded that the

1 misconduct caused unnecessary delay and expense for the SEC and the public it seeks to
2 protect and is a factor that supports sanctions. (Dkt. No. 113 at 25.)

3 “The public’s interest in expeditious resolution of litigation always favors
4 dismissal.” *Nourish v. Cal. Amplifier*, 191 F.3d 983, 990 (9th Cir. 2002). The public has
5 an overriding interest in securing “the just, speedy, and inexpensive determination of
6 every action.” *In re Phenylpropanolamine (PPA) Prods. Liab. Litig.*, 460 F.3d 1217,
7 1227 (9th Cir. 2006); *see also* Fed. R. Civ. P. 1.

8 The Court agrees that the false declarations submitted created additional and
9 unnecessary expense for the SEC in discovery in order to obtain the truth. This factor
10 favors dismissal.

11 **2. The Court’s Need to Manage Its Docket**

12 Plaintiff argues that Defendant’s conduct undermined the integrity of the
13 proceedings and if default judgment is not entered, it would not deter future fraudulent
14 conduct. (Dkt. No. 93-1 at 16-17.) Ringgold did not address this factor. The Magistrate
15 Judge concluded that the Court expended an enormous amount of resources on this case;
16 Defendant has not withdrawn or corrected the false and forged declarations since they
17 were filed over a year and a half ago; and Ringgold continues to cite them in his
18 opposition of Plaintiff’s pending motion for summary judgment. (Dkt. No. 113 at 27.)
19 Moreover, Defendant’s conduct has impeded the resolution of the case by obscuring
20 critical facts and Plaintiff has expended a substantial amount of time and resources
21 obtaining discovery relating to the false declarations. (*Id.*)

22 “District courts have an inherent power to control their dockets,” and “dismissal
23 must be available to the district court in appropriate cases, not merely to penalize those
24 whose conduct may be deemed to warrant such a sanction, but to deter those who
25 might be tempted to such conduct in the absence of such a deterrent.” *In re*
26 *Phenylpropanolamine*, 460 F.3d at 1227 (quoting *Nat’l Hockey League v. Metro. Hockey*
27 *Club, Inc.*, 427 U.S. 639, 643 (1976)); *see also* Fed. R. Civ. P. 16 (authorizing district
28 courts to manage cases so that disposition is expedited, wasteful pretrial activities are

1 discouraged, and the quality of the trial is improved).

2 The Court recognizes that submitting false declarations has needlessly protracted
3 litigation and impeded prompt resolution of this case; thus, this factor weighs in favor of
4 dismissal.

5 **3. Risk of Prejudice to the Other Party**

6 Plaintiff argues that Defendant's fraudulent conduct has caused meaningful and
7 lasting prejudice to the SEC and the investors it seeks to protect because the investor
8 declarations were the primary evidence cited by the Court in deciding if there were
9 factual disputes as to whether investors were offered securities. Initially, the Court
10 denied the preliminary injunction, and, on reconsideration, only imposed a subset of the
11 relief requested by the SEC. (Dkt. No. 93-1 at 17.) Further, Plaintiff asserts that given
12 the scope of Defendants' misconduct, any evidence they present in opposition to
13 summary judgment or at trial will not be credible. (*Id.*) Defendant does not specifically
14 address this factor but argues that he was not aware of the false declarations of Dorsey
15 and Wartanian until the instant motion was filed. (Dkt. No. 115-1 at 5.) He claims he did
16 not engage in bad faith conduct, did not alter or hide evidence and the extraordinary
17 sanction of terminating sanctions is not warranted. The R&R concluded that the false
18 evidence precluded the SEC from timely assessing evidence central to its claims and
19 forced it to engage in extensive, costly and lengthy discovery to uncover key facts and the
20 extent of Ringgold's deceit. (Dkt. No. 113 at 28.) As a result, the SEC has been
21 prejudiced by Defendant's misconduct and this factor supports terminating sanctions.
22 (*Id.*)

23 A plaintiff "suffers prejudice if [a party's] actions impair the [opposing party's]
24 ability to go to trial or threaten to interfere with the rightful decision of the case."
25 *Adriana Int'l Corp v. Thoren*, 913 F.2d 1406, 1412 (9th Cir. 1990). For example, a
26 failure to produce documents as ordered establishes sufficient prejudice. *Id.* (citing *SEC*
27 *v. Seaboard Corp.*, 666 F.2d 414, 417 (9th Cir. 1982)). In *Adriana*, the Ninth Circuit
28 concluded that "the repeated failure of Adriana to appear at scheduled dispositions

