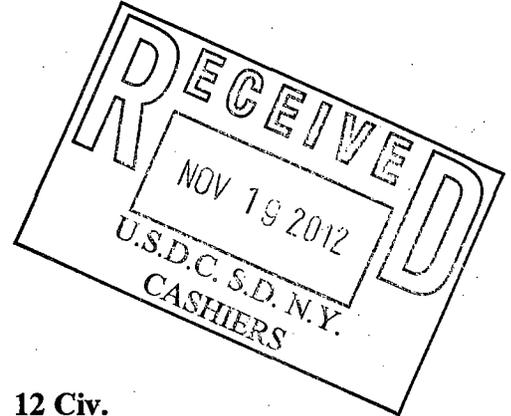


JUDGE BRICCETTI

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



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:
SECURITIES AND EXCHANGE COMMISSION, :
:
Plaintiff, :
:
-against- :
:
STEPHEN A. COLANGELO, JR., :
:
Defendant. :
-----X

12 Civ. _____
COMPLAINT
ECF CASE

Plaintiff Securities and Exchange Commission (“Commission”), for its Complaint against defendant Stephen A. Colangelo, Jr. (“Colangelo”), alleges as follows:

SUMMARY

1. The Commission brings this action against Colangelo for multiple violations of the federal securities laws. From 2009 through 2011, Colangelo solicited and obtained over \$4 million from investors by making material misrepresentations and omissions concerning Colangelo’s prior trading activity and historical rates of return, Colangelo’s criminal history and educational background, and the use of investor funds. Colangelo also misappropriated at least \$1 million of investor funds, using investor funds to pay for, among other things, illegal narcotics, gambling, and personal travel. In an effort to conceal his misappropriations,

Colangelo made additional misrepresentations to investors concerning the use of investor funds and the rates of return on investments.

2. First, from March 2009 to June 2009, Colangelo made numerous misrepresentations to investors in the Brickell Fund, LLC (“Brickell Fund”), for which Colangelo raised approximately \$760,000. Colangelo made material misrepresentations concerning: (i) his prior trading on behalf of the Brickell Fund, (ii) the historical rates of return earned by the Brickell Fund, and (iii) the Brickell Fund’s investment strategy. Colangelo, who had been charged with fraud-based felonies on two prior occasions, also misrepresented or failed to disclose his criminal history to investors. Colangelo subsequently misappropriated approximately \$200,000 of investor funds for personal use.

3. Second, from April 2009 to February 2011, Colangelo obtained more than \$1.2 million dollars from three individuals for investment purposes as private advisory clients. Colangelo made misrepresentations to these investors regarding the historical and current rates of return that Colangelo earned for advisory clients. Colangelo also misappropriated approximately \$185,000 from these investors.

4. Third, from July 2009 to October 2011, Colangelo raised approximately \$2.2 million for three startup entities that Colangelo founded and controlled – Hedge Community, LLC (“Hedge Community”), Start a Hedge Fund, LLC (“Start a Hedge Fund”), and Under the Radar SEO, LLC (“Under the Radar”). Colangelo made material misrepresentations and omissions to investors in each of these entities concerning, among other things: (i) how investor funds would be used, (ii) the amount of money that Colangelo would earn, (iii) Colangelo’s

educational background, and (iv) Colangelo's criminal history. Colangelo also misappropriated at least \$800,000 of investor money.

VIOLATIONS

5. By virtue of the foregoing conduct and as further alleged herein, Colangelo, directly or indirectly, singly or in concert, engaged in transactions, acts, practices, or courses of business that constitute violations of Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)], Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], and Sections 206(1), 206(2) and 206(4) of the Investment Advisers Act of 1940 ("Advisers Act") [15 U.S.C. §§ 80b-6(1), 80b-6(2), and 80b-6(4)] and Rule 206(4)-8 thereunder [17 C.F.R. § 275.206(4)-8].

6. Unless Colangelo is permanently restrained and enjoined, he will again engage in the transactions, acts, practices and courses of business set forth in this Complaint and in transactions, acts, practices and courses of business of similar type and object.

