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

13 SECURITIES AND EXCHANGE
14 COMMISSION,

15 Plaintiff,

16 vs.

17 MANUEL E. JESUS,
18 aka MANNY BACKUS;
WEALTHPIRE, INC.; and
19 ROBERT C. JOINER,

20 Defendants.

Case No. 2:16-cv-06850

COMPLAINT

21
22 Plaintiff Securities and Exchange Commission (“SEC”) alleges:

23 **JURISDICTION AND VENUE**

24 1. The Court has jurisdiction over this action pursuant to Sections 21(d)(1),
25 21(d)(3)(A), 21(e) and 27(a) of the Securities Exchange Act of 1934 (“Exchange
26 Act”), 15 U.S.C. §§ 78u(d)(1), 78u(d)(3)(A), 78u(e) & 78aa(a). Defendants have,
27 directly or indirectly, made use of the means or instrumentalities of interstate
28 commerce, of the mails, or of the facilities of a national securities exchange in

1 connection with the transactions, acts, practices and courses of business alleged in
2 this Complaint.

3 2. Venue is proper in this district pursuant to Section 27(a) of the Exchange
4 Act, 15 U.S.C. § 78aa(a), because certain of the transactions, acts, practices and
5 courses of conduct constituting violations of the federal securities laws occurred
6 within this district. In addition, venue is proper in this district because Defendant
7 Manuel E. Jesus aka Manny Backus (“Backus”) resides in this district, the primary
8 place of business of Defendant Wealthpire, Inc. (“Wealthpire”) is located in this
9 district, and Defendant Robert C. Joiner (“Joiner”) transacts business in this district.

10 SUMMARY

11 3. From at least January 2012 through at least September 2014, Backus and
12 his company, Wealthpire, defrauded subscribers and potential subscribers to First
13 Hour Trading, an on-line “chat room” run by Joiner under Backus’ supervision, and
14 two stock picking “alert services” offered by Backus and Wealthpire, Portfolio
15 Crafter and Consensus Picks (collectively, the “Alert Services”). Backus and
16 Wealthpire made materially false statements in advertisements for these Alert
17 Services that generally fell into three categories: (1) that Backus, who touts himself
18 as a stock trading “prodigy,” was the source of the stock recommendations for the
19 First Hour Trading and Portfolio Crafter services; (2) that Backus himself was trading
20 in the stocks recommended by those services; and (3) that previous trading
21 recommendations by the Consensus Picks service had yielded huge past returns.
22 Backus’ and Wealthpire’s false statements were intended to induce investors to
23 subscribe to the Alert Services.

24 4. Additionally, pursuant to instructions from Backus, until approximately
25 late spring 2014, Joiner operated the First Hour Trading online chat room, posed as
26 “MANNY_BACKUS,” during the chat room sessions, and falsely represented that he
27 (as Backus) was buying and selling certain recommended stocks when no such
28 transactions were actually taking place.

1 advertisements for the Alert Services emphasized Backus' purported biography.
2 Through Wealthpire advertising materials and websites, Backus promoted himself as
3 a stock picking "prodigy." He proclaimed himself to be a "math whiz" and boasted
4 of his "skyscraping" IQ and training as a professional chess player. Backus claimed
5 to be known as the "Stock Trading Whiz Kid" and "the untutored prodigy of stock
6 investing" and claimed that by the age of 19 he was actively trading in the market
7 with "real money." Wealthpire materials claimed that Backus made millions, and
8 that he then decided to help other investors by starting an alert service that let traders
9 copy his every trading move.

10 **B. Defendants' Fraudulent Conduct**

11 11. From at least January 2012 through at least September 2014, Backus and
12 Wealthpire caused the Wealthpire website, and advertisements and promotional
13 materials for the Alert Services, to contain materially false statements. The false
14 statements were designed to attract new subscribers to the Alert Services, or to induce
15 existing subscribers to subscribe to additional Alert Services.

16 12. Backus had ultimate control over Wealthpire, the content of its website,
17 and the advertisements concerning the Alert Services. Backus reviewed, revised and
18 approved Wealthpire's advertisements for each of the Alert Services and instructed
19 Joiner how to conduct the First Hour Trading chat room sessions, during which Joiner
20 made additional materially false representations.

21 **1. The First Hour Trading Scheme**

22 13. First Hour Trading featured a stock trading program in an online chat
23 room. First Hour Trading's subscribers were given buy and sell recommendations in
24 real time by chat room alerts.

25 14. Advertisements and promotional materials for First Hour Trading falsely
26 stated the recommended stock picks were made by Backus himself or through
27 methods he developed. Direct mail ads Wealthpire sent in April 2012 and January
28 2013 claimed that Backus, a "math whiz," noticed unique patterns in a small group of

1 stocks that took place in the first hour of trading each day. In those ads, a quotation
2 attributed to Backus next to his photo stated, “I’ve created a tool that can predict the
3 exact movements of select stocks at an exact point in time, all with unprecedented
4 precision!” In those same ads, Backus and Wealthpire also claimed that Backus
5 selected stocks using a proprietary stock analyzing tool that told him the exact price
6 at which to buy or sell the stocks and the exact minute to get out. Backus and
7 Wealthpire repeated this representation in email advertisements they sent in
8 November 2013 to potential subscribers, as well as on Wealthpire’s website as late as
9 January 2014.

