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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

RICHARD A. FINGER, JR. and BLACK  
DIAMOND SECURITIES LLC,

Defendants.

Case No.

COMPLAINT

1 Plaintiff Securities and Exchange Commission (“Commission”) alleges:

2 **SUMMARY OF THE ACTION**

3 1. This action involves a fraudulent scheme carried out by Seattle-area securities  
4 broker Richard A. Finger, Jr. (“Finger”), through his firm Black Diamond Securities LLC  
5 (“Black Diamond”). Beginning around February 2011, contrary to the wishes of certain of his  
6 customers for conservative investments, Finger embarked on a high-frequency, high-risk options  
7 trading strategy that generated spectacular trading losses for his customers and huge  
8 commissions for himself. In order to conceal the trading losses and his personal enrichment  
9 from his customers – mainly friends and family – Finger sent them doctored account statements  
10 which inflated their account balances and understated the commissions Finger had charged them.

11 2. Of the nearly \$5 million in funds deposited by Black Diamond customers since  
12 February 2011, only about \$500,000 remains in the accounts. Finger’s improper trading resulted  
13 in around \$1.9 million in trading losses, while he simultaneously extracted around \$2.1 million  
14 in trading commissions from the accounts. Finger’s undisclosed activity, while disastrous for his  
15 customers, helped fund Finger’s lifestyle.

16 3. Through their conduct, Finger and Black Diamond have violated the antifraud  
17 provisions of the federal securities laws, specifically Sections 10(b) and 15(c)(1)(A) the  
18 Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. §§ 78j(b) and 78o(c)(1)(A)] and  
19 Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

20 4. Since February, Finger has transferred over \$800,000 in funds derived from the  
21 wrongful commissions to his personal bank account. Accordingly, to locate and preserve  
22 customer assets, the Commission seeks immediate relief in the form of a temporary restraining  
23 order, preliminary injunction, asset freeze, expedited discovery, an accounting, and an order to  
24 preserve documents. The Commission also seeks orders permanently enjoining the defendants  
25 from future violations and requiring them to pay disgorgement with prejudgment interest and  
26 civil money penalties.

JURISDICTION AND VENUE

5. The Commission brings this action pursuant to Section 21(d) of the Exchange Act [15 U.S.C. §§ 78u(d)]. This Court has jurisdiction over this action pursuant to Sections 21(e) and 27 of the Exchange Act [15 U.S.C. §§ 78u(e) and 78aa].

6. Defendants, directly or indirectly, have 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, practices, courses of business, and transactions alleged herein.

7. This District is an appropriate venue for this action under Section 27 of the Exchange Act [15 U.S.C. § 78aa]. Certain of the acts, practices, courses of business, and transactions constituting the violations alleged herein occurred within the Western District of Washington. Finger resides in Bellevue, Washington, and Black Diamond conducted operations from an office in Kirkland, Washington. Assignment to the Seattle Division is appropriate because much of the relevant conduct took place in King County.

THE DEFENDANTS

8. **Black Diamond Securities LLC** is a broker-dealer registered with the Commission with offices in Kirkland, Washington.

9. **Richard A. Finger, Jr.**, age 32, resides in Bellevue, Washington, and is the CEO and majority owner of Black Diamond. Finger was a registered representative of several other broker-dealer firms during 2001-2010.

FACTS

10. Finger has been the CEO and majority owner of Black Diamond since February 2011.

11. Starting in February 2011, Black Diamond established approximately 40 accounts for 25 customers. Many of the customers are Finger's relatives and friends and had previously invested with him when he was employed by other brokerage firms.

12. Starting in February 2011, these customers deposited roughly \$4.9 million into their Black Diamond accounts for Finger to manage.

1 13. At Black Diamond, Finger had authority to trade in the customer accounts and  
 2 conducted all of the trading in the accounts. From February through August 2011, the customer  
 3 accounts suffered approximately \$1.9 million in losses from trading in securities, often rapid  
 4 trading of index options. During the same period, the accounts paid roughly \$2.1 million in  
 5 commissions to Black Diamond.

6 14. At present, only about \$500,000 remains in the Black Diamond customer accounts.

7 15. Finger and Black Diamond concealed the trading losses and commissions from the  
 8 customers by providing them with doctored account statements. In general, the statements show  
 9 higher account balances, lower commissions, and lower trading activity and losses than what  
 10 actually occurred in the accounts.

