



3. This Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)], Section 27 of the Exchange Act [15 U.S.C. § 78aa], and Sections 209(d), 209(e), and 214 of the Advisers Act [15 U.S.C. §§ 80b-9(d), 80b-9(e), and 80b-14].

4. Venue is proper in this Court pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)], Section 27 of the Exchange Act [15 U.S.C. § 78aa] and Section 214 of the Advisers Act [15 U.S.C. § 80b-14]. Boggs resides in this district, transacts business in this district, and many of the acts, practices, and courses of business constituting the violations alleged herein occurred within the Northern District of Illinois.

5. Boggs has, directly or indirectly, made use of the means and instrumentalities of interstate commerce, of the mails, or of the facilities of a national securities exchange in connection with the acts, transactions, practices and courses of business alleged in this Complaint, and will continue to do so unless enjoined.

**Defendant**

6. **Marcus Boggs**, age 49, resides in Chicago. In 2005, Boggs began his employment at the Chicago office of a large financial services firm (the “Financial Institution”). Boggs worked there as a broker-dealer registered representative and an investment adviser representative. In December 2018, the Financial Institution terminated Boggs’ employment after discovering certain of the conduct alleged in this Complaint.

**Other Relevant Entity**

7. **The Financial Institution** is a large financial services firm that is based in New York City and has offices throughout the United States, including in Chicago. The Financial

Institution provides investment advisory services and is registered with the SEC as a broker-dealer and investment adviser.

**Facts**

8. Boggs presented himself as a successful investment adviser and financial services professional. He managed more than \$40 million in assets held by more than 70 clients.

9. Boggs was an active member of Chicago's philanthropic community, and regularly attended a variety of fundraising events for prominent Chicago cultural institutions. This allowed Boggs to present himself as a socially-minded financial professional, mingle with wealthy individuals, and have a platform for meeting potential clients.

10. Boggs also had a penchant for international travel. During the period he was stealing his clients' money, he frequently vacationed in foreign countries – including Europe, South America, Canada, and the Caribbean – and stayed at luxury hotels.

11. Among Boggs' retail advisory clients were three individuals: Client A, Client B, and Client C. Each of these clients entered into investment advisory agreements with the Financial Institution governing the accounts from which Boggs misappropriated funds. As their investment adviser representative, Boggs gave Client A, Client B, and Client C advice on the purchase and sale of securities in their advisory accounts.

12. As an investment adviser representative, Boggs owed fiduciary duties to his advisory clients, including the duties to act in his clients' best interest, to act in good faith towards his clients, and to disclose to his clients all material facts affecting the advisory relationship.

13. Boggs did not have discretion over the accounts of Client A, Client B, or Client C. This meant that the clients did not give Boggs permission to trade in their account, or liquidate assets, unless Boggs received the clients' permission.

14. Beginning no later than 2016, Boggs engaged in a scheme to misappropriate and misuse the assets of his advisory clients – including Client A, Client B, and Client C – in order to pay his own personal expenses.

15. Between July 2016 and November 2018, Boggs cumulatively stole more than \$1.7 million dollars from Client A, Client B, and Client C by making hundreds of unauthorized Automated Clearing House (“ACH”) payments to his personal credit card account from the clients' accounts at the Financial Institution.

16. In many instances, Boggs sold securities held in the accounts of Client A, Client B, and Client C and used the proceeds to fund the unauthorized transfers. The Clients did not authorize Boggs to sell their securities for this purpose. On other occasions, Boggs used cash in these clients' advisory accounts to fund the unauthorized transfers.

17. Boggs did not tell the Clients that he had been using their funds for his personal benefit, or that he had been misappropriating funds from other clients.

18. Client A, Client B, and Client C were not aware that Boggs was using the funds in their accounts at the Financial Institution to make payments to his personal credit card account. They did not authorize, and would not have authorized, Boggs to make such transfers.

19. The Financial Institution discovered Boggs's theft in 2018. In November 2018, the Financial Institution placed Boggs on administrative leave, and terminated his employment the following month.