10 15. In fact, First Hour Trading’s recommended stock picks were not selected
11 by Backus; nor were methods he developed used to make the stock picks. Rather,
12 Joiner made the stock picks, and Backus never gave Joiner guidance on how to make
13 them.

14 16. Wealthpire’s advertisements for First Hour Trading also falsely stated
15 that subscribers logging in to the chat room would watch Backus pick and trade
16 stocks in real time and trade alongside him. The First Hour Trading advertisements,
17 mailed in April 2012 and January 2013, are replete with such statements, attributed to
18 Backus: “Watch me pick and trade stocks in real time on your computer . . . Copy
19 and paste my trades into your own account and profit along with me” and “...[E]very
20 day, I’m putting my own money where my mouth is by making the very same trades
21 I’m recommending to you.” Backus and Wealthpire made similar claims in other
22 promotional materials, including a 2012 catalog sent to prospective investors and an
23 October 2013 PowerPoint presentation located on Wealthpire’s website.

24 17. Until approximately late spring 2014, Wealthpire’s statements in the
25 online chat room falsely represented that Backus was leading the chat room sessions
26 and was actually trading in the recommended stocks. For example, the written
27 introduction to the January 29, 2013 chat room session viewed by subscribers when
28 they logged in to the chat room explained: “‘Doorbell’ and ‘Boing’ are sounds used

1 to warn you of a stock trade. You'll hear these sounds every time Manny makes a
2 transaction." At the beginning of the session, participants were informed that
3 "MANNY_BACKUS is the host." And, throughout the session, a participant – in
4 fact, Joiner – identified as "MANNY_BACKUS" represented that he had bought and
5 sold certain stocks at specific prices.

6 18. The statements in the advertisements and chat room sessions were false.
7 Backus did not participate in the chat room. Instead, pursuant to Backus'
8 instructions, Joiner participated in the chat room, signed in using a password supplied
9 by Backus, and posed as "MANNY_BACKUS." Moreover, neither Backus nor
10 Joiner actually engaged in real-time trading during the chat room sessions. Joiner
11 nevertheless used the terms "bought" and "sold" during the chat room sessions, as
12 instructed by Backus.

13 19. Because Joiner was not actually engaged in real-time trading, the prices
14 at which he told chat room participants he was executing trades were, in many cases,
15 no longer available. Investors were therefore not able to replicate the purported
16 trades and profit in the manner represented by Backus and Wealthpire in the
17 promotional materials for First Hour Trading.

18 20. Joiner's compensation for his work on First Hour Trading was structured
19 to incentivize him to retain subscribers. Specifically, Wealthpire paid Joiner a flat fee
20 for leading the chat room, but also paid him \$10-\$15 per subscriber. Joiner received
21 \$67,649 during the relevant period for his participation in the fraudulent First Hour
22 Trading scheme.

23 2. The Portfolio Crafter Scheme

24 21. Until Wealthpire discontinued Portfolio Crafter in 2014, that alert
25 service offered subscribers two model portfolios, one with a short term focus and one
26 with a long term focus.

27 22. Wealthpire sent Portfolio Crafter subscribers buy and sell email alerts
28 that linked to Wealthpire's website. The stock recommendations and trades made by

1 Wealthpire were described in the “members only” section on Wealthpire’s website
2 that was only available to paid subscribers.

3 23. Backus and Wealthpire made materially false statements in both the
4 advertising materials for Portfolio Crafter and in the daily email alerts sent to
5 subscribers. Wealthpire’s website in November 2013, a catalog Wealthpire mailed to
6 potential investors in 2012, and other materials sent to trial and new subscribers claim
7 in multiple places that all investors needed to do was copy Backus’ trades and they
8 would get the same results he did. For example, Backus stated on Wealthpire’s
9 website: “All you have to do is copy my trades and you will get the same results I
10 get.” Backus further emphasized that investors should “copy **all** – not just some – of
11 my trades because **my results don’t lie.**” (Emphasis in original). In November
12 2013, Backus claimed on Wealthpire’s website that he had created several
13 “proprietary indicators” that he used to identify stocks that would generate high
14 returns in short periods. In their email alerts to subscribers, including in January
15 2014, Backus and Wealthpire represented that certain stocks had been sold or
16 purchased.

17 24. These statements were all false. As was the case with other alert
18 services, Backus did not actually make the recommended trades. Moreover, Backus
19 hired an independent contractor to make the stock recommendations, and the
20 contractor was not given any “proprietary indicators” to use in making those
21 recommendations.