NATURE OF THE PROCEEDINGS AND RELIEF SOUGHT

7. The Commission brings this action pursuant to the authority conferred upon it by Section 20(b) of the Securities Act [15 U.S.C. § 77t(b)], Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)], and Section 209(d) of the Advisers Act [15 U.S.C. § 80b-9(d)].

8. The Commission seeks a final judgment (i) permanently restraining and enjoining Colangelo from violating Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and Sections 206(1), 206(2) and 206(4) of the Advisers Act and Rule 206(4)-8 thereunder; (ii) ordering Colangelo to disgorge all ill-gotten gains with prejudice

interest thereon; and (iii) ordering Colangelo to pay civil money penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77(t)(d)], Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78(d)(3)], and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)].

JURISDICTION AND VENUE

9. This Court has jurisdiction over this action, and venue lies in this District, pursuant to Sections 20(b), 20(d), and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b), 77t(d), and 77v(a)], Sections 21(d) and 27 of the Exchange Act [15 U.S.C. §§ 78(u)(d) and 78aa], and Sections 209 and 214 of the Advisers Act [15 U.S.C. §§ 80b-9 and 80b-14]. Colangelo, directly or indirectly, made use of the means or instrumentalities of interstate commerce, or of the mails, in connection with the transactions, acts, practices, and courses of business alleged herein, many of which occurred in this District. Colangelo resided and transacted business in the Southern District of New York, solicited funds from investors while in the Southern District of New York, and committed many of the unlawful activities alleged herein in the Southern District of New York.

DEFENDANT

10. **Colangelo**, age 44, resides in Congers, New York. Colangelo formed the Brickell Fund, a pooled investment vehicle he offered to investors, and was solely responsible for making investment decisions on behalf of the fund. Colangelo also founded and offered interests to investors in Hedge Community, Start a Hedge Fund, and Under the Radar. In June 2009, Colangelo was sentenced to probation (adjudication withheld) in the state of Florida in connection with 2007 felony charges for burglary, theft, and engaging in a scheme to defraud. In May 2003, Colangelo entered a pre-trial diversion program in Florida in connection with 2002 felony charges that

Colangelo issued a worthless check and deposited or cashed an item with a bank or depository institution with intent to defraud.

RELEVANT ENTITIES

11. **Brickell Fund, LLC** was formed in 2009 as a New York limited liability corporation with its principal place of business in New City, New York. Colangelo founded and controlled the Brickell Fund and was solely responsible for making investment decisions on behalf of the fund. Only Colangelo had access to and control over investor funds. Colangelo employed several individuals at the Brickell Fund who were paid an hourly wage to assist with various administrative tasks and personal errands. The Brickell Fund was dissolved on January 29, 2010.

12. **Hedge Community, LLC** was formed in 2009 as a New York limited liability corporation with its principal place of business in New City, New York. Colangelo founded and controls all aspects of Hedge Community and was the only individual with access to and control over investor funds. Although Colangelo retained third parties to provide operational and other services to Hedge Community, Hedge Community did not have any full-time employees.

13. **Start a Hedge Fund, LLC** was formed in 2009 as a New York limited liability corporation with its principal place of business in New City, New York. Colangelo founded and controls Start a Hedge Fund and was the only individual with access to and control over investor funds. Although Colangelo retained third parties to provide operational and other services to Start a Hedge Fund, Start a Hedge Fund did not have any full-time employees.

14. **Under the Radar SEO, LLC** was formed in 2010 as a New York limited liability corporation with its principal place of business in New City, New York. Colangelo founded and

controls Under the Radar and was the only individual with access to and control over investor funds. Although Colangelo retained third parties to provide operational and other services to Under the Radar, Under the Radar did not have any full-time employees.

FACTS

Colangelo Defrauded Brickell Fund Investors

15. In March 2009, Colangelo, who had no prior professional experience buying and selling securities, began soliciting investments in the Brickell Fund. Colangelo presented the Brickell Fund to investors as a successful hedge fund that Colangelo controlled as its investment adviser. From April 2009 to in or around June 2009, Colangelo raised \$760,000 for the Brickell Fund by making numerous material misrepresentations and omissions to four investors.

