

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-22286**

**In the Matter of**

**MARK J. BOUCHER,**

**Respondent.**

**DIVISION OF ENFORCEMENT'S MOTION FOR SUMMARY DISPOSITION**  
**AND MEMORANDUM OF LAW IN SUPPORT**

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## I. INTRODUCTION

Pursuant to Rule 250(b) of the Securities and Exchange Commission's (the "SEC's" or "Commission's") Rules of Practice, the Division of Enforcement (the "Division") respectfully moves for summary disposition against Respondent Mark J. Boucher ("Respondent" or "Boucher") and for entry of an order barring Boucher from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

This is a follow-on proceeding arising from a related injunctive action, *SEC v. Mark J. Boucher, et al.*, No. 3:20-cv-1650-DMS (S.D. Cal.) and a parallel criminal action, *U.S.A. v. Boucher*, 3:21-cr-2872-BAS (S.D. Cal.).<sup>1</sup> In the civil injunctive action, the court granted summary judgment for the Commission finding that Boucher knowingly misappropriated funds of his clients

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<sup>1</sup> Under Rule 323, judicial notice may be taken in this proceeding of "any material fact which might be judicially noticed by a district court of the United States . . . ." 17 C.F.R. 201.323. The Commission therefore may take notice of its own public official records and of the docket reports, pleadings, court orders, and other filings by the parties in the civil action and the docket reports, indictments, court orders, and other filings by the parties in the criminal action. Accordingly, the Division respectfully requests judicial notice be taken of the following exhibits to this motion:

- Exhibit 1 – Docket Sheet in *SEC v. Boucher, et al.*, No. 3:20-cv-1650 (S.D. Cal.)
- Exhibit 2 – SEC's Complaint (Docket 1)
- Exhibit 3 – SEC's Memorandum of Points and Authorities in Support of Its Motion for Summary Judgment (Docket 32-1)
- Exhibit 4 – Defendant's Motion to Stay (Docket 33)
- Exhibit 5 – Defendant's Opposition to SEC's Motion for Summary Judgment (Docket 37)
- Exhibit 6 – Order Denying Defendant's Motion to Stay (Docket 39)
- Exhibit 7 – Defendant's Opposition to SEC's Motion for Summary Judgment (Docket 42)
- Exhibit 8 – Defendant's Renewed Motion to Stay (Docket 43)
- Exhibit 9 – Order Denying Defendants' Renew Motion to Stay and Granting Plaintiff's Motion for Summary Judgment on Liability (Docket 54)
- Exhibit 10 – Plaintiff's Notice of Motion and Memorandum of Points and Authorities in Support of Its Motion for Final Judgment (Docket 60 and 60-1)
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- Exhibit 12 – Final Judgment (Docket 78)
- Exhibit 13 – Defendant's Notice of Appeal (Docket 79)
- Exhibit 14 – Docket Sheet in *U.S.A. v. Boucher*, No. 3:21-cr-2872 (S.D. Cal.)
- Exhibit 15 – Indictment (Docket 1)
- Exhibit 16 – Superseding Indictment (Docket 17)
- Exhibit 17 – Plea Agreement (Docket 65)
- Exhibit 18 – The United States' Sentencing Memorandum (Docket 85)
- Exhibit 19 – Defendant's Motion for Compassionate Release (Docket 157)
- Exhibit 20 – Order Denying Motion for Compassionate Release (Docket 172)

to whom he provided investment advisory services in violation of Sections 17(a) of the Securities Act of 1933 (“Securities Act”), Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 10b-5 thereunder, and Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 (“Advisers Act”). In the final judgment, the court permanently enjoined Boucher from future violations of these securities laws. Ex. 12 at 2-3.

In the parallel criminal action, Boucher signed a plea agreement in which he pled guilty to a charge of wire fraud in violation of 18 U.S.C. § 1343. Ex. 17 at 21. The basis of the criminal charges involved the same facts concerning the same clients as presented in the civil proceeding; these facts were outlined in the plea agreement. Boucher admitted to these facts as well as the elements of the offence, which included admitting that he knowingly participated in, devised, or intended to devise a scheme or plan to defraud or a scheme or plan for obtaining money or property by means of false or fraudulent pretenses, representations, promises, or omitted facts. *Id.* at 3. Boucher also admitted that by engaging in the material scheme to defraud, he knowingly violated the federal securities laws under 15 U.S.C. §§ 80b-6 and 80b-17.<sup>2</sup> *Id.* at 5:17-19.

