

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

vs.

PACIFIC WEST CAPITAL GROUP,  
INC.; ANDREW B CALHOUN IV;  
PWCG TRUST; BRENDA  
CHRISTINE BARRY; BAK WEST,  
INC.; ANDREW B CALHOUN JR.;  
ERIC CHRISTOPHER CANNON;  
CENTURY POINT, LLC; MICHAEL  
WAYNE DOTTA; and CALEB  
AUSTIN MOODY (dba SKY  
STONE),

Defendants.

Case No. 2:15-cv-02563 FMO (FFMx)

**FINAL JUDGMENT AS TO  
DEFENDANT PACIFIC WEST  
CAPITAL GROUP, INC.**

1 The Securities and Exchange Commission (“SEC”) having filed a Complaint  
2 and Defendant Pacific West Capital Group, Inc. having entered a general appearance;  
3 consented to the Court’s jurisdiction over Defendant and the subject matter of this  
4 action; consented to the entry of this Final Judgment without admitting or denying the  
5 allegations of the Complaint (except as to jurisdiction); waived findings of fact and  
6 conclusions of law; and waived any right to appeal from this Final Judgment:

7 **I.**

8 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is  
9 permanently restrained and enjoined from violating, directly or indirectly, Section  
10 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. §  
11 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using  
12 any means or instrumentality of interstate commerce, or of the mails, or of any  
13 facility of any national securities exchange, in connection with the purchase or sale of  
14 any security:

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

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

1 **II.**

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

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

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 or  
19 with anyone described in (a).

20 **III.**

21 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is  
22 permanently restrained and enjoined from violating Section 15(a) of the Exchange  
23 Act [15 U.S.C § 78o(a)] by making use of the mails or any means or instrumentality  
24 of interstate commerce to effect any transaction in, or to induce or attempt to induce  
25 the purchase or sale of, any security, without being registered as a broker or dealer in  
26 accordance with Section 15(b) of the Exchange Act [15 U.S.C. § 78o(b)].

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

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

5 **IV.**

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

- 10 (a) Unless a registration statement is in effect as to a security, making use of  
11 any means or instruments of transportation or communication in  
12 interstate commerce or of the mails to sell such security through the use  
13 or medium of any prospectus or otherwise;
- 14 (b) Unless a registration statement is in effect as to a security, carrying or  
15 causing to be carried through the mails or in interstate commerce, by any  
16 means or instruments of transportation, any such security for the purpose  
17 of sale or for delivery after sale; or
- 18 (c) Making use of any means or instruments of transportation or  
19 communication in interstate commerce or of the mails to offer to sell or  
20 offer to buy through the use or medium of any prospectus or otherwise  
21 any security, unless a registration statement has been filed with the  
22 Commission as to such security, or while the registration statement is the  
23 subject of a refusal order or stop order or (prior to the effective date of  
24 the registration statement) any public proceeding or examination under  
25 Section 8 of the Securities Act [15 U.S.C. § 77h].

26 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as  
27 provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also  
28 binds the following who receive actual notice of this Judgment by personal service or

1 otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and  
2 (b) other persons in active concert or participation with Defendant or with anyone  
3 described in (a).

4 V.

5 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is  
6 liable for disgorgement of \$53,654,584.00, representing profits gained as a result of  
7 the conduct alleged in the Complaint, together with prejudgment interest thereon in  
8 the amount of \$5,859,747.58, and a civil penalty in the amount of \$750,000.00  
9 pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], and Section  
10 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. Defendant shall satisfy this  
11 obligation by paying \$60,264,331.60 to the Securities and Exchange Commission  
12 ("SEC") within 14 days after entry of this Final Judgment.

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

19 Enterprise Services Center  
20 Accounts Receivable Branch  
21 6500 South MacArthur Boulevard  
Oklahoma City, OK 73169

22 and shall be accompanied by a letter identifying the case title, civil action number,  
23 and name of this Court; Pacific West Capital Group, Inc. as a defendant in this action;  
24 and specifying that payment is made pursuant to this Final Judgment.

25 Defendant shall simultaneously transmit photocopies of evidence of payment  
26 and case identifying information to the SEC's counsel in this action. By making this  
27  
28

1 payment, Defendant relinquishes all legal and equitable right, title, and interest in  
2 such funds and no part of the funds shall be returned to Defendant.

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

9 The SEC may propose a plan to distribute the Fund subject to the Court's  
10 approval. Such a plan may provide that the Fund shall be distributed pursuant to the  
11 Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. The  
12 Court shall retain jurisdiction over the administration of any distribution of the Fund.  
13 If the SEC staff determines that the Fund will not be distributed, the SEC shall send  
14 the funds paid pursuant to this Final Judgment to the United States Treasury.

15 Regardless of whether any such Fair Fund distribution is made, amounts  
16 ordered to be paid as civil penalties pursuant to this Judgment shall be treated as  
17 penalties paid to the government for all purposes, including all tax purposes. To  
18 preserve the deterrent effect of the civil penalty, Defendant shall not, after offset or  
19 reduction of any award of compensatory damages in any Related Investor Action  
20 based on Defendant's payment of disgorgement in this action, argue that it is entitled  
21 to, nor shall it further benefit by, offset or reduction of such compensatory damages  
22 award by the amount of any part of Defendant's payment of a civil penalty in this  
23 action ("Penalty Offset"). If the court in any Related Investor Action grants such a  
24 Penalty Offset, Defendant shall, within 30 days after entry of a final order granting  
25 the Penalty Offset, notify the SEC's counsel in this action and pay the amount of the  
26 Penalty Offset to the United States Treasury or to a Fair Fund, as the SEC directs.  
27 Such a payment shall not be deemed an additional civil penalty and shall not be  
28 deemed to change the amount of the civil penalty imposed in this Judgment. For

1 purposes of this paragraph, a “Related Investor Action” means a private damages  
2 action brought against Defendant by or on behalf of one or more investors based on  
3 substantially the same facts as alleged in the Complaint in this action.

4 **VI.**

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

9 **VII.**

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

13 **VIII.**

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

17  
18 IT IS SO ORDERED.

19  
20 Dated: June 15, 2018

21 /s/  
HON. FERNANDO M. OLGUIN  
UNITED STATES DISTRICT JUDGE

22  
23 Presented by:  
24 John B. Bulgozdy  
25 Gary Y. Leung  
Attorneys for Plaintiff  
26 Securities and Exchange Commission  
27  
28