16. In March 2009 the Brickell Fund did not have any investors and Colangelo was not then buying and selling securities on behalf of the fund. Despite this, Colangelo sent numerous e-mails to potential investors concerning stocks he claimed to be buying and selling on behalf of the Brickell Fund and the high returns he purported to earn as a result of such trades, including:

- a. A March 18, 2009 e-mail from Colangelo to potential investors, including two individuals who ultimately invested in the Brickell Fund, where Colangelo stated “BEST TRADING DAY OF MY LIFE!!!!!! . . . Up over 400% and documented. Mind boggling to say the least.”
- b. A March 27, 2009 e-mail from Colangelo to potential investors, including two individuals who ultimately invested in the Brickell Fund, with the subject “Brickell Fund LLC/Stock Pick For Tomorrow CTIC [Cell Therapeutics, Inc.],” where Colangelo reported “This has been a great week with YGE [Yingli Green Energy] being up over 90% in the last three days. We are out of YGE for now 100%. . . . You can see all the live action at www.HedgeFund.bz. Go to Performance and become a Brickell Fund member to see the live action. If we did not post our trades on a real time basis I would not believe it myself.”

- c. A March 30, 2009 e-mail from Colangelo to potential investors, including two individuals who ultimately invested in the Brickell Fund, where Colangelo wrote “With the market being DOWN over 250 points today CTIC was some pick. We purchased 300,000 shares at 30 cents (90,000 dollars) and sold 300,000 shares at 45 cents (135,000 dollars). Up 50%!!!!”
- d. A March 31, 2009 e-mail with the subject “Todays [sic] Trades/Brickell Fund LLC” in which Colangelo reported to potential investors, including two individuals who ultimately invested in the Brickell Fund, that he “sold 50,000 shares of YGE at 6.40. We purchased 50,000 shares at 5.75 so we made a 65 point move.....Another Great Day!!!!”

Each of these e-mails was materially false and misleading because Colangelo had not made any of the trades reported and, thus, had not earned the substantial returns claimed.

17. In or around April 2009, Colangelo provided potential Brickell Fund investors with access to trading data posted on the Brickell Fund’s website. Colangelo, who had ultimate control over the content of the Brickell Fund’s website, represented to potential investors that the data represented real-time, actual trading that Colangelo was conducting on behalf of the Brickell Fund. These statements were false and misleading because the data presented did not represent actual trades. In fact, Colangelo was not engaged in any trading on behalf of the Brickell Fund at that time.

18. Colangelo also made similar misstatements in the Brickell Fund’s offering materials. Colangelo had ultimate control over the content of the Brickell Fund’s offering materials, which he disseminated to at least one investor. The offering materials represented that Colangelo had “done significant simulated trading and ha[d] achieved a great success rate on positions of the trades that were tested.” This statement was false and misleading because Colangelo had not engaged in any simulated trading, nor achieved “a great success rate” in such trading.

19. Colangelo also assured potential investors that the Brickell Fund was managed by securities professionals who used sophisticated models and strategies to monitor investments. For example, Colangelo sent e-mails to potential investors in March 2009, including at least two investors who ultimately invested in the Brickell Fund, representing that the Brickell Fund had a “team of investment professionals [who] utilize[d] sophisticated financial modeling and various global economic metrics to minimize risk and deliver superior performance based on clearly defined investment strategies.” Also in March 2009, Colangelo sent two potential investors who ultimately invested in the Brickell Fund a document representing that the Brickell Fund was managed by “investment professionals [who] implement an investment process that uses multi-factor quantitative models to rank more than 3,000 stocks on a daily basis.” The Brickell Fund’s website – which Colangelo provided in hard copy to potential investors and to which Colangelo directed potential investors – contained similar representations. All of these statements were false and misleading, because Colangelo, who had no professional securities background and was solely responsible for making investment decisions on behalf of the Brickell Fund, did not use any models or other sophisticated means to monitor risk and performance.

20. Colangelo failed to disclose his criminal past to Brickell Fund investors, and, in fact, affirmatively misrepresented his criminal past in the Brickell Fund offering documents that he provided to at least one investor. The offering documents represented that Colangelo did not have “any fraud or . . . any other regulatory charges pending or ever against him.” This statement was false and misleading because Colangelo was charged with fraud-based felony offenses in Florida in 2002 and 2007.

