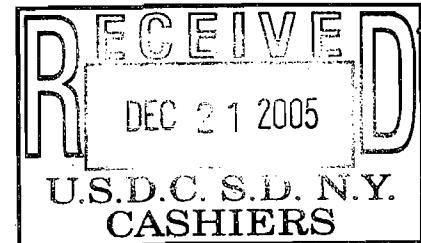


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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
SECURITIES AND EXCHANGE COMMISSION, :  
: .  
Plaintiff, : .  
: .  
- against - : .  
: .  
HMC INTERNATIONAL, LLC, : .  
ROBERT M. MASSIMI and : .  
BRET A. GREBOW, : .  
: .  
Defendants, : .  
: .  
05 Civ. ( )  
: .  
COMPLAINT  
: .  
: .  
- and - : .  
: .  
JAIME L. MASSIMI a/k/a JAIME ELLIOTT, : .  
: .  
Relief Defendant. : .  
: .  
-----X

COMPLAINT

Plaintiff Securities and Exchange Commission (“Commission”), for its Complaint against defendants HMC International, LLC (“HMC” or the “Fund”), Robert M. Massimi (“Massimi”), and Bret A. Grebow (“Grebow”) (collectively, the “Defendants”), and Jaime L. Massimi, also known as Jaime Elliott (“Elliott”), (the “Relief Defendant”), alleges as follows:

SUMMARY

1. The Commission brings this emergency enforcement action to halt ongoing

securities fraud by a hedge fund, HMC, and its two principals, Massimi and Grebow. Massimi and Grebow have been orchestrating a fraud through HMC, a hedge fund purportedly specializing in day trading that is currently based in Montvale, New Jersey. To date, the Defendants have obtained approximately \$12.9 million from approximately 80 investors through a fraudulent offering of investments in HMC, and Massimi and Grebow have misappropriated more than \$5.2 million of these investor funds for their own use and to pay unauthorized personal expenses. In reality, the Fund was little more than a Ponzi scheme, with the Defendants using new investor funds to meet redemptions of exiting investors.

2. Massimi, the Fund's manager, and Grebow, the Fund's only trader, misrepresented the Fund as a pooled investment vehicle that engaged in "low risk" day trading. They sent investors false monthly account statements that portrayed their investments as profitable when, in reality, Grebow was systematically looting the Fund's trading account and Massimi was distributing lucrative "profits" to himself and Grebow from new investor funds. In September 2005, the Fund collapsed when Massimi and Grebow ultimately were unable to meet the redemption demands of several investors. Faced with increasing investor concerns about the Fund's legitimacy and the specter of government investigations into his conduct, Massimi diverted assets and funds to others to shield them from investors and government authorities.

3. Since the Fund's inception, Massimi has solicited investments in the Fund using numerous materially misleading representations. He misrepresented the Fund's performance returns for 2001 and 2002 by more than 50%, and published false returns for 2003 and 2004, despite the fact that the Fund was in serious trouble and the "profits" reported to him by Grebow were fictitious. He falsely stated that the investment was low risk because, through its purported

day trading strategy, the Fund would avoid exposing securities positions to market fluctuations that occurred outside of trading hours. He also falsely assured investors that he was a hands-on manager, who maintained diligent oversight of the Fund's assets and trading. In fact, Massimi's reckless management of the Fund posed a significant risk to investors in that he had no control over or ability to monitor Grebow's trading. Massimi repeatedly used new money deposited into the Fund by investors to pay profit distributions and withdrawals to existing investors.

4. Grebow sent Massimi blatantly fabricated trading account statements that showed continuous trading profits, and Grebow systematically transferred almost \$2 million from the trading account to his personal bank accounts and used the funds to support his extravagant lifestyle. During all of this time, Massimi and Grebow paid themselves "profit" distributions from investor deposits that were based on the fabricated account statements and paid themselves for unauthorized personal expenses. In total, Massimi and Grebow paid themselves approximately \$2.8 million in "profits," in addition to the approximately \$2 million Grebow misappropriated from the Fund's trading account.

5. This fraud is ongoing. Massimi has continued to attempt to allay investor concerns about the Fund, while diverting his assets. On October 2, 2005, shortly after Massimi became aware of the Commission staff's investigation of HMC, Massimi's wife, Relief Defendant Elliott, opened a new brokerage account in her maiden name, and the next day Massimi transferred approximately \$1.5 million into this new account. As recently as November 22, 2005 Massimi directed a significant transfer out of this account. Accordingly, there is a real present risk that Massimi will continue to dissipate assets that otherwise would be available to satisfy the Commission's claims.

