



prominence in the Indian-American community, his political connections, and his purported willingness to risk his own money in the investment vehicles he managed.

3. Shailendra solicited investments and sold securities in Shi Six through oral and written misrepresentations. In contravention of representations that he made to investors, Shailendra used his position of trust and confidence to benefit himself by, among other things,

- a. failing to fund his equity interests in the limited liability company but nonetheless allocating ownership to himself as if he had done so;
- b. misappropriating investor cash for himself; and
- c. using investor money to support his pre-existing, affiliated deals that were in need of cash.

4. By knowingly or recklessly engaging in this and other conduct described herein, Shailendra violated, and unless restrained and enjoined will continue to violate, Section 17(a) of the Securities Act of 1933 (“Securities Act”) [*15 U.S.C. § 77q(a)*] and Sections 10(b) and 15(a) of the Securities Exchange Act of 1934 (“Exchange Act”) [*15 U.S.C. §§ 78j(b) and 78o(a)*] and Rule 10b-5 thereunder [*17 C.F.R. § 240.10b-5*].

#### **JURISDICTION AND VENUE**

5. This Court has jurisdiction over this action pursuant to Sections 20(b), 20(d), and 22(a) of the Securities Act [*15 U.S.C. §§ 77t(b), 77t(d)(1), and 77v(a)*], Sections 21(d), 21(e), and 27 of the Exchange Act [*15 U.S.C. §§ 78u(d), 78u(e), and 78aa*], and 28 U.S.C. § 1331.

6. Venue in this district is proper under 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 28 U.S.C. § 1391(b).

7. Shailendra is a resident of Jonesboro, Georgia, and certain of the transactions, acts, practices, and courses of business constituting the violations alleged herein occurred within

the Northern District of Georgia and elsewhere, and were effected, directly or indirectly, by making the use of the means, instruments or instrumentalities of transportation or communication in interstate commerce, or of the mails, or the facilities of a national securities exchange.

#### **DEFENDANT**

8. **M. Shailendra**, also known as “Shi Shailendra,” age 69, resides in Jonesboro, Georgia. Shailendra served and continues to serve as the Manager of Shi Six and, as noted in the private placement memorandum, “has ultimate authority in all matters affecting the business and affairs” of Shi Six. As the managing member of Shi Six, Shailendra held exclusive responsibility for soliciting investors, selling membership interests in Shi Six, communicating with investors concerning this investment vehicle, and managing its operations.

#### **OTHER RELEVANT PERSONS AND ENTITY**

9. **Interstate North 5 Acres, LLC f/k/a Shi Investments Six, LLC** is a Georgia limited liability company. During the relevant time period and to this day, Shailendra serves as its managing member. Shi Six’s principal place of business is in Atlanta, Georgia.

#### **FACTUAL ALLEGATIONS**

10. During the third quarter of 2008, Shailendra set up Shi Six to invest in newly acquired distressed real estate resulting from the financial crisis. Shailendra approached a number of potential investors and told them that Shi Six would be investing in real estate, discounted and distressed because of the financial crisis, which he would flip in three to five years at sizable profits.

11. Shailendra described Shi Six to some investors as a real estate investment fund. The private placement memorandum that Shailendra distributed and by which he offered limited liability company units for Shi Six explicitly stated that Shi Six “was formed to invest in



opportunistic transactions within a diverse portfolio of real estate investments....” In the private placement memorandum, Shailendra further represented that Shi Six did “not own any investments as of [December 1, 2008].”

12. Shailendra also provided certain Shi Six investors with an operating agreement that he signed and which described, among other things, how Shailendra would manage Shi Six and its money. Shailendra promised to manage the affairs of Shi Six with the other investors remaining passive, and each investor would receive profits based on the number of membership interests he owned pro rata to the total number of issued and outstanding membership interests. Shailendra also solicited investors orally. To add legitimacy to Shi Six, Shailendra even told at least one investor that a prominent financier and former politician would be investing \$15 million to \$20 million in Shi Six.

