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10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA
 12 SAN JOSE DIVISION

14 SECURITIES AND EXCHANGE COMMISSION,
 15 Plaintiff,
 16 v.
 17 ARRAYIT CORPORATION and RENE SCHENA,
 18 Defendants.

Case No.

**[PROPOSED] FINAL JUDGMENT AS TO
 DEFENDANT RENE SCHENA**

[PROPOSED] FINAL JUDGMENT AS TO DEFENDANT RENE SCHENA

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

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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 Final Judgment by personal service or otherwise: (a) Defendant’s officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from aiding and abetting any violation of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 13a-1 and 13a-13 promulgated thereunder [17 C.F.R. §§ 240.13a-1, 240.13a-13] by knowingly or recklessly providing substantial assistance to an issuer that fails to file annual or quarterly reports with the Commission.

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

1 actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers,
2 agents, servants, employees, and attorneys; and (b) other persons in active concert or participation
3 with Defendant or with anyone described in (a).

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5 III.

6 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, pursuant to Section
7 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], Defendant is prohibited, for three years
8 following the date of entry of this Final Judgment, from acting as an officer or director of any issuer
9 that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l]
10 or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

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12 IV.

13 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant shall pay a
14 civil penalty in the amount of \$50,000 to the Securities and Exchange Commission pursuant to
15 Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. Defendant shall pay post-judgment
16 interest pursuant to 28 U.S.C. § 1961. Defendant shall make this payment pursuant to the terms of
17 the payment schedule set forth in paragraph V after entry of this Final Judgment.

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

23 Enterprise Services Center
24 Accounts Receivable Branch
25 6500 South MacArthur Boulevard
26 Oklahoma City, OK 73169

1 and shall be accompanied by a letter identifying the case title, civil action number, and name of this
2 Court; “Rene Schena” as a defendant in this action; and specifying that payment is made pursuant to
3 this Final Judgment.

4 Defendant shall simultaneously transmit photocopies of evidence of payment and case
5 identifying information to the Commission’s counsel in this action. By making this payment,
6 Defendant relinquishes all legal and equitable right, title, and interest in such funds and no part of the
7 funds shall be returned to Defendant. The Commission shall send the funds paid pursuant to this
8 Final Judgment to the United States Treasury.

9 The Commission may enforce the Court’s judgment for penalties by the use of all collection
10 procedures authorized by law, including the Federal Debt Collection Procedures Act, 28 U.S.C. §
11 3001 *et seq.*, and moving for civil contempt for the violation of any Court orders issued in this action.
12 Defendant shall pay post-judgment interest on any amounts due after 30 days of the entry of this
13 Final Judgment pursuant to 28 USC § 1961.

14
15 V.

16 Defendant shall pay the civil penalty in the amount of \$50,000, under Section 21(d)(3) of the
17 Exchange Act [15 U.S.C. § 78u(d)(3)], plus post-judgment interest pursuant to 28 U.S.C. § 1961, in
18 five installments to the Commission according to the following schedule: (i) \$7,500 within 14 days of
19 entry of this Final Judgment; (ii) \$10,625 within 90 days of entry of this Final Judgment; (iii)
20 \$10,625 within 180 days of entry of this Final Judgment; (iv) \$10,625 within 270 days of entry of this
21 Final Judgment; and (v) the remaining balance within 365 days of entry of this Final Judgment.

22 Payments shall be deemed made on the date they are received by the Commission and shall be
23 applied first to post-judgment interest, which accrues pursuant to 28 U.S.C. § 1961 on any unpaid
24 amounts due after 30 days of the entry of this Final Judgment. Prior to making the final payment set
25 forth herein, Defendant shall contact the staff of the Commission for the amount due for the final
26 payment.

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

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

16 VII.

17 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent is
18 incorporated herein with the same force and effect as if fully set forth herein, and that Defendant shall
19 comply with all of the agreements set forth therein.
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21 VIII.

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

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

Dated: _____, 2021

UNITED STATES DISTRICT JUDGE