**COUNT I**

**(Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder)**

20. The SEC realleges and incorporates by reference paragraphs 1 through 19 as if fully set forth herein.

21. By engaging in the conduct described in paragraphs 1 through 19 above Defendant Boggs has, in connection with the purchase or sale of securities, by the use of the means or instrumentalities of interstate commerce or of the mails, directly or indirectly: (a) used or employed devices, schemes, or artifices to defraud; (b) made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and (c) engaged in acts, practices, or courses of business which operated or would operate as a fraud and deceit upon other persons.

22. Boggs acted with scienter by knowingly or recklessly engaging in the fraudulent conduct described above.

23. By engaging in the conduct described above, Boggs violated Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

**COUNT II**

**Violations of Section 17(a) of the Securities Act**

24. The SEC realleges and incorporates by reference paragraphs 1 through 19 as if fully set forth herein.

25. By engaging in the conduct described in paragraphs 1 through 19 above, Boggs, in the offer and sale of securities, by the use of the means and instruments of interstate commerce, directly or indirectly:

- (a) employed devices, schemes and artifices to defraud;

- (b) obtained money or property by means of untrue statements of material fact or by omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and
- (c) engaged in transactions, practices, or courses of business that operated or would operate as a fraud or deceit upon the purchasers of such securities.

26. Boggs intentionally, recklessly, and negligently engaged in the conduct described above.

27. By reason of the foregoing, Boggs violated Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

### **COUNT III**

#### **(Violations of Sections 206(1) and 206(2) of the Advisers Act)**

28. The SEC realleges and incorporates by reference paragraphs 1 through 19 as if fully set forth herein.

29. By engaging in the conduct described in paragraphs 1 through 19 above, Boggs, while acting as an investment adviser, directly or indirectly, by use of the mails or means or instrumentalities of interstate commerce: (a) employed devices, schemes, or artifices to defraud his clients; and (b) engaged in transactions, practices, and courses of business that operated as a fraud or deceit upon clients or prospective clients.

30. Boggs intentionally, recklessly, and negligently engaged in the conduct described above.

31. By reason of the foregoing, Boggs violated Sections 206(1) and (2) of the Advisers Act [15 U.S.C. § 80b-6(1) and 80b-6(2)].

**COUNT IV**

**(Aiding and Abetting Violations of Sections 206(1) and 206(2) of the Advisers Act)**

**(Pled in the Alternative to Count III)**

32. The SEC realleges and incorporates by reference paragraphs 1 through 19 as if fully set forth herein.

33. By engaging in the conduct described in paragraphs 1 through 19 above, the Financial Institution, while acting as an investment adviser, directly or indirectly, by use of the mails or means or instrumentalities of interstate commerce: (a) employed devices, schemes, or artifices to defraud its clients; and (b) engaged in transactions, practices, and courses of business that operated as a fraud or deceit upon clients or prospective clients.

34. The Financial Institution intentionally, recklessly, and negligently engaged in the conduct described above.

35. Boggs knowingly and recklessly provided substantial assistance to the Financial Institution in the commission of these violations.

36. By engaging in the conduct described above, Boggs aided and abetted the Financial Institution's violations of Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §§ 80b-6(1) and 80b-6(2)].

**RELIEF REQUESTED**

**WHEREFORE**, the SEC respectfully requests that this Court:

**I.**

Issue findings of fact and conclusions of law that Boggs committed the violations charged and alleged herein.

**II.**

Enter an Order of Permanent Injunction restraining and enjoining Boggs, his officers, agents, servants, employees, attorneys and those persons in active concert or participation with Boggs who receive actual notice of the Order, by personal service or otherwise, and each of them from, directly or indirectly, engaging in the transactions, acts, practices or courses of business described above, or in conduct of similar purport and object, in violation of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j] and Rule 10b-5 thereunder [17 CFR § 240.10b-5], and Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §§ 80b-6(1) and 80b-6(2)].

**III.**

Issue an Order requiring Boggs to disgorge the ill-gotten gains received as a result of the violations alleged in this Complaint, including prejudgment interest.

**IV.**

Issue an Order imposing upon Boggs appropriate civil penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)], and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)].

**V.**

Retain jurisdiction of this action in accordance with principles of equity and the Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders and decrees that may be entered or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

**VI.**

Grant such other relief as this Court deems appropriate.



**JURY DEMAND**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the SEC hereby requests a trial by jury.

Dated: August 23, 2019

Respectfully submitted,

s/ Benjamin J. Hanauer

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