21. Colangelo specifically promised three of the four investors in the Brickell Fund –

who, in total, invested \$510,000 – that their funds would be used only to buy and sell securities, with Colangelo promising to take only performance fees and a 2% annual asset management fee as his compensation. These statements were false and misleading because Colangelo, instead of using the money to buy and sell securities as he had promised, transferred a substantial amount of investor money to his personal bank account almost immediately after receiving it. For example, on May 5, 2009, one of the investors wired \$350,000 to the Brickell Fund’s bank account, which Colangelo controlled. The next day, on May 6, 2009, Colangelo transferred \$100,000 of the investor’s money to Colangelo’s personal bank account, whereupon Colangelo used the money to pay for personal expenses.

22. Colangelo engaged in similar conduct throughout May and June 2009 – transferring a substantial portion of investor money to his personal bank account almost immediately after receiving it, rather than investing the money through the Brickell Fund as Colangelo had promised to do. By May 26, 2009, Colangelo had transferred approximately \$200,000 of investor money to his personal bank account. Colangelo used most of these funds to pay for personal expenses, including, among other things, travel expenses for Colangelo and his family, cigars, gambling, illegal narcotics, and Colangelo’s personal federal income taxes.

23. From June 2009 through October 2009, Colangelo also transferred \$133,000 from the Brickell Fund to Hedge Community; following this transfer Colangelo used a substantial portion of the \$133,000 to pay for personal expenses.

24. In addition to misappropriating investor money for personal use, Colangelo lost approximately \$350,000 of investor money through high-volume day trading from May 2009 to June 2009.

25. Colangelo attempted to conceal his trading losses and misappropriation of investor funds by making misrepresentations to investors about the Brickell Fund's investments and returns. For example, in a June 1, 2009 e-mail Colangelo informed one existing Brickell Fund investor and another individual, who later invested \$250,000 in the Brickell Fund, that the Brickell Fund had been investing in the stock of Cell Therapeutics, Inc. (which trades on the New York Stock Exchange under the ticker "CTIC") and "CTIC popped today. We where [sic] buying CTIC at 40 cents. Up 46% today at 2.10 a share." This statement was false and misleading because the Brickell Fund did not then have a position in CTIC and, by June 1, 2009, unbeknownst to Brickell Fund investors, Colangelo had misappropriated for personal use or lost through trading substantially all investor money.

26. Colangelo continued to conceal his misappropriation of investor funds by entering into settlement agreements with at least three of the Brickell Fund investors in which Colangelo represented that the Brickell Fund "suffered significant losses, causing the fund's asset value to be reduced to virtually zero." Colangelo failed to disclose to investors that the Brickell Fund had little or no assets due in part to Colangelo's misappropriation of over \$200,000 of investor money for personal use.

Colangelo Defrauded Private Advisory Clients

27. From April 2009 to January 2011, Colangelo entered into agreements with three investment advisory clients in which Colangelo promised that he would buy and sell securities on behalf of each client and receive only a percentage of any trading profits as compensation. Contrary to these agreements, Colangelo, who obtained a total of approximately \$1.2 million from these three clients, misappropriated approximately \$185,000 of client funds.

28. Colangelo entered into an agreement with a private advisory client ("Client A"), documented by an April 2, 2009 e-mail between Colangelo and Client A, with Colangelo agreeing that he would buy and sell securities on Client A's behalf in Colangelo's personal brokerage account, with Colangelo "earn[ing] money ONLY on the Net Trading Profits on the account at a rate of 35% that is paid once a month." Colangelo had previously made misrepresentations to Client A, who also invested in the Brickell Fund, regarding Colangelo's trading activity on behalf of the Brickell Fund and the purported returns earned as a result of those trades.

29. Pursuant to this agreement, Client A transferred \$23,900 to Colangelo's personal bank account on April 3, 2009. Instead of buying and selling securities on Client A's behalf, as Colangelo had promised to do, Colangelo spent all of Client A's money on various personal expenses or expenses unrelated to Client A's investment, including withdrawing over \$7,400 of Client A's funds in cash from April 7, 2009 to April 13, 2009, and spending over \$2,800 on clothing.