13. The bulk of solicitations and sales by Shailendra of membership interests in Shi Six occurred between October 2008 and February 2009.

14. Shailendra orally told certain investors that he would place his own funds at risk by investing in Shi Six. Shailendra authorized and distributed an operating agreement and private placement memorandum for Shi Six in which he represented that shares in Shi Six would be sold for \$250,000 each. Shailendra claims to have advanced approximately \$500,000 in earnest money deposits, equal to two shares, and recorded his ownership in the books and records of Shi Six. In October 2008, Shailendra reimbursed himself \$500,000 for the earnest money deposit by depositing two \$250,000 checks from Investor A directly into his personal bank account. Due to the withdrawal of all the funds he previously invested in Shi Six, Shailendra should have reduced his recorded interest to zero, while crediting ownership for two

shares to Investor A, but he never did so. Shailendra nonetheless continued to misrepresent himself to potential investors as a current investor in Shi Six.

15. Shailendra misappropriated substantial sums from Shi Six as investor cash flowed into the entity. Between October 2008 and November 2009, Shailendra misappropriated approximately \$2,586,935 of the funds invested in Shi Six.

16. On October 14, 2008, Investor B wrote Shailendra a check for \$500,000, representing an investment in two shares of Shi Six. Shortly thereafter, on October 23 and 28, 2008, Shailendra transferred \$295,000 and \$200,000 of the proceeds of this investment into his personal bank account.

17. Between December 22, 2008 and December 29, 2008, Shailendra accepted a total of \$600,000 in investments for Shi Six from Investors C and D. On January 2, 2009, Shailendra misappropriated \$600,000 from Shi Six by transferring the funds to his personal bank account.

18. Also on January 2, 2009, Shailendra accepted a \$250,000 investment from Investor E. Once Investor E's check for \$250,000 cleared on January 5, 2009, Shailendra misappropriated the \$250,000 by transferring the funds to his personal bank account.

19. In total, the January 2, 2009 and January 5, 2009 misappropriations (the "Affiliate Transfers") amounted to \$850,000.

20. Shailendra misappropriated investors' funds through these Affiliate Transfers because he needed \$850,000 to make payments on an affiliate's loan. On October 1, 2008, prior to raising most of Shi Six's capital, Shailendra caused Shi Six to enter into an agreement whereby it would transfer \$850,000 into another limited liability company, 21 14<sup>th</sup> Street Two-Thirds LLC ("21 14<sup>th</sup> Street Two-Thirds"), no later than February 2009. Shailendra solely owned 21 14<sup>th</sup> Street Two-Thirds and served as its managing member. In turn, 21 14<sup>th</sup> Street

Two-Thirds held Shailendra's personal ownership interest in a co-tenancy (the "Co-Tenancy") that owned a parcel of land in which Shailendra had previously invested. Shailendra served as the Managing Partner of the Co-Tenancy. In return for later providing \$850,000 of Shi Six's money, 21 14<sup>th</sup> Street Two-Thirds sold a portion of its interest in the Co-Tenancy to Shi Six. Shailendra signed the sale agreement on behalf of both Shi Six and 21 14<sup>th</sup> Street Two-Thirds.

21. After entering into this venture with these Shailendra affiliates on October 1, 2008 and obligating Shi Six to invest in an affiliated entity by February 2009, Shailendra continued to falsely represent to investors that Shi Six would not enter into joint ventures with, or purchase investments from, Shailendra or his affiliates. Shailendra made these representations orally and in writing. For example, in the Shi Six operating agreement, Shailendra represented that

5.15 Transactions with Affiliates. The Company shall not enter into joint ventures with, purchase investments from or sell investments to Managers or their Affiliates.<sup>1</sup>

In the private placement memorandum for Shi Six, Shailendra made the same misrepresentations.

