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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

MARK J. BOUCHER; STRATEGIC
WEALTH ADVISOR GROUP
SERVICES, INC.,

Defendants.

Case No.: 20-cv-1650-DMS-MSB

FINAL JUDGMENT

The Securities and Exchange Commission filed a Complaint on August 25, 2020, against Defendants Mark J. Boucher and Strategic Wealth Advisors Group Services, Inc. (“SWAG”). (ECF No. 1). The SEC alleged that Defendants, while acting as investment advisors, misappropriated assets from three clients in violation of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, Section 17(a) of the Securities Act, and Sections 206(1) and (2) of the Advisers Act. On February 9, 2022, the Court granted the SEC’s Motion for Summary Judgment on liability against Defendants. (ECF No. 54, the “Judgment”).

1 (b) to obtain money or property by means of any untrue statement of a material fact or
2 any omission of a material fact necessary in order to make the statements made, in light
3 of the circumstances under which they were made, not misleading; or

4 (c) to engage in any transaction, practice, or course of business which operates or would
5 operate as a fraud or deceit upon the purchaser.

6 It is further ordered that, as provided in Federal Rule of Civil Procedure 65(d)(2),
7 the foregoing paragraph also binds the following who receive actual notice of this Final
8 Judgment by personal service or otherwise: (a) the above defendants’ officers, agents,
9 servants, employees, and attorneys; and (b) other persons in active concert or participation
10 with the above defendants or with anyone described in (a).

11 **III. Injunction Against Further Violations of Section 206 of the Advisers Act**

12 It is further ordered that Defendants are permanently restrained from violating Sections
13 206(1) and (2) of the Investment Advisers Act of 1940 (the “Advisers Act”) [15 U.S.C. §§
14 80b-6(1) and (2)] by the use of any means or instruments of transportation or
15 communication in interstate commerce or by use of the mails, directly or indirectly:

16 (a) to employ any device, scheme, or artifice to defraud any client or
17 prospective client; or

18 (b) to engage in any transaction, practice, or course of business which
19 operates as a fraud or deceit upon any client or prospective client.

20 It is further ordered that, as provided in Federal Rule of Civil Procedure 65(d)(2),
21 the foregoing paragraph also binds the following who receive actual notice of this Final
22 Judgment by personal service or otherwise: (a) the above defendants’ officers, agents,
23 servants, employees, and attorneys; and (b) other persons in active concert or participation
24 with the above defendants or with anyone described in (a).

25 **IV. Disgorgement, Prejudgment Interest, and Civil Penalties To Be Paid**

26 Boucher alone is ordered to disgorge the \$230,577 he misappropriated from Ms.
27 Lennard, plus \$66,509 in interest.

28

1 Boucher and SWAG are ordered to jointly and severally disgorge the **\$60,000**
2 misappropriated from the Kings Brothers, plus **\$13,923** in interest. Boucher and SWAG
3 are ordered to disgorge jointly and severally the **\$143,467** misappropriated from the
4 Hendry Trust, plus **\$2,355** in interest. Boucher is ordered to pay a civil penalty of **\$64,500**
5 related to the misappropriation of funds from Ms. Lennard. Boucher is ordered to pay a
6 civil penalty of **\$60,000** related to the misappropriation of funds from the Kings Brothers.
7 Boucher is also ordered to pay a civil penalty of **\$143,467** related to the misappropriation
8 from the Hendry Trust.

9 In total, the Court enters final judgment against Boucher for **\$784,798** and against
10 SWAG for **\$219,745**. Defendants shall satisfy these obligations by paying the SEC within
11 30 days after entry of this Final Judgment the amounts described above. Defendants may
12 transmit payment electronically to the Commission, which will provide detailed ACH
13 transfer/Fedwire instructions upon request. Payment may also be made directly from a
14 bank account via Pay.gov through the SEC website at
15 <http://www.sec.gov/about/offices/ofm.htm>. Defendants may also pay by certified check,
16 bank cashier's check, or United States postal money order payable to the Securities and
17 Exchange Commission, which shall be delivered or mailed to:

18 Enterprise Services Center
19 Accounts Receivable Branch
20 6500 South MacArthur Boulevard
21 Oklahoma City, OK 73169

22 and shall be accompanied by a letter identifying the case title, civil action number, and
23 name of this Court; Mark J. Boucher and/or SWAG as a defendant in this action; and
24 specifying that payment is made pursuant to this Final Judgment. Defendants shall
25 simultaneously transmit photocopies of evidence of payment and case identifying
26 information to the Commission's counsel in this action. By making this payment,
27 Defendants relinquish all legal and equitable right, title, and interest in such funds and no
28 part of the funds shall be returned to Defendants.

1 The Commission may enforce the Court’s judgment for disgorgement and
2 prejudgment interest by using all collection procedures authorized by law, including, but
3 not limited to, moving for civil contempt at any time after 30 days following entry of this
4 Final Judgment.

5 The Commission may enforce the Court’s judgment for penalties by the use of all
6 collection procedures authorized by law, including the Federal Debt Collection Procedures
7 Act, 28 U.S.C. § 3001 *et seq.*, and moving for civil contempt for the violation of any Court
8 orders issued in this action. Defendants shall pay post judgment interest on any amounts
9 due after 30 days of the entry of this Final Judgment pursuant to 28 U.S.C. § 1961. The
10 Commission shall hold the funds, together with any interest and income earned thereon
11 (collectively, the “Fund”), pending further order of the Court.

12 The Commission may propose a plan to distribute the Fund subject to the Court’s
13 approval. Such a plan may provide that the Fund shall be distributed pursuant to the Fair
14 Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. The Court shall
15 retain jurisdiction over the administration of any distribution of the Fund and the Fund may
16 only be disbursed pursuant to an Order of the Court.

17 Regardless of whether any such Fair Fund distribution is made, amounts ordered to
18 be paid as civil penalties pursuant to this Judgment shall be treated as penalties paid to the
19 government for all purposes, including all tax purposes. To preserve the deterrent effect
20 of the civil penalty, Defendants shall not, after offset or reduction of any award of
21 compensatory damages in any Related Investor Action based on Defendants’ payment of
22 disgorgement in this action, argue that they are entitled to, nor shall they further benefit by,
23 offset or reduction of such compensatory damages award by the amount of any part of
24 Defendants’ payment of a civil penalty in this action (“Penalty Offset”). If the court in any
25 Related Investor Action grants such a Penalty Offset, Defendants shall, within 30 days after
26 entry of a final order granting the Penalty Offset, notify the Commission’s counsel in this
27 action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair
28 Fund, as the Commission directs. Such a payment shall not be deemed an additional civil

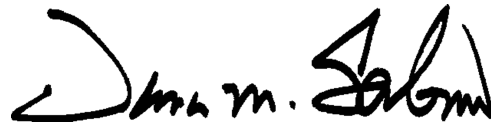
1 penalty and shall not be deemed to change the amount of the civil penalty imposed in this
2 Judgment. For purposes of this paragraph, a “Related Investor Action” means a private
3 damages action brought against Defendants by or on behalf of one or more investors based
4 on substantially the same facts as alleged in the Complaint in this action.

5 **V. CONCLUSION**

6 It is further ordered that this Court shall retain jurisdiction of this matter for the purposes
7 of enforcing the terms of this Final Judgment.

8 **IT IS SO ORDERED.**

9 Date: January 24, 2024

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Hon. Dana M. Sabraw, Chief Judge
12 United States District Court
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