## **VIOLATIONS**

6. By virtue of the conduct alleged herein:
  - a. The Defendants, directly or indirectly, singly or in concert, have engaged and are engaging in acts, practices and courses of business, that constitute violations of Section 17(a) of the Securities Act of 1933 (the "Securities Act"), 15 U.S.C. § 77q(a).
  - b. The Defendants, directly or indirectly, singly or in concert, have engaged and are engaging in acts, practices and courses of business that constitute violations of Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act"), 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.
  - c. Defendants Massimi and Grebow, directly or indirectly, singly or in concert, have engaged and are engaging in acts, practices and courses of business, that constitute violations of Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 (the "Advisers Act"), 15 U.S.C. §§ 80b-6(1) and 80b-6(2).

7. Unless the Defendants are preliminarily and permanently restrained and enjoined, they will continue to engage in the acts, practices and courses of business set forth in this Complaint and in acts, practices and courses of business of similar type and object.

## **NATURE OF THE PROCEEDINGS AND RELIEF SOUGHT**

8. 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)(1) of the Exchange Act,

15 U.S.C. § 78u(d)(1), and Section 209 of the Advisers Act, 15 U.S.C. § 80b-9, seeking to restrain and enjoin permanently the Defendants from engaging in the acts, practices and courses of business alleged herein.

9. The Commission also seeks, as immediate relief, a temporary restraining order against the Defendants, asset freezes against the Defendants and certain assets of the Relief Defendant, verified accountings from the Defendants, expedited discovery, an order prohibiting the Defendants from destroying or altering documents, and an order enjoining the Defendants and any third party from filing for bankruptcy on behalf of the Defendants.

10. Finally, the Commission seeks a judgment ordering the Defendants and Relief Defendant to disgorge ill-gotten gains with prejudgment interest thereon, and ordering the Defendants to pay civil money 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). The Commission also seeks a judgment ordering the Defendants to pay civil money penalties pursuant to Section 209 of the Advisers Act, 15 U.S.C. § 80b-9.

#### **JURISDICTION AND VENUE**

11. This Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act, 15 U.S.C. § 77v(a), Sections 21(e) and 27 of the Exchange Act, 15 U.S.C. §§ 78u(e) and 78aa, and Section 214 of the Advisers Act, 15 U.S.C. § 80b-14.

12. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. § 1391. The Defendants, directly and indirectly, have made use of the means and instrumentalities of interstate commerce, or of the mails, in connection with the transactions, acts, practices and courses of business alleged herein. A substantial part of the events and omissions giving rise to

the Commission's claims occurred in this district. HMC maintained an office in Manhattan from approximately February 2003 to May 2004, and Massimi and Grebow transacted HMC's business in that office, including telephone calls from Massimi soliciting investments based on misrepresentations, telephone calls between Massimi and Grebow concerning fictitious profits, and the receipt and transfer of investor funds to Fund brokerage accounts both in Manhattan and elsewhere.

#### THE DEFENDANTS

13. **HMC International, LLC**, is a Delaware limited liability company formed in January 2002, with its principal place of business at 50 Chestnut Ridge Road, Suite 119C, Montvale, New Jersey. The Fund is a domestic hedge fund that purportedly invests in NASDAQ and NYSE-listed equities using a day trading strategy. Massimi is the Fund's Chief Executive Officer and Grebow is the sole trader. Massimi and Grebow began soliciting investments in the Fund's name in late 2001, and Grebow began actively trading the Fund's trading account in January 2002. Massimi and Grebow are investment advisers to the Fund because, for compensation, they advised the Fund as to the value of securities or as to the advisability of investing in, purchasing or selling securities. 15 U.S.C. § 80b-2(a)(11).

14. **Robert Massimi**, age 45, resides in Saddle River, New Jersey. Massimi founded the Fund in 2002 and is the Chief Executive Officer of the Fund.

15. **Bret A. Grebow**, age 29, resides in Highland Beach, Florida. Grebow is the Fund's sole trader. Grebow worked at numerous broker-dealers from 1995 until 2001, when he began working with Massimi.