All facts necessary for summary disposition have been resolved by the courts in the civil injunctive action (Ex. 9) and criminal action against Boucher (Ex. 17). These facts, determined by the courts to be undisputed after Boucher had a full and fair opportunity to litigate, establish that a full permanent industry bar against him is justified and in the public interest. The Division’s motion for summary disposition therefore should be granted.

## **II. RESPONDENT**

**Mark J. Boucher**, 62, was the sole owner of Strategic Wealth Advisor Group Services Inc. d/b/a Strategic Wealth Advisors Group Services Inc. and d/b/a Strategic Wealth Advisors Group

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<sup>2</sup> 15 U.S.C. § 80b-6 is the codification of Section 206 of the Advisers Act, which includes Section 206(1) and Section 206(2).

(“SWAG”), an investment adviser formerly registered in the State of California. From 2000 to 2016, and from 2016 to May of 2019, Boucher was also a registered representative associated with two investment advisory firms registered with the Commission. For a portion of the time in which he engaged in the misconduct, one of these investment advisory firms was also registered as a broker-dealer with the Commission. Ex. 2 ¶15. Boucher, a former resident of Carlsbad, California, is currently incarcerated at the Federal Medical Facility (“FMC”) in Rochester, Minnesota.

### **III. STATEMENT OF UNDISPUTED FACTS**

#### **A. The Commission’s Complaint**

On August 25, 2020, the Commission filed its complaint against Boucher alleging that, between December 2010 and July 2020, he misappropriated over \$2 million from the accounts of certain of his investment advisory clients. The complaint alleged that Boucher engaged in a variety of deceptive conduct and made material misrepresentations and omissions as part of his fraud. It also alleged that he diverted advisory clients’ securities to his personal accounts and sold clients’ securities and misappropriated the proceeds for his personal use. *Id.* ¶¶4-11.

More specifically, the Commission alleged that Boucher misappropriated funds from four clients, Clients A, B, C, and D, who were later identified as Marguerite Lennard (Client A or M.L.); Brent King (Client B or B.K.), Ross King (Client C or R.K.), and Willoene Hendry (Client D or W.H.). With respect to Ms. Lennard, the complaint alleged that Boucher misappropriated about \$669,000 from 2010 until 2019 through at least 67 unauthorized transactions, which included forged checks. *Id.* ¶¶5, 27-32. The complaint alleged that when his employer confronted Boucher about the misappropriated funds, he admitted on a recorded line that he had possession of the client’s checkbook and wrote unauthorized checks to pay his personal expenses. *Id.* ¶34. The complaint alleged that these personal expenses included vacations and travel with numerous

female companions to San Diego and Hawaii. *Id.* ¶32.

With respect to Brent and Ross King, the complaint alleged that as their mother lay dying in the hospital, Boucher exploited the situation to misappropriate funds from their securities accounts to purchase a car. *Id.* ¶¶37-38. The complaint alleged that Boucher created a wire authorization form to send the proceeds from the clients to the dealership, faxed the authorization from their offices while at an appointment there, impersonated Ross King on the phone with compliance at Charles Schwab to release the wire, and falsely claimed to the dealership that the source of the funds came from him and not Ross King. *Id.* ¶¶38-40, 54.

With respect to Ms. Hendry, Boucher was the successor trustee of her revocable trust. *Id.* ¶45. The complaint alleged that after she died, Boucher engaged in a scheme to misappropriate assets from the trust and use them for his personal gain by, among other things, forging a gift letter to create the false impression that he had been gifted \$1.5 million. *Id.* ¶¶46-48, 55.

## **B. Summary Judgment**

On October 6, 2021, the Commission moved for summary judgment against Boucher. In support of its motion, the Commission submitted sworn declarations from harmed clients and other documentary evidence. Ex. 3. Boucher filed two motions in opposition and two motions to stay the civil case pending resolution of the criminal proceedings. Ex. 1 at Dkt. No. 33 and 45 (motions to stay); Dkt. No. 37 and 42 (motions in opposition). The court denied Boucher's motions to stay and granted the SEC's motion for summary judgment on liability as it found there were no triable issues of fact regarding Boucher's thefts of funds from his clients. Ex. 9.

