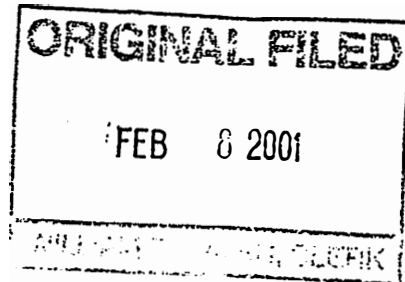


IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

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SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

ALEXIS A. ARLETT and  
ARLETT AND ASSOCIATES, INC.,

Defendants,

and

MICHAEL H. KOCHMANN,

Relief Defendant.

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CIVIL ACTION NO. 01-621 (RET)

COMPLAINT

Plaintiff Securities and Exchange Commission ("Commission") alleges for its Complaint the following:

SUMMARY

1. This matter involves a scheme to defraud investors by defendants Arlett and Associates, Inc. ("Arlett and Associates"), an investment adviser registered in New Jersey, and Alexis A. Arlett ("Arlett"), its president and owner. Between September 1995 and November 2000, Arlett, through Arlett and Associates, misappropriated approximately \$4.1 million in client funds from accounts maintained at a broker-dealer, falsely claiming that these funds represented fees owed by clients. The defendants took approximately \$2.5 million of this total from the accounts of one family. During this period, the total value of assets under management by Arlett and Arlett and Associates never exceeded \$6.04 million.

2. In order to perpetrate and conceal the fraud, Arlett created and distributed false account statements to clients, and made misrepresentations and omissions of material fact in correspondence, e-mails and oral statements to investors. Arlett transferred the stolen funds to several bank accounts, including an account jointly held with her husband, relief defendant Michael H. Kochmann ("Kochmann"), and used these funds for lavish personal living expenses, including more than \$1.3 million spent on jewelry, and hundreds of thousands of dollars on artwork.

3. As a result of the conduct described in this Complaint, defendants Arlett and Arlett and Associates have violated and, unless restrained and enjoined by this Court, will continue to violate Section 17(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. 77q(a); Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. 78j(b), and Rule 10b-5, 17 C.F.R. 240.10b-5 thereunder.

4. As a result of the conduct described in this Complaint, defendant Arlett and Associates has violated, and defendant Arlett has violated or aided and abetted violations of, and, unless restrained and enjoined by this Court, will continue to violate or aid and abet violations of Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 ("Advisers Act"), 15 U.S.C. 80b-6(1) and 80b-6(2).

5. Relief defendant Kochmann was unjustly enriched when he received funds resulting from the unlawful activities described herein. He is not charged with violating any of the provisions of the federal securities laws cited in this Complaint.

#### JURISDICTION AND VENUE

6. The Commission brings this action pursuant to Section 20(b) of the Securities Act, 15 U.S.C. 77t(b), Section 21(d) of the Exchange Act, 15 U.S.C. 78u(d), and Sections 209(d) and 209(e) of the Advisers Act, 15 U.S.C. 80b-9(d) and (e), to enjoin

such acts, transactions, practices and courses of business, and for other relief.

7. This Court has jurisdiction over this action pursuant to 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 Section 214 of the Advisers Act, 15 U.S.C. 80b-14.

8. Certain of the acts and practices constituting the violations alleged herein occurred within the District of New Jersey and elsewhere, and were effected, directly and indirectly, by making use of the means and instruments of transportation or communication in interstate commerce, or the means and instrumentalities of interstate commerce, or the mails.

#### DEFENDANTS

9. Arlett and Associates, Inc., located in Skillman, New Jersey, is an investment adviser registered with the state of New Jersey. Arlett has been the sole owner and operator of Arlett and Associates since its inception.

10. Alexis A. Arlett, age 41, resides in Skillman, New Jersey, and is the president and owner of Arlett and Associates. From 1993 to April 1995, Arlett was associated as a registered representative with a broker-dealer registered with the Commission, where she was terminated for allegedly making unauthorized withdrawals and transfers of funds from relatives' accounts. Arlett operates Arlett and Associates from her home.

RELIEF DEFENDANT

11. Michael H. Kochmann, age 44, is Arlett's husband.

FACTS

Background

12. At all times material hereto, Arlett and Associates acted by and through Arlett.

13. Arlett formed Arlett and Associates as an investment adviser in April 1995. Arlett and Associates managed funds for clients for investment in a variety of securities, including stocks, bonds and mutual funds. Pursuant to her agreement with clients, Arlett was to obtain authorization from the client prior to executing any securities transactions. Arlett then had authority to place the trades at a broker-dealer where, until November 2000, Arlett and Associates clients maintained their accounts. Arlett and Associates also had an account at the broker-dealer used to keep track of block securities transactions, and a separate account in which her fees were placed.

14. Most, if not all, of the advisory clients had authorized the broker-dealer to pay management fees to Arlett and Associates directly from their accounts in the amount of the adviser's invoice. Arlett submitted requests for fees directly to the broker-dealer. The broker-dealer then credited these amounts to the adviser's account. Arlett then used this account

to write checks, transfer funds to other personal and corporate accounts, or to make debit or credit card purchases.