11 16. To illustrate, the chart below compares the balances in 18 customer accounts as  
 12 shown on account statements Black Diamond provided to the customers against the actual  
 13 balances in the accounts:

	Acct. #	Month	Cash Balance Per Black Diamond Statement		Actual Cash Balance
15	1 ___0608	07/11	\$	76,688.09	\$ 23,476.34
16	2 ___9865	07/11	\$	331,008.65	\$ 29,333.98
17	3 ___5967	07/11	\$	289,605.62	\$ 27,482.43
18	4 ___8086	07/11	\$	1,594,647.54	\$ 24,122.50
19	5 ___9905	07/11	\$	796,234.53	\$ 62.00
20	6 ___8136	07/11	\$	694,138.06	\$ 20,721.05
21	7 ___8346	07/11	\$	885,666.98	\$ 107.77
22	8 ___7778	06/11	\$	67,090.13	\$ 14,814.49
23	9 ___8274	06/11	\$	771,823.79	\$ 4,010.10
24	10 ___3634	06/11	\$	72,431.28	\$ 2,403.47
25	11 ___3494	06/11	\$	283,056.36	\$ 8,985.49
26	12 ___8266	06/11	\$	289,735.09	\$ 7,580.33
27	13 ___9748	06/11	\$	217,899.43	\$ 53,076.24
28	14 ___0800	06/11	\$	110,777.43	\$ 23,891.20
	15 ___9927	06/11	\$	59,365.97	\$ 23,262.29
	16 ___8176	05/11	\$	166,765.37	\$ 22,930.46
	17 ___0004	05/11	\$	10,687.00	\$ 10,687.95
	18 ___5871	05/11	\$	366,039.42	\$ 10,532.89
	Total:		\$	7,083,660.74	\$ 307,480.98

1 17. For example, one customer received an account statement from Black Diamond for  
2 June 2011 showing about \$1.5 million in cash in his account. In truth, the account contained  
3 about \$26,000.

4 18. Another customer deposited about \$1,000,000 in a Black Diamond account  
5 starting in June 2011. The customer, an elderly relative of Finger, instructed Finger to invest the  
6 money conservatively. By the end of July, Finger had conducted nearly \$19 million in purchases  
7 and over \$18.7 million in sales of index options in the account, and the account had been charged  
8 about \$560,000 in commissions. Finger often executed multiple buys and sells of the same  
9 security on the same day, sometimes within minutes. In June alone, he conducted over 320  
10 trades in the account. On August 3, 2011, Black Diamond emailed the customer a July account  
11 statement showing \$796,234.53 in cash in the account; the actual balance was \$62.00. In a mid-  
12 August meeting with this customer, Finger admitted he had created false account statements with  
13 inflated balances.

14 19. In another instance, Finger provided a customer with account statements for June  
15 2011 showing a total balance of about \$390,000 in assets across three accounts, and no trading  
16 commissions charged during the month. In truth, the accounts contained about \$100,000 in  
17 assets and were charged about \$211,000 in commissions during the month.

18 20. This customer's spouse had directed Finger to keep one of the accounts in cash and  
19 invest the others in conservative investments only. In the account that was to be kept in cash,  
20 during June, Finger conducted over \$3.75 million in purchases and \$3.7 million in sales of index  
21 options. The other two accounts totaled over \$2 million in purchases and over \$2 million in sales  
22 of index options. The trading in the three accounts included multiple buys and sells of the same  
23 security on the same day, sometimes within minutes. There were over 1,100 trades in the  
24 accounts.

25 21. When customers began raising concerns about their accounts in mid- and late  
26 August, Finger admitted he had deceived them.

27 22. Finger also attempted to hide his activity from Black Diamond's clearing broker,  
28 which executed trades on behalf of Black Diamond. In or about April 2011 and June 2011, the

1 clearing broker noticed significant trading losses and high commissions in several Black  
2 Diamond customer accounts. The clearing broker then asked Black Diamond for documentation  
3 showing the customers were aware of and approved the activity. Finger provided letters to this  
4 effect, purportedly signed by the customers. Finger forged customer signatures on the letters and  
5 otherwise falsified them, and the customers did not approve the trading.