As to his clients, Maguerite Lennard, Brett King, Ross King, and Willoene Hendry, the court held that the SEC's facts demonstrated that Boucher violated the antifraud provisions of the federal securities laws. *Id.* at 14-15, 18, 22. The court found that Boucher made material

misrepresentations or omissions by taking his clients' funds for his personal use without authorization or notification; specifically, the court held that the theft of one's funds is indisputably a fact a reasonable investor would find material. *Id.* at 15:2-9 (citing *TSC Indus., Inc. v. Northway*, 426 U.S. 438, 450 (1976)). The court also found that Boucher commenced the thefts with the undisclosed sale of securities from the clients' accounts thus meeting the "in connection" requirements of Sections 10(b) of the Exchange Act. *Id.* at 15:7-8, 18:11-12, 22:6-7; *see also Id.* at 14:5-8 ("The 'same elements required to establish a section 10(b) . . . violation suffice to establish a violation under sections 17a(1)-(3)' of the Securities Act") (citing *SEC v. Zovas*, No. 3:16-cv-0998, 2016 U.S. Dist. LEXIS 161255, at \*30 (S.D. Cal. Nov. 21, 2016)). The court found that Boucher knowingly sold securities and moved funds for his personal benefit, including to pay his personal credit cards and to purchase a car. *Id.* at 15:10-13, 18:13-14. Finally, the court found that Boucher served as an investment adviser to each of the clients during the violations, and therefore, had also violated Sections 206(1) and Section 206(2) of the Advisers Act. *Id.* at 15:20-16:2, 18:21-27, 22:13-16.

In the findings, the court discussed specific pieces of evidence that demonstrated that there were no genuine issues of triable fact as to Boucher's scienter or as to whether the transactions were authorized. First, as to Ms. Lennard, Boucher had admitted, in writing, that he had taken the funds without the client's approval and had admitted, on a recorded call, that he had written checks on her account. *Id.* at 16:21-17:26. Second, as to the Kings, the wire transfer form that the car dealership received had Ross King's name typed on it, but it was crossed out and replaced with the handwritten name of Boucher, and the person who called Charles Schwab to answer security questions and verify Ross King's signature for the wire transfer had called from Boucher's phone. *Id.* at 21:12-20. Third, as to Ms. Hendry, Boucher had claimed that he had withdrawn funds from

her account to reimburse himself for expenses, but the court noted that he received more funds than what he had claimed in expenses. *Id.* at 23:4-9. Boucher argued in opposition that he discovered a purported gift letter naming him as the beneficiary of a \$1.5 million gift from Ms. Hendry, but the court rejected the letter as unauthenticated. *Id.* at 23:13-22.

### **C. Permanent Injunctions Against Respondent**

On January 24, 2024, the court issued its final judgment against Boucher. Ex. 12. The court permanently enjoined Boucher from future violations of Sections 17(a)(1)-(3) of the Securities Act, Section 10b of the Exchange Act and Rule 10b-5 thereunder, and Sections 206(1) and 206(2) of the Advisers Act. *Id.* at 2-3. Additionally, the court ordered Boucher to pay disgorgement plus prejudgment interest of \$516,831 and a civil penalty of \$267,967. *Id.* at 3:25-4:8. On March 10, 2024, Boucher filed a notice of appeal from the court's final judgment to the U.S. Circuit Court of Appeals for the Ninth Circuit. Ex. 13. On July 5, 2024, the appellate court dismissed the appeal because Boucher failed to file his opening brief. *See Order Dismissing Appeal for Failure to Prosecute, SEC v. Boucher, et al.*, No. 24-1773 (9th Cir. July 5, 2024) (attached hereto as Ex. 21).

### **D. Criminal Plea**

On October 5, 2021, the U.S. Department of Justice filed a criminal indictment against Boucher in the Southern District of California, and on November 9, 2021, a superseding indictment was filed. Ex. 15. The superseding indictment charged Boucher with one count of investment adviser fraud in violation of 15 U.S.C. §§ 80-6, 80b-17, five counts of wire fraud in violation of 18 U.S.C. § 1343, and 11 counts of mail fraud in violation of 18 U.S.C. § 1341. Ex. 16. On January 29, 2024, Boucher entered a plea agreement in which he admitted to certain facts and one count of wire fraud, which included the elements of the offense – he knowingly participated in, devised, or intended to devise a scheme or plan to defraud or a scheme or plan for obtaining money

or property by means of false or fraudulent pretenses, representations, promises, or omitted facts.