22. Shailendra knew or was reckless in not knowing that Shi Six would enter into a joint venture with affiliates and purchase an investment from an affiliate because he entered into the transactions with the affiliate before soliciting most investors in Shi Six. Shailendra

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<sup>1</sup> The Shi Six Operating Agreement defined an affiliate as follows: "With respect to any Person, (i) in the case of an individual, any Relative of such Person, (ii) any officer, director, trustee, partner, member, manager, employee or holder of ten percent (10%) or more of any class of the voting securities of or equity interest in such Person; (iii) any corporation, partnership, limited liability company, trust or other entity controlling, controlled by or under common control with such Person; or (iv) any officer, director, trustee, partner, member, manager, employee or holder of ten percent (10%) or more of the outstanding voting securities of any corporation, partnership, limited liability company, trust or other entity controlling, controlled by or under common control with such Person."



ultimately made these Affiliate Transfers on January 2, 2009 and January 5, 2009—after raising the majority of Shi Six’s capital from investors—pursuant to the pre-existing agreement.

23. In continuing his scheme to defraud investors, on January 20, 2009, Shailendra accepted \$250,000 for Shi Six from Investor F. Shailendra acknowledged in writing to this investor that his \$250,000 payment would be for the acquisition of one membership unit in Shi Six. Days later, Shailendra instead misappropriated Investor F’s money for his own benefit by transferring it to a personal bank account. Moreover, despite his written acknowledgment of its intended purpose, Shailendra failed to record Investor F’s investment in the books and records of Shi Six. Years later, when Investor F asked about his investment, Shailendra told Investor F that the investor never actually had an investment in Shi Six. This statement directly contradicted Shailendra’s original representation to Investor F when selling the limited liability company unit that the person was making an investment in Shi Six and Shailendra’s acceptance of Investor F’s check that was made payable to Shi Six. Thereafter, Shailendra suggested that Investor F treat the \$250,000 as a personal loan that Shailendra promised to repay with interest of 20 percent per annum. Shailendra, however, failed to pay fully the purported loan’s principal or any of the accrued interest.

24. On June 18, 2009, Investor H wrote a \$250,000 check to Shi Six for a share of the company. Shailendra then deposited the check into a personal bank account.

25. On February 3, 2009, Shailendra obtained a total of \$175,000 for Shi Six from Investor C and Investor G. Also on February 3, 2009, Shailendra diverted \$177,000 of investor monies from Shi Six to his personal bank account. Shailendra continued to misappropriate Shi Six’s capital during 2009, including using Shi Six capital to pay interest on personal or Affiliate loans.

**FIRST CLAIM FOR RELIEF**  
**Violations of Exchange Act Section 10(b) and Rule 10b-5 Thereunder**  
**[15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5]**

26. Paragraphs 1 through 25 are realleged and incorporated herein by reference.

27. By his conduct alleged above, Shailendra, in connection with the purchase or sale of securities, by the use of the means and instrumentalities of interstate commerce and/or by the use of the mails, directly or indirectly: (a) employed devices, schemes, or artifices to defraud; (b) made untrue statements of material fact and omitted 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 acts, practices, or courses of business which have been or are operating as a fraud or deceit upon other persons, including purchasers and sellers of such securities.

28. In engaging in such conduct, Shailendra acted with scienter, that is, with intent to deceive, manipulate, or defraud or with a severely reckless disregard for the truth.

29. By reason of the foregoing, Shailendra has violated (and unless enjoined will continue to violate) 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].

**SECOND CLAIM FOR RELIEF**  
**Violations of Securities Act Section 17(a)(1)**  
**[15 U.S.C. § 77q(a)(1)]**

30. Paragraphs 1 through 29 are realleged and incorporated herein by reference.

31. By his conduct alleged above, Shailendra, in the offer or sale of securities, by the use of the means and instrumentalities of interstate commerce and/or by the use of the mails, directly or indirectly, has employed devices, schemes, and/or artifices to defraud.

32. In engaging in such conduct, Shailendra acted with scienter, that is, with intent to deceive, manipulate, or defraud or with a severely reckless disregard for the truth.



