UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-20282

In the Matter of

Hai Khoa Dang,

Respondent.

DIVISION OF ENFORCEMENT'S ADDITIONAL EVIDENTIARY SUPPORT AND BRIEFING IN SUPPORT OF MOTION FOR DEFAULT JUDGMENT AND IMPOSITION OF SANCTIONS

The Division of Enforcement ("Division") submits additional evidence and briefing in support of its motion for default judgment and the imposition of sanctions as to Respondent Hai Khoa Dang ("Dang" or "Respondent"), under the Commission's Order dated October 17, 2023. Submitted with this brief are (a) the *Declaration of Mark Albers* and (b) the *Declaration of Jonathan R. Allen,* with exhibits.

I. INTRODUCTION

The Division submits that, as set forth below, the record in this matter warrants barring Dang under Section 203(f) of the Investment Advisers Act of 1940 ("Advisers Act") from associating with any investment adviser, broker, dealer, municipal securities dealer, municipal adviser, transfer agent, or nationally recognized statistical rating organization.

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II. PROCEDURAL BACKGROUND

On September 10, 2020, the Commission filed a Complaint against Dang in federal court: *SEC v. Hai Khoa Dang,* No. 3:20-cv-01353 (D. Conn.).[1] The Complaint alleged that Dang defrauded a retired couple who had been his retail clients for 20 years, depleting in less than two years virtually all $2.2 million of their retirement savings without their knowledge or informed consent. *See* previously filed Ex. 2.

On April 19, 2021, the court issued a final judgment permanently enjoining Dang from future violations of Sections 206(1) and (2) of the Advisers Act and ordering Dang to pay disgorgement of $6,526.22, prejudgment interest of $723.23, and a civil penalty of $2,200,000. *See* previously filed Ex. 5.

Based on the entry of the permanent injunctions against Dang in the civil action, the Commission issued an Order Instituting Administrative Proceedings pursuant to Section 203(f) of the Advisers Act (the "OIP") on May 5, 2021, to determine whether the allegations against Dang are true, afford him an opportunity to respond, and determine what, if any, remedial action is appropriate and in the public interest.

The Division hired a process server who made effective service of the OIP personally on Dang on May 8, 2021. *See* previously filed Ex. 6. Having been properly served, Commission Rule of Practice 220 required that Dang file an Answer to the allegations contained in the OIP within 20 days after service of the OIP. *See* 17 C.F.R. § 201.220 and § IV of the OIP (directing

[1] The Division requests that the Commission take official notice of the pleadings in *SEC v. Hai Khoa Dang*, No. 3:20-cv-01353 (D. Conn.). *See* Rule of Practice 323, 17 C.F.R. § 201.323 (permitting the Commission to take official notice of "any matter in the public official records of the Commission").

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Respondent to file an Answer within 20 days of service). Dang did not file an Answer within the 20 days of service, or since.

On November 9, 2021, the Division filed a Motion for Default Judgment and Imposition of Sanctions ("Motion"). A response was due on November 22, 2021. Dang made no responsive filing.

On September 13, 2023, an Order to Show Cause issued in this matter requiring that Dang show cause by September 27, 2023 why he should not be determined to be in default and why this proceeding should not be determined against him due to his failure to answer or otherwise defend. Dang made no filing or other showing in response to the Order to Show Cause.

On October 17, 2023, the Commission issued an Order Requesting Additional Briefing and Materials (the "October 2023 Order").

III. ADDITIONAL EVIDENTIARY SUPPORT

As referenced in Order to Show Cause, when a party defaults, the allegations in the OIP will be deemed true and the Commission may determine the proceedings against that party upon consideration of the record without holding a public hearing. *See* Rules of Practice 155, 180, 17 C.F.R. §§ 201.155, 180; *see also* OIP, § IV. Further development of the evidentiary record is allowed in order to address why sanctions are warranted. *See, e.g., Bruce C. Worthington*, Advisers Act Release No. 6037, 2022 WL 1785718, at *1 (June 1, 2022). The Division thus provides the following evidentiary support as to the allegations in the OIP and the Motion, as set out in the accompanying Declarations of Jonathan R. Allen ("Allen Decl.") and Mark Albers ("Albers Decl."). The Division also incorporates by reference its previous briefing in support of its Motion.

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Dang's Background.