Ex. 17 at 3:6-19. Specifically, Boucher admitted:

1. Between in at least January 2017 and continuing up to and including February 2021, . . . Boucher did knowingly and intentionally devise, with the intent to defraud, a material scheme to defraud and obtain money and property from his investment advisory clients: M.L. [Marguerite Lennard], R.K. [Ross King], and W.H. [Willoene Hendry] (collectively the “victim clients”).
2. It was part of his fraudulent scheme that Boucher, as an investment adviser, misappropriated money and assets from his victim clients and their investment advisory accounts that he managed. Boucher concealed his theft by making materially false, fraudulent, and misleading statements and omitting material facts from his victim clients.
3. Boucher misappropriated [money] from victim client M.L.’s advisory account and used the funds to pay his personal credit cards and expenses, without the knowledge or consent of the victim client.
4. As part of his scheme to defraud, Boucher forged the signature of victim M.L. and mailed the checks to pay his personal credit cards without the knowledge or consent of victim client M.L.
5. Boucher misappropriated [money] from R.K.’s advisory account and used the funds to purchase a sports car for his own personal benefit, without the knowledge or consent of victim client R.K.
6. Boucher attempted to misappropriate [money] from victim client W.H.’s advisor account with the intent to divert those funds from a charitable organization and to

use such funds for his own use.

7. For the purpose of executing his scheme to defraud, Boucher caused an interstate wire communication to carry out an essential part of his scheme, namely on December 27, 2019, Boucher caused an interstate wire transfer from his personal brokerage account to a newly created trust account related to victim client W.H. . . . for the purpose of concealing his material scheme.
8. By engaging in the material scheme to defraud, Boucher knowingly violated the federal securities laws, namely, Title 15, United States Code, Sections 80b-6 and 80b-17.
9. Boucher knowingly produced false, fraudulent, and misleading documents to the U.S. Securities and Exchange Commission (SEC) to conceal his material scheme to defraud the victim clients and to willfully obstruct the SEC's investigation, its civil case, and any criminal case.

*Id.* at 4:6-5:24.

#### **E. The Division's Order Instituting Proceedings and Procedural History**

On November 6, 2024, the Division instituted this follow-on proceeding to determine remedial actions in the public interests against Boucher pursuant to Section 15(b) of the Exchange Act and Section 203(f) of the Advisers Act. On December 18, 2024 and February 24, 2025, the Commission granted Boucher extensions of time to answer the order instituting the proceedings. On May 7, 2025, the Commission entered an order for Boucher to show cause as to why this proceeding should not be determined against him due to his failure to file an answer. On July 21, 2025, the Division filed a motion for an entry of default judgment. On August 26, 2025, after 293 days, the Commission received an answer from Boucher denying the allegations. In response, the

Commission discharged the order to show cause and directed a prehearing conference.

On November 25, 2025, the Division and Boucher held a prehearing conference during which the Division offered a settlement to Boucher and agreed to reproduce its investigative file that had been initially produced during the civil litigation but refused to further delay the proceedings until Boucher's release from prison scheduled in 2028. After the prehearing conference, the Division made several efforts to reproduce its investigative file to Boucher. On March 20, 2026 and March 23, 2026, the Division succeeded in reproducing the investigative file to Boucher pursuant to Rule 230 of the Commission's Rules of Practice, and received confirmation from the FMC in writing. *See* Email from FMC to SEC dated March 23, 2026 (attached hereto as Ex. 22). On or about March 11, 2026, Boucher once again asked the Commission to delay these proceedings until his release. The SEC objected to the request because Boucher has been actively involved in other court cases while he has been incarcerated and because all the facts necessary for summary disposition in this proceeding have been resolved by federal courts against him.

#### **IV. ARGUMENT**

##### **A. Standard for Summary Disposition**

Rule 250(b) of the Commission's Rules of Practice provides that after a respondent's answer has been filed and documents have been made available, a party may move for summary disposition on any or all of its claims. *See* 17 C.F.R. § 201.250(b). The motion may be granted if there is no genuine issue with regard to any material fact and the moving party is entitled to summary disposition as a matter of law. *Id.*

The Commission repeatedly has upheld the use of summary disposition in cases such as this, where the respondent has been enjoined and the sole determination concerns the appropriate sanctions. *See, e.g., In the Matter of Gary M. Kornman*, Exchange Act Rel. No. 59403, 2009 SEC LEXIS 367, at \*40-41, n. 58 (Feb. 13, 2009), *pet. denied*, 592 F.3d 173 (D.C. Cir. 2010)

(collecting cases).