33. By reason of the foregoing, Shailendra has violated (and unless enjoined will continue to violate) Section 17(a)(1) of the Securities Act [*15 U.S.C. § 77q(a)(1)*].

**THIRD CLAIM FOR RELIEF**  
**Violations of Securities Act Sections 17(a)(2) and 17(a)(3)**  
**[*15 U.S.C. §§ 77q(a)(2) and 77q(a)(3)*]**

34. Paragraphs 1 through 33 are realleged and incorporated herein by reference.

35. By his conduct alleged above, Shailendra, in the offer or sale of securities, by the use of the means and instrumentalities of interstate commerce and/or by the use of the mails, directly or indirectly, has 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 has engaged in transactions, practices, or courses of business which have been operating as a fraud or deceit upon purchasers of securities.

36. By reason of the foregoing, Shailendra has violated (and unless enjoined will continue to violate) Sections 17(a)(2) and 17(a)(3) of the Securities Act [*15 U.S.C. §§ 77q(a)(2) and 77q(a)(3)*].

**THIRD CLAIM FOR RELIEF**  
**Violations of Exchange Act Section 15(a)**  
**[*15 U.S.C. § 78o(a)*]**

37. Paragraphs 1 through 36 are realleged and incorporated herein by reference.

38. By engaging in the conduct described above, Shailendra has acted as a broker and has made use of the mails and other means or instruments of interstate commerce to effect transactions in securities, or to induce or attempt to induce the purchase or sale of securities, without being registered in accordance with Section 15(b) of the Exchange Act [*15 U.S.C. § 78o(b)*].

39. By reason of the foregoing, Shailendra has violated (and unless enjoined will continue to violate) Section 15(a) of the Exchange Act [*15 U.S.C. § 78o(a)*].

**PRAYER FOR RELIEF**

WHEREFORE, the Commission respectfully requests that the Court enter a judgment:

- A. making findings of fact and conclusions of law that Shailendra committed the alleged violations;
- B. permanently enjoining Shailendra and his agents, servants, employees, attorneys, and all persons in active concert or participation with him, and each of them, from further violations of Section 17(a) of the Securities Act [*15 U.S.C. § 77q(a)*] and Sections 10(b) and 15(a) of the Exchange Act [*15 U.S.C. §§ 78j(b) and 78o(a)*] and Rule 10b-5 thereunder;
- C. permanently enjoining Shailendra from directly or indirectly, including, but not limited to, through any entity owned or controlled by participating in the issuance, purchase, offer, or sale of any security, including, but not limited to, engaging in activities for purposes of inducing or attempting to induce the purchase or sale of any security; provided, however, that such injunction shall not prevent Shailendra from purchasing or selling securities listed on a national securities exchange for his own personal account;
- D. ordering Shailendra to disgorge his ill-gotten gains, derived directly or indirectly from the conduct complained of herein, together with prejudgment interest thereon;
- E. ordering Shailendra to pay appropriate civil monetary penalties pursuant to Section 20(d) of the Securities Act [*15 U.S.C. § 77t(d)*] and Section 21(d)(3) of the Exchange Act [*15 U.S.C. § 78u(d)(3)*];
- F. ordering Shailendra to relinquish to Shi Six any interest Shailendra has or claims to have in Shi Six, and any obligations from Shi Six that Defendant claims are owed to him;

G. ordering Shailendra to comply with an undertaking to resign his position as Manager and Managing Member of Shi Six within thirty (30) days;

H. ordering Shailendra to comply with an undertaking to provide the new Managing Member of Shi Six with a signed document relinquishing any interest Defendant has or claims to have in Shi Six, and any obligations from Shi Six that Defendant claims are owed to him, within thirty (30) days;

I. retaining jurisdiction of this action in accordance with the principles of equity and the Federal Rules of Civil Procedure to implement and to 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 the Court; and

J. granting such further relief as the Court may deem appropriate.

Dated: July 31, 2014

Respectfully submitted,

/s/ M. Graham Loomis

M. Graham Loomis

(Ga. Bar No. 457868)

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