From 1996 to 2006, Dang had been associated with various registered investment advisers and broker-dealers. Dang has not held any securities license or registration since 2006. Dang continued to advise individual clients after 2006, however, and various individuals filed complaints against him through 2013. The last complaint resulted in the Connecticut Department of Banking issuing a cease and desist order against Dang in December 2016 for engaging in dishonest or unethical practices in the securities industry. Allen Decl., ¶7; *see also* OIP, ¶ II.A.1.

Dang's Interactions With the Retired Couple.

From 2001 to 2006, while Dang was associated with various registered entities, he managed the money of a retired couple, referred to in the Complaint as Clients A and B. Allen Decl., ¶¶8-9. Shortly after 2006, when Dang was no longer affiliated with any registered firms, Dang arranged for one of his former colleagues (Mr. Y) to be named as the new registered representative on Client A's and B's retirement accounts. *Id.,* ¶10. When Clients A and B asked Dang why Mr. Y's name now appeared on their account statements instead of Dang's name, Dang told them that he continued to work with or for Mr. Y, and that he, Dang, would continue to service their accounts. *Id.,* ¶11.

Clients A and B continued to interact only with Dang after 2006, and never with Mr. Y, even though Mr. Y's name was on their account statements. Dang and Mr. Y had an arrangement where Mr. Y provided Dang his login credentials so that Dang could make trades in Clients A's and B's accounts. *Id.,* ¶¶12-13.

Each year through 2017, Dang spoke with Clients A and B multiple times a year to review their retirement accounts and to provide investment advice. *Id.,* ¶15. After his last affiliation with a registered entity ended in 2006, Dang never informed Clients A and B that he was not affiliated

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with any registered broker-dealer or investment adviser entity; that he had let all his securities licenses and registrations lapse; that he had an arrangement with Mr. Y to place trades in their accounts; or that he had been sanctioned by the State of Connecticut for engaging in dishonest or unethical practices in the securities business. *Id.,* ¶25.

In November 2017 (when Dang's arrangement with Mr. Y was about to end), Dang recommended that Clients A and B open self-managed accounts at an online discount brokerage firm. Dang advised them to then transfer their retirement funds held at Mr. Y's firm to the self-managed accounts where Dang would manage those accounts himself as an independent investment adviser. They thereafter operated without a written advisory agreement, and Dang recommended that they pay a 1% quarterly management fee to Dang directly and in cash. *Id.*, ¶16. Dang assured Clients A and B that he had the necessary licensing, credentials, and certifications to manage these accounts, concealing the facts that he had let all his securities licenses and registrations lapse, that he was not registered as an investment adviser in the State of Connecticut, and that the online discount brokerage firm's self-managed accounts prohibited an adviser from acting on a client's behalf. *Id.,* ¶17.

In February 2018, Dang completed online account applications for four IRA accounts in Clients A's and B' names while sitting in their living room. On the suitability forms for each account, Dang checked "aggressive growth" as the investment objective and "speculative" as the risk tolerance, both of which were the most aggressive possible choice on the forms. Clients A and B did not watch Dang complete the forms and only signed them when and where he advised. *Id.,* ¶18.

Dang told Clients A and B to provide him with their personal usernames and passwords to the self-managed accounts so that he could access their online accounts and make trades in their

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names. *Id*., ¶19; OIP, § II.B.3. In conjunction with taking this control over Clients A's and B' accounts, Dang began suggesting different investment strategies than Clients A and B had followed in the past, including options trading. Dang told Clients A and B that he would apply this strategy to only a small percentage of the portfolio that they deemed to be less conservative and, in addition, would retain a minimum of $250,000 in cash in their accounts to weather any potential downturn in the markets. Allen Decl*.*, ¶20; OIP, § II.B.3.

Unbeknownst to Clients A and B at that time, Dang began aggressively trading options in a sizeable portion of all of their accounts. Dang traded equities in the accounts as well, but he also placed sizeable bets on options. He frequently traded on margin, and he applied his options trading to the entirety of their accounts, not just a small portion of a subset of the accounts, as Clients A and B understood that he would. Dang never communicated to Clients A and B the degree to which he engaged in the more aggressive trading. Dang did not have their consent to trade in options to the degree that he was. Allen Decl*.*, ¶21.

Dang's aggressive trading almost immediately depleted Clients A's and B' accounts. *See* Albers Decl., ¶¶7-12; Allen Decl., ¶22. When Dang began in February 2018, the value in Clients A's and B' accounts was over $2.2 million. Albers Decl., ¶12; Allen Decl., ¶22; OIP, § III.B.3. By November 2019, the balance was just over $26,000. *Id.* The decline in account values was attributable to Dang's failed options trading. *See* Albers Decl., ¶11.