**B. Collateral Estoppel Prevents Relitigation of Issues Resolved by the Court or Its Findings**

The Commission has consistently upheld the use of summary disposition relying on an injunction imposed by a district court, as well as the district court's findings, in determining whether sanctions are appropriate. In doing so, the Commission rejects attempts to relitigate a district court's findings of fact and conclusions of law in its follow-on administrative proceedings. As previously stated by the Commission, "the doctrine of collateral estoppel precludes [respondent] from attacking in this proceeding the injunction and procedural issues actually litigated and necessary to the district court's decision." *In the Matter of Daniel Imperato*, Exchange Act Rel. No. 74596, 2015 SEC LEXIS 1377, at \*14-15 (Mar. 27, 2015); *see also In the Matter of Siming Yang*, Initial Dec. Rel. No. 788, 2015 SEC LEXIS 1735, at \*3-4 (May 6, 2015) ("It is well established that the Commission does not permit a respondent to relitigate issues that were addressed in a previous civil proceeding, whether resolved at trial, by consent, or by summary judgment.") (collecting cases). The sole determination here is what sanction is supported by the District Court's proceedings. *See Kornman*, 2009 SEC LEXIS 367, at \*40-41.

Here, based upon both Boucher's guilty plea entered in the criminal action and the court's findings and entry of summary judgment in the parallel civil action, summary disposition is warranted in this administrative proceeding. Boucher admitted in his plea agreement that, with respect to his investment advisory clients, he knowingly participated in, devised, or intended to devise a scheme or plan to defraud or a scheme or plan for obtaining money or property by means of false or fraudulent pretenses, representations, promises, or omitted facts. The court in the civil action also held that Boucher knowingly violated the securities laws while acting as an investment adviser and permanently enjoined him from further violations of those laws. As described below,

the public interest would best be served by permanently barring Boucher from the securities industry.

**C. The Public Interest Requires a Permanent Industry Bar Against Respondent**

The Commission should permanently bar Boucher from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization. Section 15(b) of the Exchange Act and Section 203(f) of the Advisers Act authorize the Commission to bar a person associated with a broker-dealer and investment adviser, respectively, either currently or at the time of the alleged misconduct, from being associated with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, if the Commission finds, on the record after notice and opportunity for a hearing, that such person was associated with a broker-dealer and investment adviser at the time of the alleged misconduct, that such a bar “is in the public interest,” and that the person is enjoined from certain violations of the federal securities laws, including, for the purposes of this proceeding, violations of the Securities Act, Exchange Act, and Advisers Act. 15 U.S.C. § 78o(b)(6)(A).

Accordingly, to prevail in this proceeding, the Division must establish that (1) Boucher is, or was at the time of the misconduct, associated with a broker-dealer and investment adviser, (2) Boucher has been enjoined from violating the federal securities laws, and (3) it is in the public interest to impose the bar against him. *Id.* As to the first two factors, there is no dispute. First, Boucher was associated with an investment adviser and broker-dealer when he engaged in the misconduct at issue; he admitted to defrauding these clients as an investment adviser in his plea agreement. Ex. 17 at 4:13-19. The court in the civil action also held that he violated the federal securities laws while acting as an investment adviser (Ex. 9 at 15:20-16:2), and Boucher was a

dually registered investment advisor and broker-dealer representative of Raymond James Financial Services, Inc. (attached hereto as Ex. 23). Second, the District Court has already enjoined Boucher from violating the federal securities laws, including Sections 206(1) and 206(2) of the Advisers Act, which make it unlawful for investment advisers to engage in fraud. Ex. 12 at 2-3.

As to the third factor, to show that it is in the public interest to impose the requested bar on Boucher, the Commission considers the factors identified in *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979), *aff'd on other grounds*, 450 U.S. 91 (1981); *see also In the Matter of Lawrence Allen DeShetler*, Advisers Act Release No. 5411, 2019 SEC LEXIS 4724, at \*5-6 (Nov. 21, 2019) (applying *Steadman* factors in follow-on proceeding). The *Steadman* factors are (1) the degree of scienter involved, (2) the isolated or recurrent nature of the infraction, (3) the respondent's recognition of the wrongful nature of his conduct, (4) the likelihood that the respondent's occupation will present opportunities for future violations, (5) the sincerity of the respondent's assurances against future violations, and (6) the egregiousness of the respondent's actions. *Steadman*, 603 F.2d 1140. The inquiry is a flexible one, with no one factor being dispositive in determining the public interest. *Imperato*, 2015 SEC LEXIS 1377, at \*16. The Commission also considers the deterrent effect of administrative sanctions. *Id.* Industry bars have long been considered effective deterrence. *Id.* at \*17-18.