30. Colangelo attempted to conceal his misappropriation by providing false periodic updates to Client A by e-mail and telephone regarding the purported performance of Client A's investment. In one such update, which Colangelo e-mailed to Client A on April 20, 2009, Colangelo wrote:

I wanted to give you an update on the trading. . . . If you follow YGE one of my best stocks to trade it has a range from 4.00 to 7.00 dollars. . . . I will start buying YGE again at 5.00 dollars and fill in the gaps down to 4.00 dollars to have an average of about 4.50. . . . Remember that I only earn money off the Net Trading profits so when I start the month up over 270% all I can say is mission accomplished.

This statement was false and misleading because, at the time, Colangelo was not then buying or selling securities on Client A's behalf, had spent all of Client A's money on personal expenses and other expenses unrelated to Client A's investment, and was not in a position to make any future investments on behalf of Client A.

31. Colangelo entered into an oral agreement with another private advisory client ("Client B") in which Colangelo agreed that he would buy and sell securities on Client B's behalf in exchange for 50% of any trading profits. Pursuant to this agreement, Client B wired \$20,000 to Colangelo's personal bank account on May 10, 2010.

32. Colangelo never transferred Client B's funds to a brokerage account and, thus, never used Client B's money to buy or sell securities as Colangelo had promised. Instead, Colangelo spent all of Client B's money on other expenses, including fees associated with purchasing or registering website domain names.

33. Colangelo made misrepresentations about his purported success investing on behalf of Client B on a May 10, 2010 conference call with potential and existing investors in Hedge Community, Start a Hedge Fund and Under the Radar. Colangelo claimed that he "made \$18,000 in about ten minutes" and that, as a result, Client B was giving him a check for \$1 million. In reality, however, Colangelo never actually invested the \$20,000 on behalf of Client B, and, thus, did not make the substantial returns claimed.

34. However, on May 24, 2010, Colangelo transferred \$27,443.85 to Client B, claiming that this amount represented Client B's initial investment plus 50% of the returns that Colangelo claimed to earn buying and selling securities on Client B's behalf in just a two week period. This statement was false and misleading however because, as discussed above,

Colangelo never actually bought and sold securities with Client B's money. Colangelo repaid Client B by using funds provided by investors in Start a Hedge Fund.

35. Encouraged by the fictitious returns that Colangelo claimed to have earned, Client B provided Colangelo with an additional \$100,000 to invest pursuant to the same arrangement – that Colangelo would buy and sell securities for Client B and receive 50% of any trading profits as compensation. Contrary to this agreement, from June 4, 2010 through June 30, 2010, although Colangelo actually lost money trading on Client B's behalf, and was thus not entitled to compensation, Colangelo misappropriated approximately \$55,000 of Client B's money, spending it on, among other things, groceries and fees associated with registering website domain names.

36. Colangelo entered into an agreement with a third private investment advisory client ("Client C"), documented by a written agreement dated January 21, 2011 signed by Colangelo and Client C. According to the agreement, Colangelo would buy and sell securities on behalf of Client C. The only compensation to which Colangelo was entitled under the agreement was 50% of any trading profits and a \$2,500 monthly management fee. At the time that Colangelo entered into this agreement, Colangelo understood that Client C, who was then 86 years old, suffered from a physical impairment that affected Client C's memory.

37. From November 12, 2010 to February 18, 2011, Client C provided Colangelo with \$1,045,000 to invest on Client C's behalf pursuant the agreement. Ultimately, Colangelo lost approximately \$550,000 of Client C's funds through trading, returned approximately \$400,000 to Client C, and transferred the approximately \$95,000 that remained to various bank accounts controlled by Colangelo, including Colangelo's personal bank account, whereupon Colangelo used the funds to pay for personal expenses or other expenses unrelated to Client C.