16. **Jaime L. Massimi**, also known as Jaime Elliott, age 36, resides in Saddle River,

New Jersey. She is married to Massimi.

## FACTS

### **A. The Fund**

17. HMC is a domestic hedge fund that purports to invest in just a handful of securities using a low risk day trading strategy. Massimi and Grebow established the Fund in January 2002 pursuant to an Operating Agreement that specified that Massimi was the Fund's manager and primary sales representative and that Grebow was the Fund's trader. Since 2001, approximately 80 individual investors have invested a total of \$12.9 million. After investor withdrawals and redemptions, approximately \$7.5 million in "net capital" was invested in the Fund. The Fund originally was based in Paramus, New Jersey, and in approximately February 2003, moved to offices in Manhattan. In 2003, Grebow moved to Florida and continued to trade for the Fund from his home in Highland Beach. In May 2004, the Fund moved out of its New York offices and relocated to its current location in Montvale, New Jersey.

18. The Fund executed a Financial Investment Agreement with some of its investors. The agreement authorized the Fund to engage in the trading of equities, provided for a 2% per annum investment management fee, and stated that HMC and the investor each are entitled to 50% of net profits. The agreement provided that net profits would be computed by deducting expenses from gross profits, and authorized the payment of "brokerage commissions, stock transfer fees, and other similar charges incurred in connection with transactions for the investment account." Further, the agreement stated that "[a]ll expenses incurred by HMC shall be reimbursed to HMC prior to any profit sharing between the parties to this agreement."

19. For the vast majority of the period during which HMC was operating, there was

no trading account in its name. In October 2001, Grebow opened a trading account in his own name at Broadway Trading (acquired by Schonfeld Securities in October 2002) for purposes of trading HMC investors' funds. The account was not traded actively until January 2002; it was rarely traded profitably and overall lost money; and by June 2003, it had no cash or securities positions due to trading losses and substantial transfers out of the account to Grebow's personal bank account. Massimi stopped transferring any investor funds to the trading account in March 2003. In February 2004, Massimi and Grebow jointly opened a trading account in HMC's name at Carlin Equities ("Carlin"), but did not fund the account until December 31, 2004. Between December 31, 2004 and April 1, 2005, the Carlin account was funded with \$153,407 of which Grebow depleted \$129,600 through trading losses.

**B. Grebow Misappropriated Investor Funds and Fabricated Account Statements**

20. Grebow had sole access to and control over the trading account at Broadway. There was never a brokerage account in HMC's name at Broadway (or its successor, Schonfeld). At all times, account statements for the Broadway trading account were sent to Grebow's home address. Grebow fabricated trading account statements for the Fund, which Massimi then used to prepare monthly account statements sent to investors. The fabricated statements reflected false monthly gains.

21. The fabricated statements that Grebow sent to Massimi lacked the appearance of genuine brokerage records. They purported to be profit and loss statements in a simple spreadsheet format, with an annual summary spreadsheet showing the account's purported cash position. They contained no detail on individual trades or daily profit and loss positions, even though HMC held itself out as a "day trading" fund. In contrast to the fabricated statements, the

genuine brokerage account records showed that a total of \$2.3 million was transferred into the account. Grebow misappropriated almost \$2 million directly from the trading account beginning almost as soon as the account was opened, and incurred \$354,215 in trading losses. The last trade in the account was in March 2003. By June 2003, all funds in the account had been depleted through losses and transfers out. Grebow, however, continued to send Massimi fabricated statements until May 2005, and continued to share in the purported “profits” reported on his fabricated account statements, which were generated from new investor funds. In addition to the almost \$2 million Grebow misappropriated from the trading account, he received net transfers from Massimi of approximately \$1.5 million into his own bank account and that of an individual associated with Grebow, with approximately \$1.3 million of this amount representing Grebow’s share of the fictitious profits.

22. Grebow also misrepresented the Fund’s returns in a *Wall Street Journal* article titled “With the Market Up, Wall Street High Life Bounces Back, Too --- Chartered Jets, a Wedding at Versailles and Fast Cars To Help Forget Bad Times” that ran on February 4, 2004. The article described an interview with Grebow, among others, and identifies him as “a 28-year-old who runs hedge fund HMC International.” The article contrasted Grebow’s lifestyle before the market “regained its footing,” when Grebow “was taking cheap flights on Jet Blue Airways,” to “last year” when “his fund’s investment portfolio surged 40%” and Grebow was able to “treat” himself to “a new \$160,000 Lamborghini Gallardo.” Talking about the catered flights he chartered between his Florida home and New York office and to take his friends to the Super Bowl, Grebow said: “It’s fantastic. They’ve got my favorite cereal, Cookie Crisp, waiting for me, and Jack Daniel’s on ice.”