#### **1. Respondent's Misconduct Demonstrated a High Level of Scienter**

The court's ruling in the civil action and Boucher's own admissions in his plea agreement establish that he acted with a high degree of scienter, which is the first of the *Steadman* factors. Scienter is established by "knowing or reckless conduct." *Vernazza v. S.E.C.*, 327 F.3d 851, 860 (9th Cir.), *amended*, 335 F.3d 1096 (9th Cir. 2003). When a violator intends to "deceive, manipulate, or defraud" his client, he has acted with scienter. *SEC v. Steadman*, 967 F.2d 636, 641

(D.C. Cir. 1992). Courts have found that misuse of client funds for personal expenses can prove “intent to defraud” and demonstrate a high level of scienter. *United States v. Booth*, 309 F.3d 566, 575 (9th Cir. 2002); *see also SEC v. Reynolds*, No. 1:06-cv-1801, 2010 U.S. Dist. LEXIS 106822, at \*13 (N.D. Ga. Oct. 5, 2010). Efforts to conceal the fraud or destroy documents as or after the scheme falls apart, further demonstrates a high level of scienter. *SEC v. Duncan*, No. 2:08-cv-1323, 2009 U.S. Dist. LEXIS 154152, at \*29-30 (C.D. Cal. July 6, 2009).

The court in the civil action found that Boucher acted with scienter as he knowingly sold securities in the accounts of his clients and knowingly misappropriated the funds without authorization from the clients for his personal use. Ex. 9 at 15:2-13, 16:9-16, 22:3-9. Boucher admitted to knowingly and intentionally engaging in a scheme to defraud in his plea agreement, which included admitting that he misappropriated money and assets from the clients and concealed the thefts by making materially false, fraudulent, and misleading statements and omitting material facts from them. Ex. 17 at 3:4-19, 4:6-5:19.

Demonstrating a high level of scienter, Boucher admitted on a recorded call and in his plea agreement that he knowingly and repeatedly had written forged checks using Ms. Lennard’s checkbook to pay his credit card bills, and he admitted in writing and in his plea agreement, that the disbursements were made without her approval. Ex. 9 at 16:19-17:26; Ex. 17 at 3-4. With respect to the Kings, who denied that they had authorized or knew of the wire transfer to the car dealership, Boucher had called Charles Schwab pretending to be the client to answer security questions and verify the client’s signature for the release of the wire transfer. Ex. 9 at 21:15-17. When asked by the car dealership why the wire transfer had come from Mr. King, Boucher, who knew the funds were from the client, claimed that Charles Schwab had made an error. *Id.* at 21:13-15. In his plea agreement, Boucher again admitted that he had misappropriated the funds to

purchase a sports car for his own personal benefit without the knowledge or consent of the client. Ex. 17 at 5:1-4. Finally, with respect to Ms. Hendry, Boucher admitted in his plea agreement that he had attempted to misappropriate funds from her estate that were intended for a charitable organization, and, in an effort to conceal his scheme, transferred misappropriated funds to a newly created trust account named for the deceased client. *Id.* at 5:5-16.

Further demonstrating a high level of scienter, Boucher admitted in his plea agreement that he knowingly produced false, fraudulent, and misleading documents to the SEC to conceal his material scheme to defraud his clients and to willfully obstruct the SEC's investigation, its civil case, and any criminal case. *Id.* at 5:20-24. At sentencing, the Department of Justice noted that one of these documents included a falsified letter from Ms. Hendry that Boucher had provided to the beneficiary of her estate. Ex. 18 at 12. The Federal Bureau of Investigations, through a forensic examiner, determined that the DNA from the sealing of this letter, which Boucher had claimed to have discovered unopened in the home of Ms. Hendry was 640 quintillion ( $6.4 \times 10^{20}$ ) more likely contributed by Boucher than an unknown, unrelated person. *Id.* at 12:6-20.