As Clients A and B monitored their new accounts online and in their monthly statements, they grew increasingly panicked. On numerous occasions, they expressed this panic to Dang and asked him to explain the loss in value. Each time, Dang reassured them and lied to them with a different excuse. At times he blamed the loss in value on the political climate. On other occasions, Dang told them that the balances in their account statements did not reflect the full value of their

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holdings; in doing so, Dang misled Clients A and B to believe that there was value in the options that was not reflected in their reported balances. Allen Decl., ¶23; OIP, § III.B.3.

IV. DISCUSSION

Rule 220(f) of the Commission's Rules of Practice provides that if a respondent fails to file an answer within the time provided, such person may be deemed in default pursuant to Rule 155(a). 17 C.F.R. § 201.220(f). In turn, Rule 155(a) of the Commission's Rules of Practice allows the Commission to determine the proceeding against a respondent upon consideration of the record, including the order instituting proceedings, the allegations of which may be deemed to be true. 17 C.F.R. § 201.155(a). As alleged in the OIP, the facts of which are deemed true upon Dang's default, on April 19, 2021 a final judgment was entered by Dang permanently enjoining him from future violations of Sections 206(1) and 206(2) of the Advisers Act for defrauding a retired couple whom he had advised for 20 years. OIP, § II.B.2. The injunctions constitute a basis for remedial relief under Section 203(f) of the Adviser Act. OIP, § III.B.

Section 203(f) of the Advisers Act authorizes the Commission to impose remedial sanctions against a person (1) who at the time of alleged misconduct was associated with an investment adviser, (2) who has been permanently or temporarily enjoined by a court from violating the federal securities laws, and (3) against whom the Commission finds that it is in the public interest to impose remedial sanctions. *See* 15. U.S.C. §80b-3(f).

A. Dang Was Associated With An Investment Adviser at the Time of Misconduct.

Dang acted as an unregistered investment adviser by providing securities investment advice to Clients A and B for compensation; he was, therefore, a person associated with an investment adviser. *See* Allen Decl., ¶16; *Anthony J. Benincasa*, Advisers Act Rel. No. 1923, 2001 WL 99813, at *2 (Feb. 7, 2001) (explaining that "Congress added the definition of 'person associated with an

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investment adviser' to the Advisers Act in 1970 in order to permit the Commission to proceed directly against individuals," and concluding that "by functioning as an investment adviser in an individual capacity, [the petitioner] will be in a position of control with respect to the investment adviser, and therefore, meets the definition of a 'person associated with an investment adviser'") (Commission Opinion).

B. Dang Was Enjoined by the District Court.

In connection with these activities, Dang was permanently enjoined by the federal district court from violating the antifraud provisions contained in Sections 206(1) and (2) of the Advisers Act. *See* previously-filed Exhibits 4-5; OIP § II.B.2.

C. The Public Interest Factors and Deterrence Support a Strong Sanction Against Dang.

Under Section 203(f), in order to determine whether a sanction is in the public interest, the Commission considers the following six factors set forth in *Steadman v. SEC,* 603 F.2d 1126, 1140 (5th Cir. 1979), *aff'd on other grounds,* 450 U.S. 91 (1981): (a) the egregiousness of the respondent's actions, (b) the isolated or recurrent nature of the infraction, (c) the degree of scienter involved, (d) the sincerity of the respondent's assurances against future violations, (e) the respondent's recognition of the wrongful nature of his conduct, and (f) the likelihood that the respondent's occupation will present opportunities for future violations. *See, e.g., Bryan Lee Addington*, Rel. No. 1339, 2018 WL 6722721, at *3 (Dec. 20, 2018) (Initial Decision). The "inquiry into . . . the public interest is a flexible one, and no one factor is dispositive." *David Henry Disraeli and Lifeplan Associates, Inc.,* Exchange Act Rel. No. 57027, 2007 SEC LEXIS 3015, at *39 (Dec. 21, 2007). In addition, the Commission must consider whether the sanction will have a deterrent effect. *See Schield Mgmt. Co.,* Exchange Act Rel. No. 53201, 2006 WL 231642, at *8 n. 46 (Jan. 31, 2006); *Ahmed Mohamed Soliman*, Exchange Act Rel. No. 35609,

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1995 WL 237220, at *3 n.12 (April 17, 1995) (stating that the selection of an appropriate sanction involves consideration of several elements, including deterrence).

