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

UNITED STATES SECURITIES
AND EXCHANGE COMMISSION,

Plaintiff,

v.

WESTERN INTERNATIONAL
SECURITIES, INC., NANCY COLE,
PATRICK EGAN, ANDY
GITIPITYAPON, STEVEN
GRAHAM, and THOMAS SWAN,

Defendants,

Case No. 2:22-cv-04119-WLH-JCx

FINAL JUDGMENT AS TO DEFENDANT THOMAS SWAN [129]

The Securities and Exchange Commission having filed a Complaint and Defendant Thomas Swan (“Defendant”) having entered a general appearance; consented to the Court’s jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction and except as otherwise provided herein in paragraph IV); waived findings of fact and conclusions of law;

1 and waived any right to appeal from this Final Judgment:

2 I.

3 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant
4 is permanently restrained and enjoined from violating, directly or indirectly, Rule
5 15l-1(a)(1) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 CFR
6 § 240.15l-1(a)(1)], by failing, when making a recommendation of any securities
7 transaction or investment strategy involving securities to a retail customer, to act in
8 the best interest of the retail customer at the time the recommendation is made,
9 without placing his financial or other interest ahead of the interest of the retail
10 customer.
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14 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as
15 provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also
16 binds the following who receive actual notice of this Final Judgment by personal
17 service or otherwise: (a) Defendant’s officers, agents, servants, employees, and
18 attorneys; and (b) other persons in active concert or participation with Defendant
19 or with anyone described in (a).
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22 II.

23 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED
24 that Defendant is liable for disgorgement of \$12,555.00, representing net profits
25 gained as a result of the conduct alleged in the Complaint, together with
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1 prejudgment interest thereon in the amount of \$695.15, and a civil penalty in the
2 amount of \$12,500 pursuant to Sections 21(d)(3), (5), and (7) of the Exchange Act
3 [15 U.S.C. §§ 78u(d)(3), (5), (7)]. Defendant shall satisfy this obligation by paying
4 \$25,750.15 to the Securities and Exchange Commission within 30 days after entry
5 of this Final Judgment.
6

7 Defendant may transmit payment electronically to the Commission, which
8 will provide detailed ACH transfer/Fedwire instructions upon request. Payment
9 may also be made directly from a bank account via Pay.gov through the SEC
10 website at <http://www.sec.gov/about/offices/ofm.htm>. Defendant may also pay by
11 certified check, bank cashier's check, or United States postal money order payable
12 to the Securities and Exchange Commission, which shall be delivered or mailed to
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15 Enterprise Services Center
16 Accounts Receivable Branch
17 6500 South MacArthur Boulevard
18 Oklahoma City, OK 73169

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

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

2 The Commission may enforce the Court’s judgment for disgorgement and
3 prejudgment interest by using all collection procedures authorized by law,
4 including, but not limited to, moving for civil contempt at any time after 30 days
5 following entry of this Final Judgment.
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7 The Commission may enforce the Court’s judgment for penalties by the use
8 of all collection procedures authorized by law, including the Federal Debt
9 Collection Procedures Act, 28 U.S.C. § 3001 *et seq.*, and moving for civil
10 contempt for the violation of any Court orders issued in this action. Defendant
11 shall pay post judgment interest on any amounts due after 30 days of the entry of
12 this Final Judgment pursuant to 28 U.S.C. § 1961. The Commission shall hold the
13 funds, together with any interest and income earned thereon (collectively, the
14 “Fund”), pending further order of the Court.
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18 The Commission may propose a plan to distribute the Fund subject to the
19 Court’s approval. Such a plan may provide that the Fund shall be distributed
20 pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act
21 of 2002. The Court shall retain jurisdiction over the administration of any
22 distribution of the Fund and the Fund may only be disbursed pursuant to an Order
23 of the Court.
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26 Regardless of whether any such Fair Fund distribution is made, amounts
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1 ordered to be paid as civil penalties pursuant to this Judgment shall be treated as
2 penalties paid to the government for all purposes, including all tax purposes. To
3 preserve the deterrent effect of the civil penalty, Defendant shall not, after offset or
4 reduction of any award of compensatory damages in any Related Investor Action
5 based on Defendant's payment of disgorgement in this action, argue that he is
6 entitled to, nor shall he further benefit by, offset or reduction of such compensatory
7 damages award by the amount of any part of Defendant's payment of a civil
8 penalty in this action ("Penalty Offset"). If the court in any Related Investor
9 Action grants such a Penalty Offset, Defendant shall, within 30 days after entry of
10 a final order granting the Penalty Offset, notify the Commission's counsel in this
11 action and pay the amount of the Penalty Offset to the United States Treasury or to
12 a Fair Fund, as the Commission directs. Such a payment shall not be deemed an
13 additional civil penalty and shall not be deemed to change the amount of the civil
14 penalty imposed in this Judgment. For purposes of this paragraph, a "Related
15 Investor Action" means a private damages action brought against Defendant by or
16 on behalf of one or more investors based on substantially the same facts as alleged
17 in the Complaint in this action.
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24 III.

25 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the
26 Consent is incorporated herein with the same force and effect as if fully set forth
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1 herein, and that Defendant shall comply with all of the undertakings and
2 agreements set forth therein.

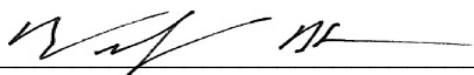
3 IV.

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5 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, solely for
6 purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code,
7 11 U.S.C. §523, the allegations in the complaint are true and admitted by Defendant,
8 and further, any debt for disgorgement, prejudgment interest, civil penalty or other
9 amounts due by Defendant under this Final Judgment or any other judgment, order,
10 consent order, decree or settlement agreement entered in connection with this
11 proceeding, is a debt for the violation by Defendant of the federal securities laws or
12 any regulation or order issued under such laws, as set forth in Section 523(a)(19) of
13 the Bankruptcy Code, 11 U.S.C. §523(a)(19).
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16 V.

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18 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this
19 Court shall retain jurisdiction of this matter for the purposes of enforcing the terms
20 of this Final Judgment.
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22 Dated: August 28, 2024

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25 HON. WESLEY L. HSU
26 UNITED STATES DISTRICT JUDGE
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