**C. Massimi and Grebow Made Misrepresentations to Solicit Investors**

23. To solicit investors, Massimi misrepresented the Fund's strategy, risk level and performance, as well as his supervision of and role in managing the Fund. As CEO, Massimi managed the day-to-day operations of the Fund's New York and, later, New Jersey, office, solicited new investors for HMC, and developed the marketing materials used to promote the Fund. In interviews that Massimi arranged to have published in *The Wall St. Transcript* and *Buyside* magazine, Massimi falsely marketed HMC as a "day trading" fund that invested in a few or a handful of stocks and touted the Fund's "traders" as mathematicians who used cautious trading strategies based on "an incredible amount of technical research." Massimi was the primary contact person for Fund investors, and told several of them that the Fund did day trading in a few stocks. In fact, the fictitious trading account summaries provided to Massimi by Grebow show that for the first year of the Fund's operations, it traded 52 different stocks; Grebow was the only HMC trader; and Grebow was not a mathematician and did not have a college degree. Massimi also told investors that the Fund was "low risk" because it always cashed out of its securities positions before the market closed at the end of the day, even though he did not have access to records sufficient to know whether this representation was true. Massimi repeated the same "low risk" representations in the periodic newsletters that he sent to investors.

24. Massimi published false and misleading annual performance returns for 2001 through 2004 on HMC's website. The website reports a 68% return for 2001, describing the Fund's "historical performance record" as "stellar" with "spectacular results" since July 2001, and a 70% return for 2002. The Fund did not actively trade and had less than \$50,000 in assets

in 2001. Indeed, the Fund's tax return for 2002 indicates that at the beginning of that year, there was no capital in the Fund. Moreover, Massimi inflated the already overstated returns supplied by Grebow for that year by more than 50%. Grebow also provided Massimi with fabricated Broadway statements reflecting returns of more than 30% for 2003 and 2004, which Massimi posted on HMC's website even though by that time he knew or was reckless in not knowing that the returns were false.

25. Massimi also misrepresented other aspects of the Fund. Massimi reassured the Fund's largest investor that he was monitoring the Fund's brokerage accounts, and that he supervised Grebow's trading. Massimi told other investors that the Fund had \$20 to \$25 million of assets under management, but recently admitted to one of these investors that only \$6 million had been invested in the Fund, and claimed that \$1 million of that amount was his own money.

26. Grebow also misrepresented the Fund's performance directly to certain investors. In particular, Grebow spoke frequently with one investor and repeatedly confirmed to him that the Fund was trading actively and profitably and reported fictitious daily returns to him. He also fabricated and sent to Massimi account statements showing fictitious returns knowing that Massimi was passing the information on to investors in their monthly account statements. In addition, Grebow misrepresented the Fund's performance in the February 2004 *Wall Street Journal* article, claiming 2003 returns of 40%, when he knew the returns were negative.

**D. Massimi Entrusted Investor Funds To Grebow**

27. Between 2002 and 2004, Massimi sent investors' funds to Grebow, while not establishing even minimal controls or monitoring procedures to enable him to supervise Grebow's trading and use of investors' funds. Even when he was fully aware of Grebow's

misappropriation of Fund assets, he continued to send investors' funds to Grebow and make misrepresentations to solicit investors and allay any investor concerns.

28. From the Fund's inception, Massimi ignored the fact that, contrary to his representations to investors, he did not receive records for the trading account and was unable to review Grebow's trading or confirm the profits Grebow was reporting orally and through the fabricated account summaries. After March 2003, the last month Grebow traded in the Broadway account, Massimi ceased transferring funds to the trading account. Thereafter, Massimi sent funds directly to Grebow's bank account or even to the bank account of Grebow's associate.

