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11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**
13 **SAN FRANCISCO DIVISION**
14

15 SECURITIES AND EXCHANGE COMMISSION,
16 Plaintiff,
17 v.
18 MANUEL A. ROMERO,
19 Defendant.

Case No.

COMPLAINT

20
21 Plaintiff Securities and Exchange Commission (the “Commission”) alleges:

22 **SUMMARY OF THE ACTION**

23 1. From at least October 2016 through May 2020 (the “relevant period”), Manuel A.
24 Romero, the former controller and chief financial officer of Professional Financial Investors, Inc.
25 (“PFI”), a real estate investment and management company in Marin County, California,
26 falsified financial statements provided to investors and made fraudulent cash transfers as part of a
27 larger Ponzi-like scheme designed and operated by PFI’s now-deceased founder and its former
28 president. In order to improve the appearance of the financial condition of certain PFI controlled

1 entities for investors, Romero oversaw fraudulently inflated cash reserves and manipulated
2 various expense line items. Over the relevant period, Romero also played a key role in carrying
3 out the Ponzi scheme by commingling funds across the various PFI entities' bank accounts and
4 making distributions to existing investors from new investor funds.

5 2. PFI marketed its investments to clients as safe alternatives to the stock market
6 that were secured by real estate and large cash reserves which would yield regular returns.
7 However, unbeknownst to PFI's investors, PFI's now-deceased founder Kenneth Casey and its
8 former president Lewis Wallach collectively misappropriated more than \$35 million from
9 investors as part of a larger fraudulent scheme in which hundreds of millions of dollars were
10 raised from more than 1,300 investors. Many of the defrauded investors were elderly, retired and
11 relying on their investment income for daily living expenses.

12 3. Casey also approved loans from PFI to Romero of approximately \$229,000 that
13 were taken from PFI investor funds and never disclosed to investors. Romero repaid a portion of
14 the loans, but still owes PFI and its investors \$91,819.

15 4. The fraudulent scheme began to unravel shortly after Casey's death on May 6,
16 2020, when a review of PFI's financial records revealed questions about the short-term solvency
17 and historical operations of the company and its related entities. PFI is currently in Chapter 11
18 bankruptcy in the Bankruptcy Court for the Northern District of California, leaving thousands of
19 investors with hundreds of millions of dollars in potential losses.

20 5. Defendant Romero has violated, and unless restrained and enjoined will continue
21 to violate, the antifraud provisions of Section 17(a) of the Securities Act of 1933 ("Securities
22 Act") [15 U.S.C. § 77q(a)] and Section 10(b) of the Securities Exchange Act of 1934
23 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5]. The
24 Commission seeks an injunction against Romero from future violations of these provisions, as
25 well as disgorgement of ill-gotten gains, prejudgment interest on disgorgement, civil money
26 penalties, and an officer and director bar.

JURISDICTION AND VENUE

6. The Commission brings this action pursuant to Sections 20(b), 20(d), and 22(a) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. §§ 77t(b), 77t(d), and 77v(a)] and Sections 21(d), 21(e), and 27 of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. §§ 78u(d), 78u(e), and 78aa].

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

8. Defendant Romero, directly or indirectly, made use of the means and instrumentalities of interstate commerce or of the mails in connection with the acts, transactions, practices, and courses of business alleged in this complaint.

9. Venue is proper in this District pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Section 27(a) of the Exchange Act [15 U.S.C. § 78aa(a)]. Acts, transactions, practices, and courses of business that form the basis for the violations alleged in this complaint occurred in this District. Defendant Romero falsified PFI’s financial statements in this District, PFI investors reside in this District, and offers and sales of PFI securities took place in this District.

10. Under Civil Local Rule 3-2(d), this civil action should be assigned to the San Francisco Division, because a substantial part of the events or omissions which give rise to the claims alleged herein occurred in Marin County.

DEFENDANT

11. **Manuel Romero**, age 55, resides in Marin, California. Romero joined PFI as an accountant in 2006 and became Controller in 2015. He was appointed Chief Financial Officer in 2018, the position he held until his termination in June 2020. Romero has never been licensed as a CPA, but has a two-year accounting degree issued by an educational institution in Nicaragua. Romero invested in securities issued by Professional Investors Security Fund, Inc., an entity affiliated with PFI.

RELATED ENTITIES

12. **Professional Financial Investors, Inc.** is a California corporation based in Novato, California that was founded by Kenneth Casey in 1990. PFI is a real estate investment and management firm specializing in multi-unit residential and commercial real estate in Northern California. On July 26, 2020, PFI filed a voluntary Chapter 11 bankruptcy petition in the Bankruptcy Court for the Northern District of California.

13. **Professional Investors Security Fund, Inc.** (“PISF” and, together with PFI, the “Companies”) is a California corporation based in Novato, California that was founded by Kenneth Casey in 1983. PISF is a real estate investment and management firm that serves as limited partner for 10 real properties in Northern California. PFI is the general partner for each of the 10 real properties for which PISF serves as limited partner. On July 16, 2020, a group of PISF investors filed an involuntary Chapter 11 bankruptcy petition against PISF in Bankruptcy Court for the Northern District of California.