6 23. Finger profited substantially from his conduct. Of the \$2.1 million in commissions  
7 that flowed to Black Diamond since February 2011, about \$1.1 million has been transferred to  
8 Finger's own customer account, with about \$870,000 subsequently transferred to Finger's  
9 personal bank account. These profits helped finance Finger's lavish lifestyle, which includes a  
10 \$2 million home and luxury automobiles.

11 **FIRST CLAIM FOR RELIEF**

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

13 *by Finger and Black Diamond*

14 24. The Commission realleges and incorporates by reference Paragraphs 1 through 23  
15 above.

16 25. By engaging in the conduct described above, Defendants, directly or indirectly, in  
17 connection with the purchase or sale of securities, by the use of means or instrumentalities of  
18 interstate commerce, or of the mails, with scienter:

19 (a) employed devices, schemes, or artifices to defraud;

20 (b) made untrue statements of material fact or omitted to state material facts

21 necessary in order to make the statements made, in the light of the circumstances

22 under which they were made, not misleading; and

23 (c) engaged in acts, practices, or courses of business which operated or would operate

24 as a fraud or deceit upon other persons.

25 26. Defendants have violated and, unless restrained and enjoined, will continue to  
26 violate Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. §  
27 240.10b-5].  
28

**SECOND CLAIM FOR RELIEF**

*Violations of Section 15(c)(1)(A) of the Exchange Act by Black Diamond*

27. The Commission realleges and incorporates by reference Paragraphs 1 through 23 above.

28. Black Diamond has, by engaging in the conduct set forth above, while acting as a broker, made use of the mails or any means or instrumentality of interstate commerce to effect transactions in, or to induce or attempt to induce the purchase or sale of, securities (other than commercial paper, bankers' acceptances, or commercial bills) otherwise than on a national securities exchange of which it is a member, by means of manipulative, deceptive, and fraudulent devices and contrivances.

29. Black Diamond has violated, and unless restrained and enjoined will continue to violate, Section 15(c)(1)(A) of the Exchange Act [15 U.S.C. § 78o(c)(1)(A)].

**THIRD CLAIM FOR RELIEF**

*Finger's aiding and abetting of Black Diamond's violation of Section 15(c)(1)(A) of the Exchange Act*

30. The Commission realleges and reincorporates by reference Paragraphs 1 through 23 above.

31. Finger knowingly or recklessly provided substantial assistance to Black Diamond's violations of Section 15(c)(1)(A) of the Exchange Act [15 U.S.C. § 78o(c)(1)(A)].

32. By reason of the foregoing, Finger has aided and abetted, and unless restrained and enjoined, will continue to aid and abet violations of Section 15(c)(1)(A) of the Exchange Act [15 U.S.C. § 78o(c)(1)(A)].

**PRAYER FOR RELIEF**

WHEREFORE, the Commission respectfully requests that this Court:

I.

Enjoin defendants temporarily, preliminarily, and permanently, from violating 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].

1 II.

2 Enjoin Black Diamond temporarily, preliminarily, and permanently from violating, and  
3 enjoin Finger temporarily, preliminarily, and permanently from aiding and abetting violations of,  
4 Section 15(c)(1)(A) of the Exchange Act [15 U.S.C. § 78o(c)(1)(A)].

5 III.

6 Order defendants to disgorge their ill-gotten gains, including prejudgment interest.

7 IV.

8 Order defendants to pay civil penalties pursuant to Section 21(d) of the Exchange Act  
9 [15 U.S.C. § 78u(d)].

10 V.

11 Enter an order freezing all assets held by the defendants or under their control.

12 VI.

13 Enter an order preventing defendants from destroying, mutilating, concealing,  
14 transferring, altering, or otherwise disposing of, in any manner, books, records, computer  
15 programs, computer files, computer printouts, correspondence, including e-mail, whether stored  
16 electronically or in hard-copy, memoranda, brochures, or any other documents of any kind that  
17 pertain in any manner to the business of the defendants.

18 VII.

19 Enter an order permitting expedited discovery.

20 VIII.

21 Enter an order requiring defendants to provide an accounting of their assets.

22 IX.

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

X.

Grant such other and further relief as this Court may determine to be just and necessary.

Dated: September 8, 2011

Respectfully submitted,

/s/ Thomas J. Eme  
Thomas J. Eme

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