Here, these factors weigh heavily in favor of broad, permanent associational bars.

Egregiousness. Dang's conduct was egregious. An investment adviser is a fiduciary in whom clients must be able to put their trust. *Ahmed Mohamed Soliman,* 1995 WL 237220, at * 3. As an associated person of an investment adviser, Respondent owed a fiduciary duty to his clients, including an "affirmative duty of utmost good faith and full and fair disclosure of all material facts, as well as [an] affirmative obligation to employ reasonable care to avoid misleading clients." *John W. Lawton*, Advisers Act Rel. No. 3513, 2012 WL 6208750, at *10 (Dec. 13, 2012) (internal quotations omitted).

Dang's repeated deceptive acts upon his retired clients constitutes an egregious violation of the securities laws. As detailed in the OIP and reinforced with the additional evidence set out in the Declarations of Jonathan R. Allen and Mark Albers, Dang lied or failed to disclose material information to Clients A and B for more than 10 years about, among other things, his lack of association with a registered firm, about where and how he was trading securities in their name, and about his sanction by the state of Connecticut for his unethical conduct. And, perhaps most egregious of all, Dang depleted Client A's and B's entire retirement savings and then lied to them about the cause. Such misrepresentations and omissions violate "bedrock antifraud principles that apply throughout the securities industry, including the philosophy of full disclosure of accurate and non-misleading information to investors ….." *Ross Mandell*, Exchange Act Rel. No. 71668, 2014 WL 907416, at *4 (March 7, 2014) (internal quotations omitted), *vacated in part on other grounds*, Exchange Act Rel. No. 77935, 2016 WL 3030883 (May 26, 2016).

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Recurrency and Scienter. Dang's conduct was recurrent, continuing for more than a decade. And his scienter was high. Dang exploited his position of trust: he never communicated the degree to which he engaged in aggressive options trading or the degree to which his trading failed, and he fabricated different excuses to explain the losses. *See, e.g., Lawrence Allen DeShetler,* Advisers Act Release No. 5411, 2019 WL 6221492, at *3 (high degree of scienter where adviser caused elderly victims to lose a sizable portion of retirement savings) (Commission Opinion); *Bruce C. Worthington*, Advisers Act Release No. 6469, 2023 WL 7039955, at *4 (Oct. 24, 2023) (misconduct exhibited a high degree of scienter where Respondent lied about the status of client funds to conceal his wrongdoing) (Commission Opinion).

Lack of Assurances and Opportunities for Future Violations. Dang has not participated in this proceeding at all. This failure, at the very least, indicates an absence of recognition of the wrongfulness of his conduct, and certainly does not provide assurances against future violations of the securities laws.

In fact, Respondent's conduct shows a "fundamental misunderstanding of his responsibilities" as a securities professional and he has offered no assurance against future violations. *Ross Mandell*, 2014 WL 907416, at *5. Unless he is barred from the securities industry, he will have the chance to again harm investors. *See Charles K. Topping*, Exchange Act Rel. No. 98700, 2023 WL 6537830, at *4 (Oct. 6, 2023) (Respondent's failure to answer the OIP or respond to show cause order equates to lack of assurances that he will not commit future violations). The existence of a violation raises an inference that the violation will be repeated. *Rockies Fund, Inc., et al.,* Exchange Act Rel. No. 54892, 2006 WL 3542989 (Dec. 7, 2006), at *7 n. 49 (citing *Geiger v. SEC*, 363 F.3d 481, 489 (D.C. Cir. 2004)).

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As a result, Respondent presents future risks to the investing public. *See Charles Phillip Elliot,* Exchange Act Rel. No. 31202, 1992 WL 258850, at *3 (Sept. 17, 1992) (securities industry "presents many opportunities for abuse and overreaching") (Commission Opinion). And, of course, Respondent lied and defrauded his clients over a period of years, making the likelihood of future violations high.

An industry wide collateral bar in this case will serve the public interest as a prospective remedy to "protect investors against fraud and ... promote ethical standards of honesty and fair dealing" in the securities markets. *Ross Mandell*, 2014 WL 907416, at *6; *accord McCurdy v. SEC,* 396 F.3d 1258, 1265 (D.C. Cir. 2005) (finding that the purpose of a securities industry suspension in that case was "not to punish [the respondent], but rather to protect the public from his demonstrated capacity" for violative conduct).