1 compounded by their continuing refusal to comply with court-ordered production of
2 documents constitutes an interference with the rightful decision of the case.” *Id.* “The
3 law also presumes prejudice from unreasonable delay.” *In re Phenylpropanolamine*, 460
4 F.3d at 1227. But “[d]elay alone, without a focus on its effects, will not justify dismissal
5 or default.” *Wanderer*, 910 F. 2d at 656. In *Wanderer*, prejudice was satisfied “due to
6 failure of the defendants to appear at their depositions and repeated noncompliance with
7 court orders to produce documents [and] constituted a clear interference with the
8 plaintiffs’ ability to prove the claims and to obtain a decision in the case.” *Id.* at 656.

9 The Court agrees with the R&R that Plaintiff has suffered prejudice in its ability to
10 ascertain facts to support its claims. The false declarations have protracted the length of
11 discovery as the SEC has had to unpack the extent of the false statements committed by
12 Ringgold.

13 However, the Court notes that the four declarations of Russell, Dorsey, Wartanian
14 and Vaculik did not impact the Court’s original ruling on the motion for preliminary
15 injunction. (*See* Dkt. No. 41.) Because the four declarations were submitted in
16 supplemental filings outside the Court ordered briefing schedule, the Court specifically
17 denied Defendants’ request for leave to file supplemental declarations, that include
18 Dorsey, Wartanian and Russell’s declaration, as moot. (Dkt. No. 41 at 17.) The Court
19 also struck Plaintiff’s supplemental declaration which included Vaculik’s declaration.
20 (*Id.*) Instead, the Court relied on Ringgold’s declaration and the 9 Rosegold investor
21 declarations attached to Ringgold’s declaration filed in opposition to the motion for
22 preliminary injunction filed on November 2, 2018. (Dkt. No. 24-2.) None of the four
23 false declarations were included in this declaration. (*See id.*) On reconsideration,
24 however, the Court relied on the additional 9 tester declarations which included Jackie
25 Wartanian and Quentin Dorsey’s declarations. (Dkt. No. 61 at 13 (citing Dkt. No. 32-8).)
26 In addition, these declarations have been employed to oppose the SEC’s case and are
27 being used to oppose the motion for summary judgment by Ringgold. As a result, these
28

1 declarations have and would interfere with “the rightful decision of the case.” *See*
 2 *Adriana Int’l Corp*, 913 F.2d at 1412.

3 As to Vaculik’s declaration, the SEC asserts that it is pertinent as to the issue of
 4 disgorgement as a remedy for a securities violation. (Dkt. No. 116 at 7.) Accordingly,
 5 the declaration is not peripheral to the merits of the case. *Cf. Phoceene Sous–Marine*,
 6 *S.A.*, 682 F.2d at 806 (noting “[i]t is firmly established that the courts have inherent
 7 power to dismiss an action or enter a default judgment to ensure the orderly
 8 administration of justice and the integrity of their orders [,]” but reversing entry of default
 9 because the deception was “peripheral” to the merits of the controversy). Moreover, the
 10 content of the Vaculik declaration and its creation is relevant in demonstrating the extent
 11 of Defendant’s efforts to defeat the SEC action through artifice. It further proves that
 12 Defendant’s actions in presenting false declarations was willful.

13 The Court concludes the SEC has suffered prejudice as the subject declarations
 14 have or will impact and affect key issues in this case.

15 **4. Public Policy Favoring Disposition of Cases on their Merits**

16 Plaintiff argues that this factor is outweighed because Defendant engaged in
 17 fraudulent conduct. (Dkt. No. 93-1 at 17-18.) Defendant does not address this factor.
 18 The R&R found that this factor was neutral because Defendants, by filing false
 19 declarations, impeded the SEC’s efforts to ascertain critical facts. (Dkt. No. 113 at 28-
 20 29.)

21 The factor “resolution of cases on their merits, always weighs against dismissal.”
 22 *Dreith v. Nu Image, Inc.*, 648 F.3d 779, 788 (9th Cir. 2011) (citing *Adriana*, 913 F.2d at
 23 1412). However, this factor “lends little support” to a party that unreasonably delays or
 24 impedes progress toward disposition of the case on the merits. *See In re*
 25 *Phenylpropanolamine*, 460 F.3d at 1227. Accordingly, the Court agrees with the
 26 Magistrate Judge that Ringgold’s willful conduct causing delays and impeding progress
 27 makes this factor neutral.

