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

11
12 **SECURITIES AND EXCHANGE**
13 **COMMISSION,**

14 Plaintiff,

15 vs.

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

19 Defendants.

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

[69]
[NO JS6]

20
21 **FINAL JUDGMENT AS TO DEFENDANT DAVID A. ALDRICH**
22

23 The Securities and Exchange Commission having filed a Complaint and
24 Defendant David A. Aldrich (“Defendant”) having entered a general appearance;
25 consented to the Court’s jurisdiction over Defendant and the subject matter of this
26 action; consented to entry of this Final Judgment without admitting or denying the
27 allegations of the Complaint (except as to jurisdiction and except as otherwise
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1 provided herein in paragraph VI); waived findings of fact and conclusions of law; and
2 waived any right to appeal from this Final Judgment:

3 I.

4 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is
5 permanently restrained and enjoined from violating, directly or indirectly, Section
6 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C.
7 § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using
8 any means or instrumentality of interstate commerce, or of the mails, or of any
9 facility of any national securities exchange, in connection with the purchase or sale of
10 any security:

- 11 (a) to employ any device, scheme, or artifice to defraud;
- 12 (b) to make any untrue statement of a material fact or to omit to state a
13 material fact necessary in order to make the statements made, in the light
14 of the circumstances under which they were made, not misleading; or
- 15 (c) to engage in any act, practice, or course of business which operates or
16 would operate as a fraud or deceit upon any person.

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

23 II.

24 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
25 Defendant is permanently restrained and enjoined from violating Section 17(a) of the
26 Securities Act of 1933 (the “Securities Act”) [15 U.S.C. § 77q(a)] in the offer or sale
27 of any security by the use of any means or instruments of transportation or
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1 communication in interstate commerce or by use of the mails, directly or indirectly:

- 2 (a) to employ any device, scheme, or artifice to defraud;
- 3 (b) to obtain money or property by means of any untrue statement of a
- 4 material fact or any omission of a material fact necessary in order to
- 5 make the statements made, in light of the circumstances under which
- 6 they were made, not misleading; or
- 7 (c) to engage in any transaction, practice, or course of business which
- 8 operates or would operate as a fraud or deceit upon the purchaser.

9 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as

10 provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also

11 binds the following who receive actual notice of this Final Judgment by personal

12 service or otherwise: (a) Defendant's officers, agents, servants, employees, and

13 attorneys; and (b) other persons in active concert or participation with Defendant or

14 with anyone described in (a).

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16 III.

17 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that

18 Defendant is permanently restrained and enjoined from violating Section 5 of the

19 Securities Act [15 U.S.C. § 77e] by, directly or indirectly, in the absence of any

20 applicable exemption:

- 21 (a) Unless a registration statement is in effect as to a security, making use of
- 22 any means or instruments of transportation or communication in
- 23 interstate commerce or of the mails to sell such security through the use
- 24 or medium of any prospectus or otherwise;
- 25 (b) Unless a registration statement is in effect as to a security, carrying or
- 26 causing to be carried through the mails or in interstate commerce, by any
- 27 means or instruments of transportation, any such security for the purpose
- 28 of sale or for delivery after sale; or

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

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

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16 IV.

17 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
18 Defendant is liable for disgorgement of \$ 2,667,945.00, representing profits gained as
19 a result of the conduct alleged in the Complaint, together with prejudgment interest
20 thereon in the amount of \$17,786.30, and a civil penalty in the amount of
21 \$1,000,000.00 pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d) and
22 Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3). Defendant shall satisfy
23 this obligation by paying \$3,685,731.30 to the Securities and Exchange Commission
24 within 14 days after entry of this Final Judgment.

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

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

3 Enterprise Services Center
4 Accounts Receivable Branch
5 6500 South MacArthur Boulevard
6 Oklahoma City, OK 73169
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8 and shall be accompanied by a letter identifying the case title, civil action number,
9 and name of this Court; David A. Aldrich as a defendant in this action; and specifying
10 that payment is made pursuant to this Final Judgment.

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

15 The Commission may enforce the Court's judgment for disgorgement and
16 prejudgment interest by moving for civil contempt (and/or through other collection
17 procedures authorized by law) at any time after 14 days following entry of this Final
18 Judgment. Defendant shall pay post judgment interest on any delinquent amounts
19 pursuant to 28 U.S.C. § 1961. The Commission shall hold the funds, together with
20 any interest and income earned thereon (collectively, the "Fund"), pending further
21 order of the Court.

22 The Commission may propose a plan to distribute the Fund subject to the
23 Court's approval. Such a plan may provide that the Fund shall be distributed
24 pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of
25 2002. The Court shall retain jurisdiction over the administration of any distribution
26 of the Fund. If the Commission staff determines that the Fund will not be distributed,
27 the Commission shall send the funds paid pursuant to this Final Judgment to the
28 United States Treasury.

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

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V.

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

1 any regulation or order issued under such laws, as set forth in Section 523(a)(19) of
2 the Bankruptcy Code, 11 U.S.C. §523(a)(19).

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4 VI.

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

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9 VII.

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

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14 Dated: September 15, 2016.



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16 THE HON. TERRY J. HATTER, JR.,
17 UNITED STATES DISTRICT JUDGE
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