Based on a weighing of the *Steadman* factors, a collateral industry bar is both appropriate and in the public interest.

Deterrence. And, moreover, considerations of both specific and general deterrence support banning Dang from associating with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization. *See, e.g., Monetta Fin. Servs., Inc*., Advisers Act Rel No. 2438, 2005 WL 2453949, at *2-3 (Oct. 4, 2005) (discussing goal of deterrence); *Lester Kuznetz*, Exchange Act Rel. No. 23525, 1986 WL 625417, at * 3 (Aug. 12, 1986) (noting that the sanction of a bar "serves the purpose of general deterrence") (Commission Opinion). Broad, industry-wide bars are necessary to prevent Respondent from prospectively harming clients in the securities industry and to deter others from similar misconduct.

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Associational bars have long been considered effective deterrence. *See Guy P. Riordan*, Release No. 9085, 2009 WL 4731397, at *19 & n.107 (Dec. 11, 2009) (collecting cases). An associational bar "will prevent [Respondent] from putting investors at further risk and serve as a deterrent to others from engaging in similar misconduct." *Montford & Co. Co.*, Advisers Act Release No. 3829, 2014 WL 1744130, at *20 (May 2, 2014); *accord Bruce C. Worthington*, 2023 WL 7039955, at *5.

V. **CONCLUSION**

For the reasons set forth above, the Division respectfully requests, pursuant to Rules 155(a) and 220(f) of the Rules of Practice, that the Commission grant the Division's Motion and impose remedial sanctions upon Dang.

Dated: November 16, 2023

Respectfully submitted,

*_/s David H. London_*
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CERTIFICATE OF SERVICE

Pursuant to Commission Rule of Practice 150(c)(1) and 150(d)(2), on November 16, 2023, I caused a true copy of the foregoing document, as well as the Declarations of Jonathan R. Allen and Mark Albers, to be served by overnight delivery service upon Hai Khoa Dang at his last known residential address: [redacted], and by email to his last known active emails: [redacted]

/s/ *David H. London*

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UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-20282

In the Matter of
Hai Khoa Dang,
Respondent.

DECLARATION OF MARK ALBERS

I, Mark Albers, pursuant to 28 U.S.C. §1746, hereby declare as follows:

1. Since October 2012, I have been employed as a Forensic Accountant with the U.S. Securities and Exchange Commission ("the Commission") in its Boston Regional Office. My duties include conducting investigations relating to potential violations of the federal securities laws.

2. My relevant professional experience includes approximately three years as an Auditor for Deloitte and Touche LLP and thirteen years as a Forensic Accountant for Deloitte Financial Advisory Services LLP, where I investigated financial statement fraud, asset misappropriation fraud, and bribery, corruption, and securities litigation cases.

3. I hold a Bachelor of Science in Business Administration with a concentration in Accounting from Michigan State University. I am a Certified Public Accountant in the state of Illinois and a Certified Fraud Examiner by the Association of Certified Fraud Examiners.

4. I make this Declaration based upon my personal knowledge and upon information and belief as set forth below, and in support of the Commission's Additional

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Evidentiary Support and Briefing in Support of Motion for Default and Imposition of Sanctions against Hai Khoa Dang ("Respondent"). Beginning in February 2020, I became part of the team of Commission employees conducting an investigation into Dang to determine whether there had been violations of any federal securities laws.

Losses Incurred in Certain Respondent-Managed Client Accounts

5. During the course of the Commission's investigation and resulting litigation, I was asked by other Commission staff working on this matter to calculate the amount of losses experienced in the brokerage accounts of Client X.[1]

6. Respondent is represented to have become the sole financial advisor for Client X in 2017. Further, Respondent is represented to have used Client X's brokerage account login and password to manage all activity in the following Client X [redacted] accounts:

Account #	Account Type	Date Opened
x3743	Client X IRA	2/12/2018
x7146	Client X IRA	2/12/2018
x4182	Client X Roth IRA	2/12/2018
x4533	Client X Roth IRA	2/12/2018
x2755	Client X Joint Trading	10/21/2009

7. I calculated that the above five accounts in combination lost $1,926,586 from the period beginning February 2018 and ending November 2019.

[1] "Client X" is the retired couple referenced in the order instituting administrative proceedings against Hai Khoa Dang, Advisers Act Release No. 5731, 2021 WL 1812172 (May 5, 2021).