Colangelo Defrauded Investors in Hedge Community

38. Colangelo formed Hedge Community for the stated purpose of “creat[ing] a leading social networking website for hedge funds and qualified accredited investors.” From July 2009 to May 2010, Colangelo obtained \$711,000 from eight investors in Hedge Community.

39. Three of the Hedge Community investors had previously invested in the Brickell Fund, and, unbeknownst to these investors, Colangelo had already misappropriated a significant amount of the money the investors had entrusted to him.

40. When soliciting a \$25,000 investment in the form of a loan to Hedge Community from a former Brickell Fund investor in July 2009, Colangelo guaranteed “100 percent” that the investor would receive his money back within 60 days. Colangelo received \$20,000 of the investment on July 17, 2009. The same day, Colangelo transferred \$6,000 of the investment to his personal bank account. By July 30, 2009, Colangelo spent the remaining investment on personal and other expenses, including a limousine service and hotel rooms. At the time that Colangelo guaranteed repayment of the investment, Colangelo knew that Hedge Community had secured no other investors, had no anticipated income stream, and had minimal or no assets. Thus, at the time, Colangelo had no basis to guarantee the return of the investment within 60 days and knew, or was reckless in not knowing, that he had no basis to make such a guarantee.

41. Colangelo made misrepresentations to potential investors about the amount of money that he had already raised for Hedge Community. For example, on August 10, 2009, Colangelo told one individual, who ultimately invested \$25,000 in Hedge Community, that Colangelo had already raised over \$800,000 on behalf of Hedge Community. This statement

was false and misleading because, at that time, Colangelo had raised less than \$100,000 for Hedge Community.

42. Colangelo had ultimate control over the content of Hedge Community's offering materials, including Hedge Community's private placement memorandum, and over the distribution of Hedge Community's offering materials to potential investors.

43. Colangelo represented in Hedge Community's private placement memorandum, dated June 15, 2009, that he had extensive experience in the securities and real estate industries, including that he currently served as the "CEO of . . . a hedge fund he started in in October of 2007." This description was materially misleading and false. The Brickell Fund had only been in existence since January 2009, not October 2007, which would have revealed a two-year gap in the description of Colangelo's business experience. Colangelo also failed to disclose that he already lost approximately half of the funds invested in the Brickell Fund during the approximately two months that he engaged in trading for the fund and that he misappropriated a substantial amount of money from the fund.

44. Colangelo created a profile on LinkedIn, a web site used for professional networking, in which Colangelo represented that he had studied finance at Nyack College from 1986 to 1989. Colangelo provided a link to this profile to potential and existing Hedge Community investors. Colangelo's representation that he studied finance at Nyack College was false and misleading because Colangelo never attended Nyack College and had not even graduated from high school.

45. In addition to the numerous misrepresentations and omissions made to potential and existing Hedge Community investors, Colangelo engaged in other fraudulent conduct in

connection with his sale of interests in Hedge Community, including forging an investor's signature in an effort to obtain funds in an investor's self-directed retirement account for Hedge Community.

46. Of the \$711,000 ultimately raised in connection with Hedge Community's initial offering, Colangelo took over \$340,000 of money received from investors for personal use.

Colangelo Defrauded Investors in Start a Hedge Fund

47. Colangelo formed Start a Hedge Fund for the stated purpose of creating a "one stop shop" for forming and operating a hedge fund, including providing financial, legal, administrative and brokerage services to funds and fund managers. Colangelo obtained \$350,000 from three investors in Start a Hedge Fund from April 2010 to September 2010. One Start a Hedge Fund investor had previously invested in the Brickell Fund and another investor had previously invested in Hedge Community. Unbeknownst to both investors, Colangelo had already misappropriated a significant amount of the money that they had entrusted to him.

48. Colangelo had ultimate control over the content of Start a Hedge Fund's offering materials, including Start a Hedge Fund's private placement memorandum, and over the distribution of Start a Hedge Fund's offering materials to potential investors.