28 **5. Availability of Less Drastic Sanction**

1 The SEC argues that because Defendant’s fraud relates to the legal issues central to
2 this litigation, Ringgold will not likely pay monetary sanctions and evidence preclusion
3 will only place him in the same position in which he was before he filed the false and
4 forged declarations and will not deter him from further deception. (Dkt. No. 93-1 at 18.)
5 Ringgold responds that terminating sanctions are not appropriate because he has not
6 disobeyed any prior court orders requiring a response and cites to numerous state court
7 cases and well as statutory provisions. (Dkt. No. 99-1 at 6.) Ringgold is amenable to
8 alternative relief where the court could order that he be precluded from “offering the
9 forged Declaration at trial . . . and should be allowed to submit the declaration that has
10 been confirmed as signed by Christopher Russell.” (*Id.* at 12-13.) Ringgold is also
11 amenable to alternative relief of allowing him to “resubmit the declarations in the form of
12 Notarized Affidavit of Facts from Quinten Dorsey, Jackie Wartanian & Christopher
13 Russell in lieu of sanctions.” (*Id.* at 13.) The Magistrate Judge considered alternative
14 sanctions in lieu of dismissal but concluded that alternative sanctions would not
15 adequately redress Defendant’s egregious misconduct and deceit. (Dkt. No. 113 at 33.)
16 The R&R explained that monetary sanctions would not be effective because Ringgold
17 does not appear to have financial resources to pay monetary sanctions. (*Id.* at 30.)
18 Evidentiary and issue preclusion sanctions would not deter Ringgold’s misconduct but
19 would place him in the same position he was in before filing the false and forged
20 declarations. (*Id.* at 31.)

21 The fifth *Malone* factor asks the Court to determine the viability of less drastic
22 sanctions by considering three sub-factors: (1) the availability of lesser sanctions; (2) the
23 use of lesser sanctions before termination; and (3) the adequate warning of the possibility
24 of termination. *See Conn. Gen. Life Ins. Co. v. New Images of Beverly Hills*, 482 F.3d
25 1091, 1096 (9th Cir. 2007). To satisfy this factor, a court should consider lesser
26 sanctions, order them, and give adequate warning of impending termination. *Id.*
27 However, in egregious cases such an inquiry is not necessary. *Malone*, 833 F.2d at 132;
28 *Hester v. Vision Airlines, Inc.*, 687 F.3d 1162, 1170 (9th Cir. 2012) (if the court

1 anticipates continued deceptive misconduct and lesser sanctions would be useless, the
2 district court need not consider them) (citing *Computer Task Grp., Inc. v. Brotby*, 364
3 F.3d 1112, 1116–17 (9th Cir. 2004)). “What is most critical for case-dispositive
4 sanctions, regarding risk of prejudice and of less drastic sanctions, is whether the
5 discovery violations ‘threaten to interfere with the rightful decision of the case.’” *Valley*
6 *Engineers Inc.*, 158 F.3d at 1057 (quoting *Adriana*, 913 F.2d at 1412). In other words,
7 “[d]ismissal is appropriate where a “pattern of deception and discovery abuse made it
8 impossible” for the district court to conduct a trial “with any reasonable assurance that
9 the truth would be available.” *Id.* at 1057-58 (quoting *Anheuser–Busch, Inc.*, 69 F.3d at
10 352); *Conn. Gen. Life Ins. Co.*, 482 F.3d at 1097 (“It is appropriate to reject lesser
11 sanctions where the court anticipates continued deceptive conduct.”). Further, where
12 lesser sanctions would not deter a defendant’s repetition of misconduct and lesser
13 sanctions would simply place defendants back in the same position they were in prior to
14 submitting the false declarations and false complaints, alternative sanctions are not
15 warranted. *See Uribe v McKesson*, No. 1:08–cv–01285–SMS PC, 2011 WL 3925077, at
16 *5 (E.D Cal. Sept. 7, 2011) (“[T]o continue this action would not deter repetition of such
17 conduct or comparable conduct. Such a course would simply place [party] back in the
18 same position he was in, without the false declaration.”).

19 Here, there was not an opportunity to impose less drastic sanctions because the
20 fraudulent conduct occurred early in the litigation and was not discovered until the parties
21 were engaged in discovery. However, given his pattern of artifice, the Court anticipates
22 that Ringgold will not be truthful in upcoming court proceedings as he has failed to
23 explain the inconsistencies in his deposition testimony and declarations as well as the
24 inconsistencies in Wartanian and Dorsey’s declaration and their deposition testimonies.
25 He also continues to cite to their declarations in opposing the SEC’s summary judgment
26 motion. Moreover, alternative sanctions of evidence preclusion as suggested by the SEC
27 or resubmitting the declarations in a “Notarized Affidavit”, as Ringgold suggests, will
28 only place Ringgold in the same position in which he was before he filed the false

1 declarations. Therefore, having considered less drastic sanctions, the Court concludes
2 that none will deter Defendant's continued misconduct.