## **2. Respondent's Misconduct Was Not Isolated but Recurrent**

The court's ruling in the civil action and Boucher's own admissions in the plea agreement establish that Boucher's misconduct was not isolated but recurrent, which is the second *Steadman* factor. Courts employ two primary measures of whether a violation of the securities law was isolated or recurrent. The first factor is the length of time for which the violations persisted. *Compare, SEC v. Opulentica LLC*, 479 F. Supp. 2d 319, 329 (S.D.N.Y. 2007) (finding that a violation was not "a single, isolated incident" where the violation arose out of "a continuing course of wrongful conduct of more than eighteen months"), *with SEC v. Snyder*, No. 4:03-cv-4658, 2006 U.S. Dist. LEXIS 81830, at \*26 (S.D. Tex. Aug. 22, 2006) (characterizing as isolated four separate

violations over a period of a few months). The second factor is whether the defendant is a first-time or repeat offender. *See SEC v. Gunn*, No. 3:08-cv-1013, 2010 U.S. Dist. LEXIS 88164, at \*18-19 (N.D. Tex. Aug. 25, 2010).

Here, although Boucher was a first-time offender, the length of time for which the violations persisted was substantial. Boucher perpetrated his fraudulent scheme for nearly a decade. Boucher started to misappropriate funds from Ms. Lennard's accounts as early as December 15, 2010, and continued to misappropriate funds for nearly nine years from her accounts at two different investment advisers – Raymond James Financial Services, Inc. from 2010 through 2016 and SCF Investment Advisers, Inc. from 2016 through 2019. Further, Boucher made at least 77 unauthorized transactions from Ms. Lennard's accounts. Boucher's violations were also not isolated to one client, as he also misappropriated client funds from the Kings and Ms. Hendry. Boucher's misconduct therefore was not isolated but recurrent.

**3. Respondent Has Not Actually Acknowledged the Wrongfulness of His Behavior nor Given Sincere Assurances Against Future Violations**

The third and fifth *Steadman* factors pertain to whether Boucher has recognized the wrongful nature of his conduct and the sincerity of his assurances against future violations. Courts have found that it is unlikely that a defendant recognizes the wrongful nature of his conduct if his continued protestations of innocence are unreasonable or lack a plausible basis in the evidence. *See e.g., SEC v. Lauer*, No. 9:03-cv-80612, 2008 U.S. Dist. LEXIS 73026, at \*93 (S.D. Fla. Sept. 24, 2008) (concluding that assurances against future violations are not credible where the defendant “maintains a position of innocence in the face of overwhelming evidence to the contrary”). Courts have also found that if a defendant is dishonest, exhibits a lack of candor, or offers inconsistent testimony suggests a reasonable likelihood of future violations. *See e.g., SEC v. Holschuh*, 694

F.2d 130, 145 (7th Cir. 1982).

Here, although Boucher pled guilty to a count of wire fraud and admitted to the facts concerning the misappropriation of funds from his investment advisory clients, his actions during the Division's investigation and after the entry of his guilty plea demonstrate that he has not actually recognized the wrongful nature of his conduct. First, Boucher knowingly produced false, fraudulent, and misleading documents to the SEC to conceal his material scheme to defraud his clients and to willfully obstruct the SEC's investigation, its civil case, and any criminal case. Ex. 17 at 5:20-24. Second, in his objections to the Division's motion for summary judgment, Boucher maintained a claim of innocence despite overwhelming evidence to the contrary – in writing and on a recorded call, he had admitted writing unauthorized checks on Ms. Lennard's account, and, on a second recorded call from his phone, he authorized a wire transfer for the purchase of a sports car by pretending to be the client. Ex. 9 at 16:21-17:26, 21:15-17. Third, despite entering into a plea agreement on January 29, 2024, Boucher appealed the court's final judgment in the civil matter on March 10, 2024. Ex. 13. These actions demonstrate that despite the plea agreement, Boucher has not truly acknowledged the wrongful nature of his conduct.