49. Of the \$350,000 raised in connection with Start a Hedge Fund's initial offering, Colangelo took over \$200,000 of money received from investors – more than 50% of the amount raised – for personal use. Colangelo made material misrepresentations and omissions to investors concerning his intended use of investor money in Start a Hedge Fund's private placement memorandum. For example, Start a Hedge Fund's private placement memorandum represented that the company would use investor funds for business purposes, including that if

Start a Hedge Fund were able to raise the full initial offering amount of \$3 million, it would pay approximately \$400,000 – i.e., approximately 13% of the amount raised – in salaries. This statement was false and misleading because Colangelo took over \$200,000 of money received from investors – more than 50% of the amount raised – for personal use. Further, rather than paying himself a set or regular salary for work performed for the company, Colangelo instead transferred substantial amounts of investor money to himself shortly after receiving it. For example, an investor wired \$100,000 to Start a Hedge Fund’s bank account on May 4, 2010. By May 6, 2010, Colangelo transferred \$60,000 of the investor’s funds to Colangelo’s personal brokerage account.

50. Colangelo touted his professional experience and background in Start a Hedge Fund’s private placement memorandum, dated September 2010, representing that he had “a diverse background in investments and business that includes [a] past position[] as the investment advisor at Brickell Capital Advisors LLC.” This description was materially misleading, however, in that Colangelo failed to disclose that he not only lost substantial amounts of investor money through his trading for both the Brickell Fund and private advisory clients, but also had misappropriated a substantial amount of money entrusted to him as an investment adviser. Colangelo also provided his LinkedIn profile to at least two Start a Hedge Fund investors, in which Colangelo falsely represented that he had studied finance at Nyack College from 1986 to 1989. This statement was false because Colangelo never attended Nyack College.

Colangelo Defrauded Investors in Under the Radar

51. Colangelo formed Under the Radar for the stated purpose of providing internet marketing services. Colangelo obtained over \$1.1 million from two investors in Under the Radar from June 2010 to October 2011. Both investors in Under the Radar had previously invested in Colangelo's other entities, and one investor was Client C, who had previously provided Colangelo with \$1,045,000 for investment as a private advisory client. In furtherance of his fraudulent schemes, Colangelo concealed from both individuals that Colangelo had already misappropriated a significant amount of their money that had been entrusted to him for investment purposes.

52. Colangelo had ultimate control over the content of Under the Radar's offering materials and over the distribution of Under the Radar's offering materials to potential investors.

53. Colangelo once again misappropriated the funds invested by these individuals, spending at least \$600,000 – more than 60% of the amount raised – on personal expenses, including several vacations, almost immediately after receiving the investments.

54. Colangelo made material misrepresentations and omissions to investors concerning his intended use of investor money in Under the Radar's private placement memorandum, which Colangelo disseminated to at least one investor. Under the Radar's private placement memorandum represented that, if Under the Radar raised \$1 million in its initial offering, the company would use the proceeds as follows: \$400,000 for "operations and administration," \$400,000 for "marketing and business development," \$100,000 for "professional fees," and \$100,000 for "offering expenses and finder's fees." Colangelo made similar misrepresentations to investors orally, assuring them that their funds would be used only

for business expenses. Colangelo knew, or at least recklessly disregarded, that the representations he made to investors concerning the use of funds were materially false and misleading because he intended at the time to misappropriate their money as Colangelo had done repeatedly with prior offerings of interests in Brickell Fund, Hedge Community, and Start a Hedge Fund.

55. In addition, also contrary to the represented business plan for Under the Radar and without the consent of either investor, Colangelo used investor money to engage in high-volume day trading in or around July 2010, and lost \$54,000 of investor money in just over one month.

56. Colangelo provided his LinkedIn profile, in which Colangelo represented that he studied finance at Nyack College from 1986 to 1989, to at least one investor in Under the Radar. As discussed above, this statement was false because Colangelo never attended Nyack College. Colangelo also touted his professional background and experience to investors, but once again failed to disclose that he misappropriated a substantial amount of money from investors in each of these enterprises.

FIRST CLAIM FOR RELIEF

Violations of Section 17(a) of the Securities Act

57. The Commission realleges and incorporates by reference each and every allegation contained above in paragraphs 1 through 56.