3 In conclusion, the Court finds that terminating sanctions in the form of default
4 judgment is warranted as Defendant has engaged in willful misconduct and the five
5 *Malone* factors support such sanctions. Thus, the Court GRANTS Plaintiff's motion for
6 terminating sanctions as to Defendant Ringgold.

7 **Conclusion**

8 Based the reasoning above, the Court ADOPTS the report and recommendation
9 and GRANTS the SEC's motion for terminating sanctions as to Defendant Ringgold and
10 default judgment shall be entered against Defendant Ringgold as to all claims in the
11 Complaint.

12 IT IS SO ORDERED.

13 Dated: May 29, 2020

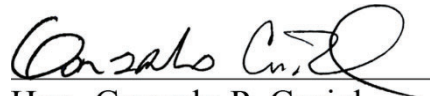
14 
15 Hon. Gonzalo P. Curiel
16 United States District Judge
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EXHIBIT 4

**UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION**

Case Number: FILE NO. 3-20208

vs.

In the Matter of:
Ringgold, III, Reginald Buddy, aka Rasool Abdul Rahim El

For:
U.S. Securities and Exchange Commission
100 F St NE
Washington, DC 20549

Received by Cavalier CPS to be served on **Reginald B. Ringgold III,** [REDACTED]
[REDACTED].

I, Carl Herman Walker, do hereby affirm that on the **8th day of August, 2021 at 2:02 pm, I:**

Served Order Instituting Administrative Proceedings Pursuant to Section 203(f) of the Investment Advisers Act of 1940 and Notice of Hearing to Connie Cristiana as co-resident/co-occupant of Reginald B. Ringgold III at [REDACTED], being of suitable age and discretion to accept service in the absence of Reginald B. Ringgold III. Upon information and belief [REDACTED] [REDACTED] is the usual place of abode of Reginald B. Ringgold III.

I am a natural person over the age of eighteen and am not a party to or otherwise interested in the subject matter in controversy. I am a private process server authorized to serve this process in accordance with relevant law. Under penalty of perjury, I declare that the foregoing is true and correct.

Carl Herman Walker

8-11-21

Carl Herman Walker
Process Server

Date

**Cavalier CPS
823-C S King Street
Leesburg, VA 20175
(703) 431-7085**

Our Job Serial Number: CAV-2021008505
Ref: 21-LARO-049



EXHIBIT 5

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 5992 / April 4, 2022

Admin. Proc. File No. 3-20208

In the Matter of
REGINALD BUDDY RINGGOLD, III, *aka* RASOOL
ABDUL RAHIM EL

ORDER TO SHOW CAUSE

On January 21, 2021, the Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) against Reginald Buddy Ringgold, III, *aka* Rasool Abdul Rahim El (“Ringgold”) pursuant to Section 203(f) of the Investment Advisers Act of 1940.¹ On August 25, 2021, the Division of Enforcement filed a Declaration of Amy J. Longo, which establishes that service of the OIP was made on Ringgold on August 8, 2021, pursuant to Rule 141(a)(2)(i) of the Commission’s Rules of Practice.²

As stated in the OIP, Ringgold’s answer was required to be filed within 20 days of service of the OIP.³ As of the date of this order, Ringgold has not filed an answer. The prehearing conference and the hearing are thus continued indefinitely.

Accordingly, Ringgold is ORDERED to SHOW CAUSE by April 18, 2022, why he should not be deemed to be in default and why this proceeding should not be determined against him due to his failure to file an answer or to otherwise defend this proceeding. Ringgold’s submission shall address the reasons for his failure to timely file an answer, and include a proposed answer to be accepted in the event that the Commission does not enter a default against him.

¹ *Reginald Buddy Ringgold, III*, Advisers Act Release No. 20208, 2021 WL 221887 (Jan. 21, 2021).

² 17 C.F.R. § 201.141(a)(2)(i).

³ *Ringgold*, 2021 WL 221887, at *2; Rules of Practice 151(a), 160(b), 220(b), 17 C.F.R. §§ 201.151(a), .160(b), .220(b).