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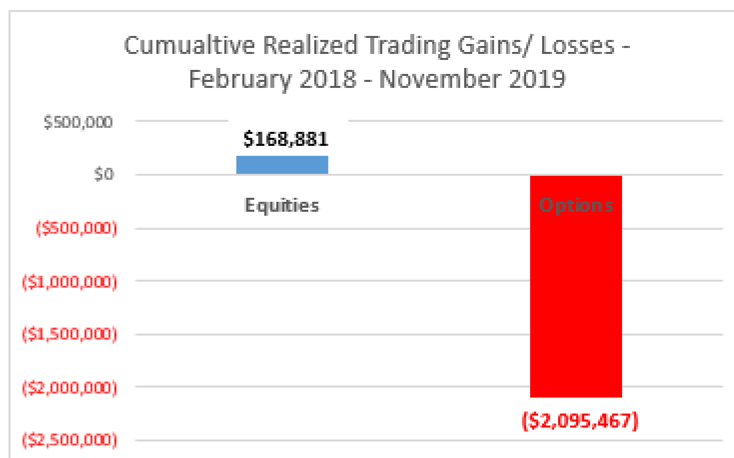
8. To calculate this amount, I assembled a spreadsheet that contained all the trading activity in all five of Client X's [redacted] accounts detailed in paragraph 6 above. This spreadsheet was based on activity included in monthly account statements issued to Client X from February 2018 through November 2019. These underlying monthly brokerage statements are voluminous, exceeding 1,000 pages. As a result, attached as **Exhibit A**, is a summary of gains and losses derived from two years of the underlying brokerage statements.

9. I then separated the individual transactions into "standard equity trades" (where a certain security was purchased or sold at a limit or market price) and "option trades" (the contractual right or obligation to buy or sell a specific security on a specific data at a specific price).

10. I then calculated the total gain or loss attributable to each type of trading activity on a monthly basis. Lastly, I summed all months together from February 2018 to November 2019 to arrive at a total gain or loss for all transactions

11. Total gain on equity trades over that time period was $168,881 and total options gains or losses over that period of time was ($2,095,467) as shown below:



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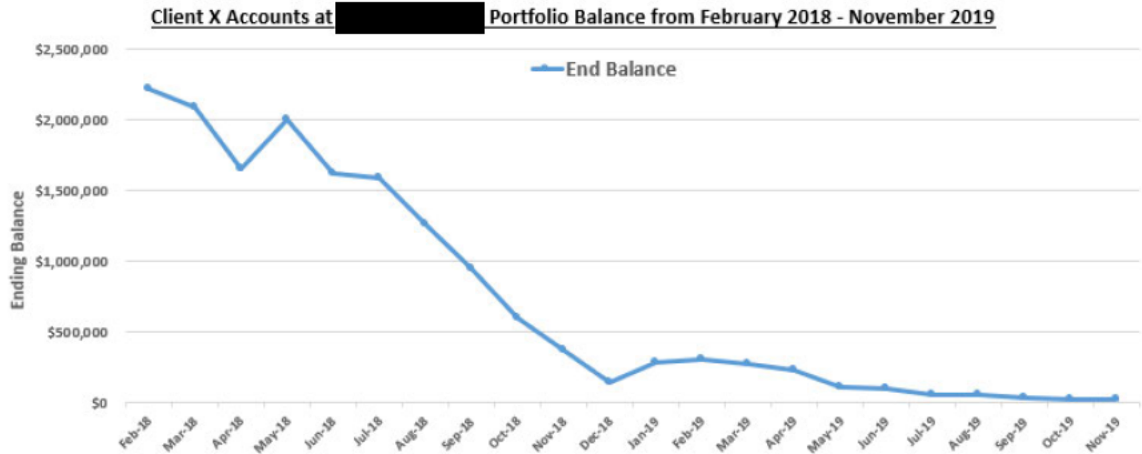
12. Client X's portfolio balance was $2,222,007 as of February 2018 and decreased to $26,829 by November 2019. The total portfolio balance of Client X over time is detailed below:



13. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on October 20, 2023, in Boston, Massachusetts.

/s/ Mark Albers
Mark Albers

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UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-20282

In the Matter of

Hai Khoa Dang,

Respondent.