The court's findings related to Boucher's February 24, 2024, motion for compassionate release from his criminal sentence because of certain purported medical conditions further demonstrate that Boucher has not acknowledged the wrongful nature of his conduct. *See* Defendant's Motion for Compassionate Release. In denying his motion, the court stated that Boucher had misrepresented his medical conditions on several occasions to the court including at trial (Ex. 20 at 2:18-3:28), and that early release, as requested, would not reflect the seriousness of his offense, nor the depth to which his victims were hurt by his conduct. *Id.* at 6:17-25. According to the court, Boucher has demonstrated a confidence that he can, as told one victim, "beat the

system,” and he has consistently demonstrated a willingness to lie and scheme about his medical conditions if he thinks it will help him. *Id.* at 6:19-20, 1:26-28. The court was not convinced that early release would deter Boucher from future criminal conduct and, thus, would not protect the public from Boucher’s further crimes. *Id.* at 6:21-25.

Boucher has made assurances to the Division that he is not interested in acting as an investment adviser or broker-dealer in the future, and hence will not further violate the federal securities laws, as his medical conditions will not allow him to act in such a capacity. But again, as noted by the court in denying his motion for compassionate release, Boucher has lied and schemed about his medical conditions, and therefore, his assurances are not reliable.

#### **4. Respondent Will Have Opportunities for Future Violations**

If a person is a securities professional, there is a likelihood that their occupation will present them with the opportunity for future violations, the fifth *Steadman* factor. *See Thornton v. SEC*, 1999 U.S. App. LEXIS 39397, at \*8 (5th Cir. Oct. 22, 1999) (per curiam) (“As long as he has a license to work as a registered representative, he will have opportunities . . . to compromise the interest of clients.”). Here, during his fraudulent scheme, Boucher was a registered representative and a licensed securities professional. If allowed to reapply for registration, Boucher will have opportunities to continue compromising the interest of clients.

Boucher has claimed to the contrary, however, that he will not have the capacity to reapply as a registered representative or act as investment adviser or broker-dealer in the future, claiming that he will rely solely on medical disability payments from the Department of Veteran Affairs. As noted previously, Boucher has lied and schemed about his medical condition and admitted to producing false, fraudulent, and misleading documents to the SEC to conceal his material scheme. Ex. 20 at 1:26-28; Ex. 17 at 5:20-24. Further, as his medical disability payments are not

substantial, Boucher may become motivated to commit future violations as a securities professional.

### **5. Respondent's Misconduct Was Egregious**

The court's ruling in the civil action and Boucher's own admissions in the plea agreement establish that his misconduct was egregious, which is the sixth of the *Steadman* factors. Courts have relied on the presence of one or more aggravating factors when concluding that a violation of the securities laws is egregious: (i) the violation was flagrant and deliberate as opposed to merely technical in nature, (ii) the violation was also a breach of a fiduciary duty, (iii) caused others to suffer significant losses, or (iv) the violation arose out of a complex or elaborate scheme to defraud. *See Gunn*, 2010 U.S. Dist. LEXIS 88164, at \*12-13. By contrast, when a court concludes that a violation was not egregious, a mitigating factor is present, principally that the defendant did not personally profit from the violation or the amount was *de minimis*. *Gunn*, 2010 U.S. Dist. LEXIS 88164, at \*17-18 (finding that a profit of \$100,000 was not *de minimis*).

Here, Boucher's violations were egregious as he engaged in a multi-year and multi-victim fraudulent scheme that he solely orchestrated for his own benefit, taking advantage of his clients' trust by abusing longtime fiduciary relationships. The court in the civil action held, and Boucher admitted in his plea agreement, that he knowingly and intentionally defrauded these investment advisory clients. Ex. 17 at 4:6-5:19. As a result, his violations cannot be said to be merely technical in nature, but flagrant and deliberate. Boucher also caused Ms. Lennard, and attempted to cause Ms. Hendry's estate, substantial losses, misappropriating around \$669,000 over at least nine years from Ms. Lennard and attempting to misappropriate at least \$1.5 million from Ms. Hendry's estate. Ex. 3 at 3:15-17, 4:4-7, 11:1-25; Ex. 9 at 23:13-22. By misappropriating client funds to pay for his personal expenses, including vacations and a sports car, Boucher personally profited from his

violations in amounts that were not *de minimis*. Ex. 12 at 3-4 (ordering disgorgement and prejudgment interest of \$784,798 from the violations).

**V. CONCLUSION**

For the foregoing reasons, the Division respectfully requests that its motion for summary disposition against Respondent be granted and that Boucher be barred from association with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

Dated: May 11, 2026

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I certify that on May 11, 2026, I caused a copy of the forgoing to be mailed by U.S. Mail to Respondent Mark J. Boucher.



Matthew B. Reisig