When a party defaults, the allegations in the OIP will be deemed to be true and the Commission may determine the proceeding against that party upon consideration of the record without holding a public hearing.⁴ The OIP informed Ringgold that a failure to file an answer could result in deeming him in default and determining the proceedings against him.⁵

If Ringgold files a response to this order to show cause, the Division may file a reply within 14 days after its service. If Ringgold does not file a response, the Division shall file a motion for entry of an order of default and the imposition of remedial sanctions by May 16, 2022. The motion for sanctions should address each statutory element of the relevant provisions of Section 203(f) of the Advisers Act.⁶ The motion should discuss relevant authority relating to the legal basis for, and the appropriateness of, the requested sanctions and include evidentiary support sufficient to make an individualized assessment of whether those sanctions are in the public interest.⁷ The parties may file opposition and reply briefs within the deadlines provided by the Rules of Practice.⁸ The failure to timely oppose a dispositive motion is itself a basis for a finding of default,⁹ it may result in the determination of particular claims, or the proceeding as a

⁴ Rules of Practice 155, 180, 17 C.F.R. §§ 201.155, .180.

⁵ *Ringgold*, 2021 WL 221887, at *2.

⁶ *See, e.g., Shawn K. Dicken*, Exchange Act Release No. 89526, 2020 WL 4678066, at *2 (Aug. 12, 2020) (requesting additional information from the Division “regarding the factual predicate for Dicken’s convictions” and “why these facts establish” the need for remedial sanctions); *see also Shawn K. Dicken*, Exchange Act Release No. 90215, 2020 WL 6117716, at *1 (Oct. 16, 2020) (clarifying the additional information needed from the Division).

⁷ *See generally Rapoport v. SEC*, 682 F.3d 98, 108 (D.C. Cir. 2012) (requiring “meaningful explanation for imposing sanctions”); *McCarthy v. SEC*, 406 F.3d 179, 190 (2d Cir. 2005) (stating that “each case must be considered on its own facts”); *Gary L. McDuff*, Exchange Act Release No. 74803, 2015 WL 1873119, at *1, *3 (Apr. 23, 2015); *Ross Mandell*, Exchange Act Release No. 71668, 2014 WL 907416, at *2 (Mar. 7, 2014), *vacated in part on other grounds*, Exchange Act Release No. 77935, 2016 WL 3030883 (May 26, 2016); *Don Warner Reinhard*, Exchange Act Release No. 61506, 2010 WL 421305, at *3-4 (Feb. 4, 2010), *appeal after remand*, Exchange Act Release No. 63720, 2011 WL 121451, at *5-8 (Jan. 14, 2011).

⁸ *See* Rules of Practice 154, 160, 17 C.F.R. §§ 201.154, .160.

⁹ *See* Rules of Practice 155(a)(2), 180(c), 17 C.F.R. §§ 201.155(a)(2), .180(c); *see, e.g., Behnam Halali*, Exchange Act Release No. 79722, 2017 WL 24498, at *3 n.12 (Jan. 3, 2017).

whole, adversely to the non-moving party and may be deemed a forfeiture of arguments that could have been raised at that time.¹⁰

The parties' attention is directed to the most recent amendments to the Commission's Rules of Practice, which took effect on April 12, 2021, and which include new e-filing requirements.¹¹

Upon review of the filings in response to this order, the Commission will either direct further proceedings by subsequent order or issue a final opinion and order resolving the matter.

For the Commission, by the Office of the General Counsel, pursuant to delegated authority.

Vanessa A. Countryman
Secretary

¹⁰ See, e.g., *McBarron Capital LLC*, Exchange Act Release No. 81789, 2017 WL 4350655, at *3-5 (Sep. 29, 2017); *Bennett Grp. Fin. Servs., LLC*, Exchange Act Release No. 80347, 2017 WL 1176053, at *2-3 (Mar. 30, 2017), *abrogated in part on other grounds by Lucia v. SEC*, 138 S. Ct. 2044 (2018); *Apollo Publ'n Corp.*, Securities Act Release No. 8678, 2006 WL 985307, at *1 n.6 (Apr. 13, 2006).

¹¹ *Amendments to the Commission's Rules of Practice*, Exchange Act Release No. 90442, 2020 WL 7013370 (Nov. 17, 2020), 85 Fed. Reg. 86,464, 86,474 (Dec. 30, 2020), <https://www.sec.gov/rules/final/2020/34-90442a.pdf>; *Instructions for Electronic Filing and Service of Documents in SEC Administrative Proceedings and Technical Specifications*, <https://www.sec.gov/efapdocs/instructions.pdf>. The amendments impose other obligations such as a new redaction and omission of sensitive personal information requirement. *Amendments to the Commission's Rules of Practice*, 85 Fed. Reg. at 86,465-81.