29. Beginning at least as early as November 2003, Massimi's accountants started to raise issues concerning the Fund's accounts and continued to flag issues and problems for Massimi through the rest of their engagement. In November 2003, the accountants identified a discrepancy between the Fund's year-end 2002 capital balances and the January 1, 2003 balances reflected on investor statements. Later, in a letter dated March 14, 2005, summarizing a meeting with Massimi, the Fund's accountants advised that: (i) Grebow should send Massimi Broadway statements "at least monthly, allowing you to confirm his daily verbal representations of how much profit was generated;" (ii) the contra account remains unreconciled in the amount of \$25,235 and should be addressed as soon as possible; (iii) Massimi and Grebow had been paid compensation in excess of the amount due under the investor agreement; and (iv) a reconciliation of fund manager compensation should be calculated at least quarterly. Massimi took no steps to address these serious problems. Instead, he terminated the accounting firm, ostensibly because of a billing dispute.

30. In 2004, no longer able to sustain the pretense that all was well at the Fund, Massimi sent a letter to Grebow purporting to articulate his “concerns” about Grebow’s handling of investors’ funds. In the letter, Massimi acknowledged his utter lack of monitoring and control over Fund assets:

After months of painfully debating the matter, I have decided that on December 31, 2004 that we should close HMC International LLC. The reasons are as follows: that I cannot see the P&L’s on line like I can at Essex-Morgan, or any other fund that I have been associated with. That I am not able to wire money out of the fund that I was able to do at any other fund that I was associated with. The inability for you to wire money to our bank account for distribution of funds. The inability for me too [sic] talk directly to Broadway. For all the reasons stated above, I think it is best that we return the money too [sic] investors. I am no longer comfortable with our current situation. I have on a daily basis, collectors looking for you to pay your bills. I have American Express constantly calling me telling me that you are trying to us [sic] your credit card, the business card, for personal reasons. You were supposed to have destroyed your card. Your inability to manage your own money has caused me concern.

In this letter, R. Massimi also writes that: “I do not get daily numbers from you, I cannot see what is in the account, I cannot speak to anyone at Broadway and I am concerned of your personal spending habits.” Further, R. Massimi acknowledges that there is a deficit in the trading account, writing: “I would suggest that before we close the account, that you reconcile the account imbalance at Broadway. I need an exact accounting of what the deficit is, so that we can deduct from our clients the difference.”

31. Thus, at least by 2004, Massimi knew that the Broadway account had a deficit, but never investigated the reasons for the deficit, disclosed this fact to investors or adjusted his and Grebow’s compensation to account for the deficit. To the contrary, he continued to make misrepresentations about the Fund to investors, to take money from investors and pay himself and Grebow profits based on fabricated trading account statements that failed to disclose any

“deficit,” and even funded the Carlin account, which he entrusted to Grebow to trade.

32. After sending the 2004 letter to Grebow, Massimi redoubled his advertising efforts to recruit more money for the Fund. In April 2005, he arranged for two articles to be published in *The Wall Street Transcript* and *BuySide* magazine. Massimi spoke glowingly in those articles about the Fund’s traders, even though he knew the only trader was Grebow, and referred to the “traders” at one point as “heroes.” Further, Massimi marketed the Fund as a “day trading” fund that carefully researched its stocks, and its entry and exit points in the stocks, even though Massimi knew that there was a deficit in the trading account and he had never reviewed any trading data that showed specific trades broken down on a daily, weekly or even monthly basis.

**E. Massimi Shared Fictitious Profits with Grebow and Charged Inappropriate Expenses to the Fund**

33. From 2002 to the present, Massimi paid himself and Grebow 50% of the fictitious trading profits that Grebow was reporting to Massimi as their share of the Fund’s profits. These payments totaled approximately \$2.8 million. There were no real profits. Indeed, for over two years of the Fund’s existence, there was no active trading account associated with the Fund. Grebow lost all of the approximately \$350,000 used for trading in the Broadway account and approximately \$129,000 of the \$153,000 deposited in the Carlin account. In addition, between 2002 and the present, the Fund paid over \$1 million in non-compensation related expenses. HMC’s credit card statements show numerous payments for personal expenses incurred by both Grebow and Massimi, far beyond the limited trading expenses authorized pursuant to the HMC investment agreement. For example, HMC paid for vacations in Europe, airline tickets, Massimi’s country club dues, a driver, a lavish holiday party at Massimi’s home, and rent and

furnishings for a Manhattan apartment (previously occupied by Massimi's current wife), which Massimi noted on bills was a "corporate apartment."