DECLARATION OF JONATHAN R. ALLEN

I, Jonathan R. Allen, pursuant to 28 U.S.C. § 1746, declare as follows:

1. Since 2015, I have been employed as an Enforcement Attorney with the U.S. Securities and Exchange Commission ("the Commission") in its Boston Regional Office. My duties include conducting investigations relating to potential violations of the federal securities laws.

2. In or about December 2019, I became actively involved in the Commission's investigation into possible violations of the federal securities laws by Hai Khoa Dang.

3. I make this Declaration based upon information I learned during the investigation, as set forth below.

4. In the course of the investigation, I reviewed documents and data produced to (or collected by) the Commission, and conducted witness interviews and testimony, including interviews with the retired couple identified as "Clients A and B" in the Commission's Complaint filed in the civil action *SEC v. Dang*, 3:20-cv-01353 (D. Conn., filed September 10, 2020) ("Civil Action").

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5. In addition to those interviews and testimony, the principal sources of documentation that I have relied upon for this declaration are the following:

a. CRD (Central Registration Depository) Report for Hai Khoa Dang, CRD # 2790040. I have attached as Exhibit A selections from this CRD Report.

b. State of Connecticut, Department of Banking, Order to Cease and Desist and Notice of Right to Hearing, *In the Matter of Hai Khoa Dang* (November 29, 2016), attached as Exhibit B.

c. Records of Client A's IRA account ending 3743, attached as Exhibit C.

d. Clients A's and B's compilation of pertinent facts, provided to the Commission by Clients A and B, attached as Exhibit D.

e. Clients A's and B's compilation of "investment thoughts," provided to the Commission by Clients A and B, attached as Exhibit E.

f. Transcript from the March 5, 2020 Investigative Testimony of the individual referred to as "Mr. Y" in the Complaint, attached as Exhibit F.

g. Transcript from the March 24, 2020 Investigative Testimony of Mr. Y, attached as Exhibit G.

6. Based on the above information, I learned the following.

<u>Dang's Background.</u>

7. From 1996 to 2006, Dang had been associated with various registered investment advisers and broker-dealers. *See* Ex. A; Ex. B at ¶5. Dang has not held any securities license or registration since 2006. *See* Ex. A; *see also* Investment Adviser Public Disclosure ("IAPD") Report for Hai Khoa Dang, https://adviserinfo.sec.gov/individual/summary/2790040;

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BrokerCheck Report for Hai Khoa Dang, https://brokercheck.finra.org/individual/summary/2790040. Dang continued to advise individual clients after 2006, however, and various individuals filed complaints against him through 2013. *See* Ex. A. The last complaint resulted in the Connecticut Department of Banking issuing a cease and desist order against Dang in December 2016 for engaging in dishonest or unethical practices in the securities industry. *See* Ex. B.

Dang's Interactions With Clients A and B.[1]

8. Dang met Clients A and B in 1997 when Dang worked for a registered entity. Dang and some colleagues gave an investment presentation to employees of the company where client A worked. Within four years, Dang was the only person advising Clients A and B on their retirement accounts, and he provided this service to them for the next nearly 20 years. Clients A and B retired in 2009 and, at the time the Complaint was filed in the Civil Action, were in their mid-60s.

9. Dang managed their money from 2001 to 2006 while he was associated with various registered entities.

10. Shortly after 2006, when Dang was no longer affiliated with any registered firms, Dang arranged for one of his former colleagues (Mr. Y) to be named as the new registered representative on Client A's and B's retirement accounts.

[1] I prepared the narrative in this section from my recollection of interviewing Clients A and B in February 2020 and my review of the written records that Clients A and B provided that are attached as Exhibits D and E. Where information in this section comes from a source other than Exhibits D and E, I have cited the appropriate source.

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11. When Clients A and B asked Dang why Mr. Y's name now appeared on their account statements instead of Dang's name, Dang told them that he continued to work with or for Mr. Y, and that he, Dang, would continue to service their accounts.

12. Clients A and B continued to interact only with Dang after 2006, and never with Mr. Y, even though Mr. Y's name was on their account statements.

13. During investigative testimony of Mr. Y, he stated that he was a colleague of Dang at a registered entity. Ex. F, at 17-18. After he left that entity, Mr. Y was associated with other firms until 2018. *Id.,* at 17. Mr. Y testified that he gave his login credentials to Dang, who made trades in Clients A's and B' accounts. Ex. G, at 62-63.