15. Many advisory clients were apparently unaware of the methods for fee payments. These clients apparently believed that fees were to be directly invoiced to them and paid from outside funds. However, contrary to this belief, and despite the fact that several clients did receive invoices directly from Arlett (and paid them with outside funds), Arlett and Associates had authority to, and did also, directly debit advisory fees from client accounts.

16. Although the clients had to sign the appropriate authorization in order for the broker-dealer to directly debit funds from their accounts, Arlett told at least one client that this was a formality and for future use only.

### The Fraudulent Scheme

#### Misappropriation of Client Funds

17. From September 1995 to November 2000, Arlett, through Arlett and Associates, fraudulently withdrew approximately \$4.1 million from 9 of 14 client groups (representing 32 of 55 separate client accounts) maintained at the broker-dealer, more than half coming from the accounts of one family. The highest value reached by the 55 accounts managed by the defendants totaled approximately \$6.04 million, in August 2000.

18. Each year, Arlett increased the frequency and amount of the fraudulent withdrawals. For example, in 1996 Arlett withdrew approximately \$248,000; in 1997 she withdrew approximately \$586,000; approximately \$766,000 in 1998; and almost \$1.1 million in 1999. In 2000, Arlett and Arlett and Associates took almost \$1.4 million from client accounts, or more than 23 percent of the highest account value during the year.

19. According to her investment advisory agreement with many clients, Arlett and Associates' advisory fees ranged from .75% annually for assets under management of \$1 million and above, 1.0% for \$200,000 to \$1 million, and a maximum of 1.5% for assets up to \$200,000. Some clients also had the option of paying the lesser of these percentages or an hourly fee of \$125.00.

20. Although Arlett told the broker-dealer that the withdrawals were for fees earned, this was obviously not true. She labeled them as fees so that the broker-dealer would transfer funds directly from advisory client accounts to the Arlett and Associates account, pursuant to the agreement with clients.

#### The Jemas/Milrod Accounts

21. The most egregious example of Arlett's fraudulent scheme is demonstrated by her conduct in connection with accounts in the name of William Jemas and Jane Milrod, husband and wife. Between 1995 and 2000, Jemas and Milrod deposited approximately

\$3.5 million into nine separate accounts at the broker-dealer, which Arlett managed, including \$1.2 million in 1995 and \$1.8 million in 2000. During these years, Arlett withdrew approximately \$2.5 million from their accounts by requesting direct payments from the broker-dealer for fees and leaving them with approximately \$1.2 million at the end of 2000 - essentially the amount they first gave Arlett in 1995.

22. In order to keep Jemas and Milrod satisfied with her management of their assets and to avoid complaints about withdrawals from their accounts, Arlett misrepresented the value of their accounts orally, and through e-mails and written correspondence. For example, in an e-mail sent to Jane Milrod in August 1999, Arlett stated that their accounts were worth \$3.5 million and predicted they would be worth \$4 million by the end of the year. However, as of August 31, 1999, the total value of all of the Jemas/Milrod accounts was only \$390,632; as of December 31, 1999, the total value was \$334,000. In e-mails and letters sent to Jemas and Milrod in December 2000 and January 2001, Arlett lied again, telling them that their accounts were valued at approximately \$6.5 million when, in fact, she knew they were worth only \$1.2 million.

23. In addition to the above, in a further attempt to mislead, Arlett altered statements she received from the broker-dealer and provided these false account statements to Jemas and



Milrod. On or about August 2, 2000, Arlett sent Jemas and Milrod what purported to be a statement reflecting a total account value for all of the Jemas/Milrod accounts. This falsified statement showed a total account value of \$6,426,980 as of June 30, 2000. Arlett created this document by altering an account statement which the broker-dealer sent to her each month. The original, unaltered account statement reflected the total assets under management and monthly securities transactions for all of Arlett's clients. Arlett deleted all information pertaining to other clients' accounts, including the distribution of stock purchases to other clients, typed in Jemas' and Milrod's names, and faxed the statement to them. The total value of their accounts as of June 30, 2000 was actually only \$1.7 million.

24. Although Jemas and Milrod also received statements directly from the broker-dealer for their nine accounts, they believed Arlett's representation that this altered statement represented their composite holdings.

25. On January 20, 2001, after becoming aware of the Commission's investigation, Arlett gave Jemas and Milrod another altered statement, reflecting a supposed total account value of \$5.7 million as of November 30, 2000. In fact, their total account value at that time was approximately \$1.2 million.

### Other Client Accounts

26. In other client accounts, Arlett and Associates and Arlett simply took advantage of clients who never questioned the value of their investments or the adviser's activities. For example, from October 1995 through November 2000, Arlett misappropriated more than \$241,000 from the account of a client who was a retired widow. The value of her account at its highest point in 1998 was approximately \$184,000. In 2000 alone, Arlett and Associates withdrew over \$111,000 from this client's account, far in excess of the client's \$70,000 in deposits for that year. The client noticed some of these withdrawals, but believed Arlett when she claimed that these were billing and accounting errors of the broker-dealer and would be corrected. In fact, they were not errors by the broker-dealer, and Arlett never returned any of her funds.