22 3. The Consensus Picks Scheme

23 25. Consensus Picks is a stock picking alert service that provided weekly
24 buy and sell alerts to subscribers by email beginning in at least March 2012. During
25 the period March 2012 through sometime in 2014, Backus selected the stocks for
26 Consensus Picks and an editor he had hired then prepared an analysis and selected the
27 prices at which to buy or sell the stocks.

28 26. Backus and Wealthpire made materially false statements that claimed

1 fantastic returns and incredibly high stock pick success rates by Consensus Picks.
2 For example, in a direct mail ad sent to potential Consensus Picks subscribers in
3 March 2012, Wealthpire claimed that Consensus Picks had earned 73% returns for
4 ten years in a row. In a separate direct mail ad, sent to potential Consensus Picks
5 subscribers from March 2013 through September 2013, Wealthpire claimed that
6 Consensus Picks returned 1,430.51% in 2012, and chose 48 “winners” out of 51 stock
7 picks for a 96% “winning ratio.” This ad, a 30 page mailer, also claimed that from
8 May to August 2012 Consensus Picks had 18 trades and 18 “Winners,” a “100%
9 Winning Ratio ... 774.68% Returns,” and from September to December 2012: “16
10 Trades ... 15 Winners ... 94% Winning Ratio ... 265.22% Returns.”

11 27. In the same direct mail ad sent to potential subscribers from March
12 through September 2013, Backus and Wealthpire lied to potential subscribers about
13 the performance of specific, historic Consensus Picks stock picks. The ad contained
14 three charts listing stocks, including the purported entry price and exit price for each,
15 which they represented were based on the “CP method.” The charts also included the
16 purported corresponding gain or loss for each stock.

17 28. In all of these materials, Backus’ and Wealthpire’s claims of fantastic
18 returns and incredibly high stock pick success rates were false.

19 29. Similarly, the purported performance figures for the historic stock picks
20 included in the 2013 Wealthpire advertisement were false. Backus and Wealthpire in
21 fact failed to follow their own purported buy and sell methodology when computing
22 the returns. Specifically, Backus and Wealthpire disregarded instances where a
23 stock’s price fell to the recommended “stop price” – which would have caused a
24 subscriber to sell stock at a loss. Backus and Wealthpire also disregarded instances
25 where a stock’s price never reached its “target price,” and, therefore, would not have
26 caused an investor to sell stock and lock in a gain. As a result, approximately 29% of
27 the stocks for which Backus and Wealthpire provided purported performance figures
28 reported inflated gains or minimized losses, and approximately 53% reported gains

1 instead of the losses that actually would have occurred if Backus' methodology had
2 been followed.

3 **CLAIM FOR RELIEF**

4 **Fraud in Connection with the Purchase or Sale of Securities**

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

6 **(Against All Defendants)**

7 30. The SEC realleges and incorporates by reference paragraphs 1 through
8 29 above.

9 31. By engaging in the conduct described above, Defendants Backus,
10 Wealthpire and Joiner, and each of them, directly or indirectly, in connection with the
11 purchase or sale of a security, by the use of means or instrumentalities of interstate
12 commerce, of the mails, or of the facilities of a national securities exchange, with
13 scienter:

- 14 (a) employed devices, schemes, or artifices to defraud;
15 (b) made untrue statements of a material fact or omitted to state a material
16 fact necessary in order to make the statements made, in the light of the
17 circumstances under which they were made, not misleading; and
18 (c) engaged in acts, practices, or courses of business which operated or
19 would operate as a fraud or deceit upon other persons.

20 32. By engaging in the conduct described above, each of the Defendants
21 violated, and unless restrained and enjoined will continue to violate, Section 10(b) of
22 the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. §
23 240.10b-5.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, the SEC respectfully requests that the Court:

26 **I.**

27 Issue findings of fact and conclusions of law that the Defendants committed the
28 alleged violations.

1 **II.**

2 Issue judgments, in forms consistent with Rule 65(d) of the Federal Rules of
3 Civil Procedure, permanently enjoining Backus, Wealthpire and Joiner, and their
4 officers, agents, servants, employees and attorneys, and those persons in active
5 concert or participation with any of them, who receive actual notice of the judgment
6 by personal service or otherwise, and each of them, from violating Section 10(b) of
7 the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. §
8 240.10b-5.

9 **III.**

10 Order the Defendants to disgorge all funds received from their illegal conduct,
11 together with prejudgment interest thereon.

12 **IV.**

13 Order Defendant Backus to pay a civil penalty under Section 21(d)(3) of the
14 Exchange Act, 15 U.S.C. § 78u(d)(3).

15 **V.**

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

20 **VI.**

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

23 Dated: September 13, 2016

24 */s/ Lucee S. Kirka*

25

Karen Matteson

26 Lucee S. Kirka

27 Attorneys for Plaintiff

28 Securities and Exchange Commission