**F. Massimi Continued to Place Investor Assets Under Grebow's Control**

34. Almost all investor funds flowed through Massimi. He deposited customer funds into the HMC bank accounts, and then transferred a portion of the investors' funds to either the trading account controlled by Grebow or to Grebow and his associate's personal bank accounts. Between 2002 and 2005, Massimi received approximately \$12.9 million from investors. Massimi sent approximately \$5.3 million back to investors as profit distributions and withdrawals. Of the remaining approximately \$7.5 million in net capital, Massimi sent about \$3 million to Grebow and the trading accounts for investment (approximately \$2 million of which Grebow stole) and another approximately \$1.3 million to Grebow as his share of "profits." Massimi used the remaining net capital to pay himself approximately \$1.5 million in "profits" and to pay for Fund expenses, including the unauthorized personal expenses discussed above.

**G. Grebow and Massimi Operated the Fund As a Ponzi Scheme**

35. Grebow began operating the Fund as a Ponzi scheme from the outset, transferring funds from the trading account to his bank account and spending them on personal expenses from the very beginning. Massimi also played a central role in the Ponzi scheme. From at least early 2003, rather than transferring investor funds to Grebow for "trading" purposes, Massimi used new investor money to pay off older investors. As detailed above, a total of \$7.5 million in "net capital" was invested in the Fund from 2001 to present. Only a fraction of the net capital was transferred to Grebow or the trading account. For example, during 2003, Massimi only transferred 23.3% of net capital to Grebow and the trading account for investment. In 2004,

Massimi actually received more funds from Grebow than he transferred for investment. In 2005, Massimi only invested 5.5% of net capital, and his use of new investor money to pay existing investors their profit distributions and withdrawals and for "profit" payments to himself and Grebow intensified.

36. Massimi also raided another fund he operated, Essex Morgan LLC, for cash to support the Ponzi scheme. In June 2005, Massimi transferred investor funds from Essex-Morgan to HMC and used the funds for distributions to HMC investors and a payment on his Mercedes Benz. In a July 1, 2005 notice to Essex-Morgan investors, Massimi informed them that he was closing Essex-Morgan and transferring their investments to HMC because "HMC has been a constant & steady growth fund & we will continue to see steady growth." Subsequently, Massimi transferred additional funds from Essex Morgan to HMC and used the money to pay profit distributions, investor withdrawals and expenses.

#### **H. Recent Events Evidence the Ongoing Nature of the Fraud**

37. The Fund collapsed in September 2005. On or about September 19, 2005, Massimi retained an attorney to represent the Fund and coordinate an audit of the Fund with newly-retained accountants. At the same time, however, Massimi still was operating the scheme. On September 19, 2005, Massimi accepted a check for an additional \$13,497 investment from an existing investor, who had entrusted her son's college fund to Massimi. Massimi deposited the check the next day, and immediately used the funds for a payment on his home equity line of credit.

38. Further, Massimi has continued falsely to attempt to allay investor concerns about the Fund. In late September 2005, Massimi falsely told an investor that Fund investors would

not be receiving their distributions that month because he had initiated a voluntary audit of HMC in order to attract institutional investors. In recent letters to investors, Massimi has attempted to minimize his knowledge of and responsibility for the fraudulent conduct. An October 3, 2005 letter stated that Massimi had retained outside counsel and an independent accounting firm to investigate "irregularities that may have occurred with trading in the Fund." Massimi also stated in this letter that "I am not in a position to give any more information at this time. Your concerns are my concerns and I am doing everything possible to ascertain the status of the Fund. As soon as I have any information, I will contact each of you." An October 14, 2005 letter stated that the accountants were analyzing HMC's trading activity and requested each investor to send documentation regarding deposits made into the Fund and distributions received from the Fund to the Fund's independent accounting firm.

39. At the same time that Massimi purported to be ascertaining the status of investors' funds, he was attempting to conceal his own assets from the government authorities. On October 2, 2005, shortly after Massimi became aware of the Commission staff's investigation of HMC, Massimi's wife, Jaime Elliott, opened a new brokerage account (the "Smith Barney Brokerage Account"), and the next day Massimi transferred approximately \$1.5 million into the Smith Barney Brokerage Account. He since has directed substantial transfers from the account, comprised of \$100,000 to a law firm representing the Fund, and two \$50,000 transfers to a joint bank account owned with his wife on November 18 and 22, 2005, respectively. Massimi also recently transferred his 50% interest in a residence owned jointly with his ex-wife, Jamie Massimi, on Holly Road in Upper Saddle River, New Jersey, to her name. He executed the papers transferring his interest to Jamie Massimi on August 11, 2005, as investor concern and

demands for redemptions mounted. He recorded the transfer on September 28, 2005.