FACTUAL ALLEGATIONS**A. Background of PFI and PISF and the Securities Offered and Sold**

14. PISF was founded in 1983 and PFI was founded in 1990 by Casey, who died on May 6, 2020. Both companies were founded as real estate investment and management firms specializing in multi-unit residential and commercial properties in Northern California.

15. Casey served as the sole director, officer and shareholder of PFI until 1998, when he relinquished his corporate positions and Lewis Wallach took over as president of PFI. Despite relinquishing his corporate positions, Casey continued to exert significant control over PFI until his death. Wallach continued to serve as president of PFI until June 2020, when he was forced to resign because of his role in the fraudulent scheme.

16. Together, PFI and PISF own a direct or indirect interest in approximately 70 residential and commercial real properties in California, including equity interests in limited liability companies (together, the “LLCs”) that hold either fee title or an interest as tenant-in-

1 common in various real properties and general partner interests in limited partnerships (together,
2 the “LPs”) that hold fee title to various real properties in California.

3 17. Since at least October 2016 through May 2020, at the direction of Casey and
4 Wallach, PFI and PISF raised funds from investors through the offer and sale of at least three
5 different types of securities: a) promissory notes issued by PISF and secured by PISF’s interests
6 in the LPs (the “Straight Notes”); b) promissory notes issued by PISF or PFI and secured by
7 junior deeds of trust on real properties owned by the LPs or PFI (the “DOT Notes”); and
8 c) membership interests in various LLCs.

9 18. Casey and Wallach told investors that the interest payments and equity
10 distributions for all of the securities offered and sold by PFI and PISF were to be made based on
11 the income generated by PFI’s management of the underlying real property, including collection
12 of rents from tenants.

13 **B. Romero’s Role in the Fraudulent Scheme**

14 19. From at least June 2011 to May 2020, through Casey and Wallach, PFI and PISF
15 raised hundreds of millions of dollars from more than 1,300 investors through the offer and sale
16 of the securities described above. A significant portion of those investors are elderly and invested
17 IRA or other retirement funds. Many investors relied on investment returns to pay their daily
18 living expenses. Romero understood that Casey and Wallach offered and sold PFI and PISF
19 securities to numerous investors and was familiar with the various investment structures they
20 offered.

21 20. As Romero knew, Casey and Wallach provided investors with investment
22 documentation and, for certain of the investment types, financial statements. They also made
23 verbal representations regarding the securities to both prospective and existing investors. While
24 soliciting investments for PFI and PISF, Casey and Wallach made numerous false and
25 misleading statements. Romero participated in preparing some of the false and misleading
26 statements and undertook deceptive acts in furtherance of others.

1 21. Casey and Wallach falsely told investors in each of the categories of securities
2 offered by PFI and PISF that their monies would be primarily used to purchase real property and
3 make improvements to real property already owned by PFI or PISF. Contrary to the Companies'
4 representations, a substantial portion of investor funds were used in a Ponzi-like fashion to pay
5 back previous investors or to cover operating losses at PFI and PISF. For example, between
6 September 2015 and May 2020 – a period in which PFI and PISF raised approximately \$330
7 million from investors – over \$150 million was used to pay interest to prior investors, pay certain
8 investors principal, and cover the operating losses of PFI and PISF.

9 22. Between June 2011 and May 2020, through Casey and Wallach, the Companies
10 also misrepresented the safety and liquidity of the securities offered and sold by PFI and PISF,
11 falsely telling investors that their investments were liquid and could be cashed out at any time,
12 with as little as a few days' notice, and that PFI and PISF maintained substantial reserve funds
13 for that purpose. Contrary to their representations, PFI and PISF lacked adequate cash from
14 operations to meet their obligations without bringing in new investor funds, let alone cash
15 sufficient to provide liquidity to investors seeking to withdraw their investments on short notice.

16 23. Romero's conduct contributed to the scheme in two critical ways. First, he
17 supervised and approved daily cash transfers between bank accounts for the various entities,
18 which he knew had the effect of commingling investor funds across unrelated properties and
19 which effectuated the Ponzi-like payments to existing investors from previous investor funds.
20 Second, he supervised and directed the preparation of quarterly financial statements that he knew
21 were falsified in material respects before being disseminated to investors.

22 24. With respect to the account transfers, on a daily basis, Romero oversaw a process
23 that involved his team reviewing cash balances across the bank accounts for each of the separate
24 real estate property entities managed by the Companies. Romero would then authorize transfers
25 where needed to cover cash shortfalls or to facilitate interest or capital redemption payments to
26 investors. Romero understood that transferring funds between unrelated entities, which
27 effectively commingled investor funds across all of the Companies' properties, was contrary to
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1 the Companies' representations to investors that money invested in a particular property would
2 be utilized only to purchase, improve and operate the property associated with the securities
3 purchased by the investor – not to pay returns to investors who purchased securities related to a
4 different property or for operating expenses related to other properties. Romero understood this
5 because Casey told him that direct transfers between certain accounts were not allowed by the
6 investor disclosures, but that they could achieve the same result by funneling cash through
7 specific intermediary accounts. He also knew this because he was a PISF investor and received
8 the same disclosures from Casey and Wallach that other investors did.

