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The Honorable Ricardo S. Martinez

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

JUSTIN COSTELLO and
DAVID FERRARO

Defendants.

CASE NO. 22-cv-01388-RSM

FINAL JUDGMENT AS TO
DEFENDANT
DAVID FERRARO

The Securities and Exchange Commission having filed a Complaint and Defendant David Ferraro 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 Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction and except as otherwise provided herein in paragraph VI; waived findings of fact and conclusions of law; and waived any right to appeal from this Judgment:

I.

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

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

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

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 (the “Securities Act”) [15 U.S.C. § 77q(a)] in the offer or sale of any security by the use of any

1 means or instruments of transportation or communication in interstate commerce or by use of the
2 mails, directly or indirectly:

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

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

15 III.

16 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant
17 is permanently barred from participating in an offering of penny stock, including engaging in
18 activities with a broker, dealer, or issuer for purposes of issuing, trading, or inducing or
19 attempting to induce the purchase or sale of any penny stock, pursuant to Section 20(g) of the
20 Securities Act [15 U.S.C. § 77t(g)] and Section 21(d)(6) of the Exchange Act [15 U.S.C. §
21 78u(d)(6)]. A penny stock is any equity security that has a price of less than five dollars, except
22 as provided in Rule 3a51-1 under the Exchange Act [17 C.F.R. § 240.3a51-1].
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IV.

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2 Upon motion of the Commission, the Court shall determine whether it is appropriate to
3 order disgorgement of ill-gotten gains pursuant to Sections 21(d)(3), 21(d)(5) and 21(d)(7) of the
4 Exchange Act [15 U.S.C. §§ 78u(d)(3), 78u(d)(5), 78u(d)(7)], and/or a civil penalty pursuant to
5 Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange
6 Act [15 U.S.C. § 78u(d)(3)] and, if so, the amount(s) of the disgorgement and/or civil penalty. If
7 disgorgement is ordered, Defendant shall pay prejudgment interest thereon, calculated from May
8 22, 2020, based on the rate of interest used by the Internal Revenue Service for the
9 underpayment of federal income tax as set forth in 26 U.S.C. § 6621(a)(2). In connection with
10 the Commission's motion for disgorgement and/or civil penalties, and at any hearing held on
11 such a motion: (a) Defendant will be precluded from arguing that he did not violate the federal
12 securities laws as alleged in the Complaint; (b) Defendant may not challenge the validity of the
13 Consent or this Judgment; (c) solely for the purposes of such motion, the allegations of the
14 Complaint shall be accepted as and deemed true by the Court; and (d) the Court may determine
15 the issues raised in the motion on the basis of affidavits, declarations, excerpts of sworn
16 deposition or investigative testimony, and documentary evidence, without regard to the standards
17 for summary judgment contained in Rule 56(c) of the Federal Rules of Civil Procedure. In
18 connection with the Commission's motion for disgorgement and/or civil penalties, the parties
19 may take discovery, including discovery from appropriate non-parties.

V.

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

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

10 VII.

11 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain
12 jurisdiction of this matter for the purposes of enforcing the terms of this Judgment.

13 VIII.

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

16 Dated: October 31, 2022

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18 RICARDO S. MARTINEZ
19 UNITED STATES DISTRICT JUDGE