**FIRST CLAIM FOR RELIEF**

**Violations of Section 17(a) of the Securities Act  
(HMC, Massimi and Grebow)**

40. Paragraphs 1 through 39 are re-alleged and incorporated by reference as if fully set forth herein.

41. From at least January 2002 through the present, the Defendants, in the offer and sale of securities, by the use of the means and instruments of transportation or communication in interstate commerce or by the use of the mails, directly and indirectly, have employed and are employing devices, schemes and artifices to defraud.

42. From at least January 2002 through the present, the Defendants, in the offer and sale of securities, by the use of the means and instruments of transportation or communication in interstate commerce or by the use of the mails, directly and indirectly, have obtained and are obtaining money and 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 have engaged and are engaging in transactions, practices or courses of business which operate as a fraud and deceit upon their investors.

43. The Defendants knew or were reckless in not knowing that the representations set forth herein were false and misleading.

44. By reason of the activities described herein, the Defendants have violated and are violating 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  
(HMC, Massimi and Grebow)**

45. Paragraphs 1 through 44 are re-alleged and incorporated by reference as if fully set forth herein.

46. From at least January 2002 through the present, the Defendants, in connection with the purchase and sale of securities, directly and indirectly, by the use of the means and instrumentalities of interstate commerce or of the mails, have employed and are employing devices, schemes and artifices to defraud; have made and are making untrue statements of material fact and have omitted and are omitting 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 have engaged and are engaging in acts, practices and courses of business which operate as a fraud and deceit upon investors.

47. The Defendants knew or were reckless in not knowing that the representations set forth herein were false and misleading.

48. By reason of the activities described herein, the Defendants have violated and are violating Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5, promulgated thereunder.

**THIRD CLAIM FOR RELIEF**  
**Violations of Sections 206(1) and 206(2) of the Advisers Act  
(Massimi and Grebow)**

49. Paragraphs 1 through 48 are re-alleged and incorporated by reference as if fully set forth herein.

50. From at least January 2002 through the present, Massimi and Grebow, as

investment advisers, directly and indirectly, by the use of the means and instrumentalities of interstate commerce or of the mails, have employed and are employing devices, schemes and artifices to defraud HMC investors, and have engaged and are engaging in transactions, practices and courses of business which operated as a fraud and deceit upon these investors.

51. Massimi and Grebow knew or were reckless in not knowing that the representations set forth herein were false and misleading.

52. By reason of the activities described herein, Massimi and Grebow have violated and are violating Sections 206(1) and 206(2) of the Advisers Act, 15 U.S.C. §§ 80b-6(1) and 80b-6(2).

**FOURTH CLAIM FOR RELIEF**  
**Aiding and Abetting Violations of Sections 206(1) and 206(2) of the Advisers Act  
(Grebow)**

53. Paragraphs 1 through 52 are re-alleged and incorporated by reference as if fully set forth herein.

54. From at least January 2002 through the present, Grebow, directly and indirectly, singly or in concert, aided and abetted Massimi's violations of Sections 206(1) and 206(2) of the Advisers Act. Specifically, Grebow knowingly provided substantial assistance to Massimi in making the materially false and misleading representations and omissions and misappropriations of HMC investors' assets alleged herein.

55. The Defendants knew or were reckless in not knowing that the representations set forth herein were false and misleading.

56. By reason of the activities described herein, Defendant Grebow aided and abetted and is aiding and abetting Massimi's violations of Sections 206(1) and 206(2) of the Advisers

Act, 15 U.S.C. §§ 80b-6(1) and 80b-6(2).

**PRAYER FOR RELIEF**

**WHEREFORE**, the Commission respectfully requests that the Court grant the following relief:

**I.**

An Order temporarily and preliminarily, and a Final Judgment permanently, restraining and enjoining the Defendants, their 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. §§ 77q(a), 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.