9 25. Romero also played a key role in the preparation of falsified quarterly financial
10 statements sent to PFI LLC investors. Specifically, Romero supervised the preparation and
11 distribution of falsified financial statements that he understood were provided to investors. At the
12 direction of Casey, Romero regularly – either directly or through instructions given to his direct
13 reports – altered the quarterly financial statements in a manner that materially overstated the
14 amounts of cash that the PFI LLCs held and obscured amounts owed to the PFI LLCs by other
15 entities (as a result of the cash transfers described above). Romero also instructed his team to
16 arbitrarily capitalize certain general operating expenses to present a rosier picture of operating
17 results than accurate financial statements would have reflected.

18 26. From at least as early as the fourth quarter of 2016, and on a quarterly basis
19 thereafter until his departure in June of 2020, Romero participated in creating and
20 communicating to investors cash balances that were overstated by hundreds of thousands of
21 dollars each quarter. As Romero knew, these manipulated cash balances concealed from PFI
22 investors the fact that cash they had invested – and that was intended for building improvements
23 – had instead been siphoned off for other purposes unrelated to their single-property investment
24 vehicles. For example, in early 2019 investors in one property were provided with financial
25 statements indicating cash balances of over \$300,000 when the internal financial system
26 overseen by Romero indicated that the cash balance was only \$52,000.

1 27. During that same period of time, Romero participated in regular efforts to
2 manipulate periodic financial results of various investment vehicles that were ultimately
3 distributed to investors. Romero created journal entries in the Companies' books and records to
4 remove the impact of ordinary maintenance, janitorial services and other expenses in an effort to
5 convey to investors that their investment properties were achieving more successful operating
6 results than they in fact were. For example, for the year-ended December 2018, Romero
7 eliminated over \$500,000 of ordinary expenses – such as landscaping and janitorial services –
8 from various investment properties, through unsupported journal entries, to inflate their operating
9 results.

10 28. Romero knew that there was no legitimate basis for the changes he instructed his
11 direct reports to make to the financial statements, and that the alterations made were done to
12 improve the appearance of the financial condition of PFI and its related entities to investors.

13 **C. Romero's Receipt of Undisclosed Loans From Investor Funds**

14 29. Over the relevant period, Romero also received various loans from PFI for
15 personal expenses, including to make down payments on his primary residence in Marin, to
16 purchase a second residence in Nicaragua, and to pay off credit card bills.

17 30. Although Casey authorized the loans, Romero knew or was reckless in not
18 knowing that the money for those loans came from investor funds and had not been disclosed to
19 investors.

20 31. In total, Romero borrowed \$229,000 from PFI over the relevant period.
21 Although he made some efforts to repay the loans, \$91,819 remains outstanding.

22 **FIRST CLAIM FOR RELIEF**

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

24 32. The Commission re-alleges and incorporates by reference Paragraph Nos. 1
25 through 31.

1 37. By reason of the foregoing, Defendant Romero violated, and unless restrained
2 and enjoined will continue to violate, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

3 **PRAYER FOR RELIEF**

4 WHEREFORE, the Commission respectfully requests that this Court:

5 **I.**

6 Permanently enjoin Defendant Romero from directly or indirectly violating Section 10(b)
7 of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder,
8 and Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

9 **II.**

10 Issue an order requiring Defendant Romero to disgorge all ill-gotten gains or unjust
11 enrichment derived from the activities set forth in this complaint, together with prejudgment
12 interest thereon.

13 **III.**

14 Issue an order requiring Defendant Romero to pay civil monetary penalties pursuant to
15 Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d) of the Exchange Act
16 [15 U.S.C. § 78u(d)(3)].

17 **IV.**

18 Prohibit Defendant Romero from serving as an officer or director of any entity having a
19 class of securities registered with the Commission pursuant to Section 12 of the Exchange Act
20 [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act
21 [15 U.S.C. § 78o(d)], pursuant to Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)] and
22 Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)].

23 **V.**

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

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VI.

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

Dated: March 31, 2022

Respectfully submitted,

/s/ Bernard B. Smyth
BERNARD B. SMYTH
Attorney for Plaintiff
SECURITIES AND EXCHANGE COMMISSION

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- 1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, HABEAS CORPUS, OTHER, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation-Transfer, 8 Multidistrict Litigation-Direct File

VI. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Brief description of cause:

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S), IF ANY (See instructions): JUDGE DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2) (Place an "X" in One Box Only) SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

DATE SIGNATURE OF ATTORNEY OF RECORD

ATTACHMENT TO CIVIL COVER SHEET

Securities and Exchange Commission, Plaintiff

v.

MANUEL A. ROMERO, Defendant.

I. (c) Attorneys

Attorneys for Plaintiff

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