14. In December 2009, while Dang was still managing Clients A's and B' accounts through Mr. Y, Dang convinced Clients A and B to lend him $100,000. Dang signed a promissory note in which he agreed to repay the money within six months. He never repaid any of the money, but Clients A and B continued to allow him to manage their investment accounts.

15. Each year through 2017, Dang spoke with Clients A and B multiple times a year to review their retirement accounts and to provide investment advice. Some of these meetings occurred in their home, some occurred over the telephone, and some occurred via email or text message.

16. In November 2017 (when Dang's arrangement with Mr. Y was about to end), Dang recommended that Clients A and B open self-managed accounts at an online discount brokerage firm. Dang advised them to then transfer their retirement funds held at Mr. Y's firm to the self-managed accounts where Dang would manage those accounts himself as an independent investment adviser. They thereafter operated without a written advisory agreement,

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and Dang recommended that they pay a 1% quarterly management fee to Dang directly and in cash.

17. According to Clients A and B, when they transitioned to the online accounts for Dang to manage in 2017, they specifically asked Dang if he had necessary licensing, credentials, and certifications to manage these accounts. Dang assured them that he did, concealing the facts that he had let all his securities licenses and registrations lapse, that he was not registered as an investment adviser in the State of Connecticut, and that the online discount brokerage firm's self-managed accounts prohibited an adviser from acting on a client's behalf.

18. In February 2018, Dang completed online account applications for four IRA accounts in Clients A's and B' names while sitting in their living room. On the suitability forms for each account, Dang checked "aggressive growth" as the investment objective and "speculative" as the risk tolerance, both of which were the most aggressive possible choice on the forms. *See, e.g.,* Ex. C, at SEC-[redacted]-E-0000104. Clients A and B did not watch Dang complete the forms and only signed them when and where he advised. Having retired in 2009 and thus living entirely on their pensions and investment income, Clients A and B would never have signed the forms had they known of the aggressive risk profile elections

19. Dang told Clients A and B to provide him with their personal usernames and passwords to the self-managed accounts so that he could access their online accounts and make trades in their names. In doing so, Dang was able to trade in the online accounts without Clients A's and B' immediate supervision or approval.

20. In conjunction with taking this control over Clients A's and B' accounts, Dang began suggesting different investment strategies than Clients A and B had followed in the past, including options trading. Dang told Clients A and B he would apply this strategy to only a

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small percentage of the portfolio that Clients A and B deemed to be less conservative and, in addition, would retain a minimum of $250,000 in cash in their accounts to weather any potential downturn in the markets.

21. But, unbeknownst to Clients A and B at that time, Dang began aggressively trading options in a sizeable portion of all of Clients A's and B' accounts. Dang traded equities in the accounts as well, but he also placed sizeable bets on options. He frequently traded on margin, and he applied his options trading to the entirety of their accounts, not just a small portion of a subset of the accounts, as Clients A and B understood that he would. Dang never communicated to Clients A and B the degree to which he engaged in the more aggressive trading. Dang did not have their consent to trade in options to the degree that he was.

22. Dang's aggressive trading almost immediately depleted Clients A's and B's accounts. When Dang began in February 2018, the value in Clients A's and B's accounts was over $2.2 million. By November 2019, the balance was just over $26,000.

23. As Clients A and B monitored their new accounts online and in their monthly statements, they grew increasingly panicked about the loss in value. On numerous occasions, they expressed this panic to Dang and asked him to explain the loss in value. Each time, Dang reassured them and lied to them with a different excuse. Dang told Clients A and B they should not be concerned by what they thought was a loss in value in their online and monthly account statements. At times he blamed the loss in value on the political climate. On other occasions, Dang told them that the balances in their account statements did not reflect the full value of their holdings; in doing so, Dang misrepresented to Clients A and B that, because of the nature of options trading, there was value in the options that was not reflected in their reported balances and that this was the primary explanation for the large decreases in the values of their accounts.

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24. Clients A and B exchanged text messages on the topic with Dang, in which Dang reassured them that the loss of value was not cause for concern.

25. After his last affiliation with a registered entity ended in 2006, Dang never informed Clients A and B that he was not affiliated with any registered broker-dealer or investment adviser entity; that he had let all his securities licenses and registrations lapse; that he had an arrangement with Mr. Y to place trades in their accounts; or that he had been sanctioned by the State of Connecticut for engaging in dishonest or unethical practices in the securities business.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 16, 2023 /s *Jonathan R. Allen*
Jonathan R. Allen

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