**II.**

An Order temporarily and preliminarily, and a Final Judgment permanently, restraining and enjoining Defendants Massimi and Grebow, their 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 Sections 206(1) and 206(2) of the Advisers Act, 15 U.S.C. §§ 80b-6(1) and 80b-6(2).

**III.**

An Order directing the Defendants, their agents, banks, debtors, bailees, servants, employees, and attorneys-in-fact, and those persons in active concert or participation with the Defendants who receive actual notice of said Order by personal service, facsimile, or otherwise, and each of them, to hold and retain within their control, and otherwise prevent any withdrawal,

transfer, pledge, encumbrance, assignment, dissipation, concealment, or other disposal of any of the Defendants' assets, funds or other properties of any kind wherever situated, and assets over which said Defendants have control by signatory authority or otherwise.

**IV.**

An Order restraining and enjoining Defendant Massimi, his agents, banks, debtors, bailees, servants, employees, and attorneys-in-fact, and those persons in active concert or participation with him, and any other persons or entities, including, but not limited to, persons or entities who hold a security interest in the property identified below, who receive actual notice of said Order by personal service, facsimile, or otherwise, and each of them, from taking any action to transfer, pledge, seize, sell, foreclose, encumber, assign, dissipate, conceal or otherwise taking any action whatsoever that would impact or impair the value of the residence located on Holly Drive in Upper Saddle River, New Jersey.

**V.**

An Order directing Relief Defendant Elliott, her agents, banks, debtors, bailees, servants, employees, and attorneys-in-fact, and those persons in active concert or participation with her who receive actual notice of said Order by personal service, facsimile, or otherwise, and each of them, to hold and retain within their control, and otherwise prevent any withdrawal, transfer, pledge, encumbrance, assignment, dissipation, concealment, or other disposal of any assets or funds in the Smith Barney Brokerage Account held in her name.

**VI.**

An Order directing each of the Defendants to file with this Court and serve upon the Commission, within three (3) business days, or within such extension of time as the Commission

staff agrees to, a verified written accounting, signed by each Defendant under penalty of perjury, setting forth:

- (1) All assets, liabilities and property currently held directly or indirectly by or for the benefit of such Defendant, including, but not limited to, bank accounts, brokerage accounts, investments, business interests, loans, lines of credit, and real and personal property wherever situated, describing each asset and liability, its current location and amount;
- (2) All money, property, assets, and other income received by such Defendant, or for their direct or indirect benefit, in or at any time from July 1, 2001 to the date of the accounting, describing the source, amount, disposition and current location of each of the items listed;
- (3) All assets, funds, securities, real or personal property of customers of such Defendant transferred to or for the benefit of such Defendant in or at any time from July 1, 2001 to the date of the accounting, and the disposition by such Defendant of such assets, funds, securities, real or personal property;
- (4) All money, property, assets and other income transferred from such Defendant, including transfers to any bank account, brokerage account or other account, or to any individual, or entity, in or at any time from July 1, 2001 to the date of the accounting; and
- (6) The names and last known addresses of all bailees, debtors, and other persons and entities which are currently holding the assets, funds or property of such Defendant.

**VII.**

An Order permitting expedited discovery.

**VIII.**

An Order enjoining and restraining each of the Defendants, and any person or entity acting at their direction or on their behalf, from destroying, altering, concealing, or otherwise interfering with the access of the Commission to relevant documents, books and records.

**IX.**

An Order enjoining and restraining each of the Defendants, and their agents, employees, attorneys, or other professionals, anyone acting in concert with them, and any third party from filing a bankruptcy proceeding on behalf of the Defendants without at least 3 days notice to the Plaintiff and approval of the Court.

**X.**

A Final Judgment ordering each of the Defendants and the Relief Defendant to disgorge their ill-gotten gains, plus prejudgment interest, and such other and further amount as the Court may find appropriate.

**XI.**

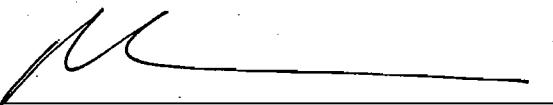
A Final Judgment ordering Massimi and Grebow to pay civil money penalties pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3), and Section 209 of the Advisers Act, 15 U.S.C. § 80b-9.

**XII.**

Such other and further relief as to this Court deems just and proper.

Dated: New York, New York  
December 21, 2005

By:

  
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