### Use of Proceeds

27. Arlett transferred the client funds that she misappropriated from Arlett and Associates' account at the broker-dealer into various bank accounts, including a joint account with her husband Kochmann. In 2000 alone, she deposited more than \$1.5 million into an Arlett and Associates checking account and at least \$100,000 into a joint account with Kochmann.

28. From 1995 to 2000, Arlett used these client funds to support a lavish lifestyle, spending at least \$1.3 million on

jewelry and hundreds of thousands of dollars on artwork. She also made mortgage payments, automobile payments, antique purchases, and many other purchases with stolen funds.

29. Since November 2000, when the broker-dealer discovered the excessive withdrawals, Arlett and Associates has repaid or attempted to repay some clients who have complained about the withdrawals from their accounts. The source of some of the repayments, which may total \$500,000 or more, were funds taken from other clients.

30. Although some repayments were made as early as 1997, the vast majority was repaid after the broker-dealer began its inquiries, with the most recent payment made in January 2001. Arlett and Associates has not repaid any money to Jemas/Milrod, or to the other client described herein, and owes other clients substantial amounts.

#### FIRST CLAIM

#### Violations of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder

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

32. From September 1995 to January 2001, as a result of the conduct alleged herein, defendants Arlett and Arlett and Associates, in connection with the offer, purchase or sale of securities, directly and indirectly, by use of the means and instruments of transportation and communication in interstate

commerce, or the means and instrumentalities of interstate commerce, or the mails, or the facilities of a national securities exchange: (a) employed devices, schemes or artifices to defraud; (b) obtained money or property by means of, and made, untrue statements of material fact, and omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and (c) engaged in acts, transactions, practices, or courses of business which operated as a fraud or deceit upon offerees, purchasers and prospective purchasers of securities.

33. By reason of the foregoing, defendants Arlett and Arlett and Associates violated 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, 17 C.F.R. 240.10b-5 thereunder.

#### SECOND CLAIM

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

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

35. From September 1995 to January 2001, defendants Arlett and Arlett and Associates made use of the means and instrumentalities of interstate commerce and of the mails while acting as investment advisers.

36. From September 1995 to January 2001, as a result of the conduct alleged herein, defendants Arlett and Arlett and

Associates, directly and indirectly, by use of the mails and the means and instrumentalities of interstate commerce, employed devices, schemes and artifices to defraud investment advisory clients and prospective clients, and engaged in transactions, practices and courses of business which operated as a fraud and deceit upon such clients and prospective clients.

37. By reason of the foregoing, defendant Arlett and Associates has violated, and defendant Arlett has violated or aided and abetted violations of, Sections 206(1) and 206(2) of the Advisers Act, 15 U.S.C. 80b-6(1) and 80b-6(2).

### THIRD CLAIM

#### Claim against Michael H. Kochmann

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

39. As described above, as a result of the fraudulent conduct alleged herein, Kochmann received at least \$100,000 from defendants Arlett and Arlett and Associates, in the form of checks issued to an account jointly owned by Arlett and Kochmann. These funds were misappropriated by Arlett and Arlett and Associates from investors.

40. Accounts in the name of Kochmann and Arlett, and possibly other accounts, have obtained the funds described above, and possibly other funds, as part of and in furtherance of the fraudulent conduct under circumstances in which it is unjust,

inequitable or unconscionable for Kochmann to retain the funds at the expense of defrauded investors.

WHEREFORE, the Commission respectfully requests that this Court:

I.

Issue an injunction permanently restraining and enjoining defendants Arlett and Arlett and Associates from violating Section 17(a) of the Securities Act, 15 U.S.C. 77q(a); and Section 10(b) of the Exchange Act, 15 U.S.C. 78j(b), and Rule 10b-5, 17 C.F.R. 240.10b-5 thereunder.

II.

Issue an injunction permanently restraining and enjoining defendant Arlett and Associates from violating, and defendant Arlett from violating or aiding and abetting violations of, Sections 206(1) and 206(2) of the Advisers Act, 15 U.S.C. 80b-6(1) and 80b-6(2).

III.

Order defendants Arlett and Arlett and Associates, and relief defendant Kochmann, to disgorge all unlawfully obtained proceeds, together with prejudgment interest, derived from the activities set forth in this Complaint, in accordance with a plan of disgorgement acceptable to the Court and to the Commission.

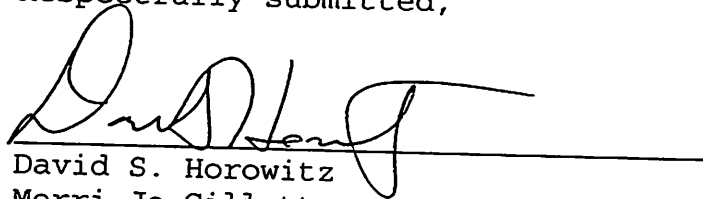
IV.

Order defendants Arlett and Arlett and Associates to pay civil 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(e) of the Advisers Act, 15 U.S.C. 80b-9(e), as a result of the violations set forth herein.

V.

Order such other and further relief as the Court may deem just and appropriate.

Respectfully submitted,



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