58. Colangelo, directly or indirectly, singly or in concert with others, in the offer or sale of securities, by the use of the means and instruments of transportation and communication in interstate commerce and of the mails, knowingly or recklessly: (a) employed devices, schemes or artifices to defraud; (b) obtained money or property by means of untrue statements of material fact or omissions 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/or (c) engaged in acts, practices or courses of business which operated or would operate as a fraud or deceit upon the purchasers of the securities offered and sold by the defendants.

59. By reason of the foregoing, Colangelo violated, and unless enjoined will again violate, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

SECOND CLAIM FOR RELIEF

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

60. The Commission realleges and incorporates by reference each and every allegation contained above in paragraphs 1 through 56.

61. Colangelo, in connection with the purchase and sale of securities, directly or indirectly, singly or in concert with others, by the use of a means or instrumentalities of interstate commerce or of the mails, or of any facility of a national securities exchange, knowingly or recklessly: (a) employed devices, schemes, or artifices to defraud; (b) obtained money or property by means of, or otherwise 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/or (c) engaged in transactions, acts, practices and courses of business which operated or would have operated as a fraud or deceit upon other persons.

62. By reason of the foregoing, Colangelo violated, and unless enjoined will again violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5].

THIRD CLAIM FOR RELIEF

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

63. The Commission realleges and incorporates by reference each and every allegation contained above in paragraphs 1 through 56.

64. At all relevant times, Colangelo operated as an investment adviser as defined by Section 202(a)(11) of the Advisers Act [15 U.S.C. § 80b-2(a)(11)], and served clients in that capacity with respect to the Brickell Fund and private advisory clients.

65. Colangelo, directly or indirectly, singly or in concert with others, by use of the means or instrumentalities of interstate commerce or the mails, and while engaged in the business of advising others for compensation as to the advisability of investing in, purchasing or selling securities: (a) with requisite scienter employed devices, schemes, or artifices to defraud clients or prospective clients; and/or (b) engaged in acts, practices or courses of business which operated or would operate as a fraud or deceit upon clients or prospective clients.

66. By reason of the foregoing, Colangelo violated, and unless enjoined will again violate, Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §§ 80b-6(1) and (2)].

FOURTH CLAIM FOR RELIEF

Violations of Section 206(4) of the Advisers Act
and Rule 206(4)-8 thereunder

67. The Commission realleges and incorporates by reference each and every allegation contained above in paragraphs 1 through 56.

68. At all relevant times, Colangelo operated as an investment adviser as defined by Section 202(a)(11) of the Advisers Act [15 U.S.C. § 80b-2(a)(11)], and served the Brickell Fund, a pooled investment vehicle, in that capacity.

69. Colangelo, directly or indirectly, singly or in concert with others, while acting as an investment adviser to the Brickell Fund, by use of the means and instrumentalities of interstate commerce or of the mails, knowingly or recklessly: (a) made untrue statements of material fact or omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading, to investors or prospective investors in the Brickell Fund; and/or (b) otherwise engaged in acts, practices or courses of business that were fraudulent, deceptive or manipulative with respect to investors or prospective investors in the Brickell Fund.

70. By reason of the foregoing, Colangelo violated, and unless enjoined will again violate, Section 206(4) of the Adviser's Act [15 U.S.C. § 80b-6(4)] and Rule 206(4)-8 thereunder [17 C.F.R. § 275.206(4)-8].

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests a Final Judgment:

A. Permanently enjoining Colangelo, his agents, servants, employees, and attorneys, and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from future violations of Section 17(a) of the Securities Act [15 U.S.C. § 77(q)(a)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], and Sections 206(1), 206(2), and 206(4) of the Advisers Act [15 U.S.C. §§ 80b-6(1), 80b-6(2), and 80b-6(4)] and Rule 206(4)-8 thereunder [17 C.F.R. § 275.206(4)-8];

B. Ordering Colangelo to disgorge with prejudgment interest thereon, all ill-gotten gains derived from the unlawful conduct alleged herein;

C. Ordering Colangelo to pay civil money penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77(t)(d)], Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78(d)(3)], and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)]; and,

D. Granting such other and further relief as the Court deems just and proper, including such equitable relief as may be appropriate or necessary for the benefit of investors.

Dated: New York, New York
November 19, 2012



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