

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

DONNA JESSEE TUCKER,

Defendant.

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: **Civil Action No. 7:14-cv-00398**
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COMPLAINT

Plaintiff Securities and Exchange Commission (the “Commission”) alleges as follows:

SUMMARY

1. This matter involves the misappropriation of customer funds and other fraudulent conduct by Defendant Donna Jessee Tucker (“Tucker”) while she was employed as a registered representative in the Roanoke, Virginia branch office of a broker-dealer registered with the Commission (the “Brokerage Firm”).

2. From at least January 2008 through April 2013, Tucker misappropriated \$730,289 from elderly customers of the Brokerage Firm by engaging in an elaborate fraudulent scheme. Among other things, Tucker engaged in unauthorized trading and other financial transactions, made misrepresentations to such customers about their investment accounts, and forged brokerage, banking and other documents.

3. Tucker concealed her fraud through oral and written misstatements to her elderly customers, some of whom were legally blind, including the fabrication of false account

statements. Tucker also ensured that these customers only received their monthly account statements electronically, knowing that they were unable and/or unwilling to access such statements.

4. Tucker used the misappropriated funds for her personal benefit, paying her day-to-day expenses and funding a comfortable lifestyle including vacations, three vehicles, clothing and a country club membership.

5. By knowingly or recklessly engaging in the conduct described in this complaint, Defendant Tucker violated, and unless enjoined 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.

JURISDICTION AND VENUE

6. The Commission brings this action pursuant to Section 20(b) of the Securities Act [15 U.S.C. § 77t(b)] and Section 21(d) of the Exchange Act [15 U.S.C. §§ 78u(d)] to enjoin such acts, transactions, practices and courses of business and to obtain disgorgement, and such other and further relief as the Court may deem just and appropriate.

7. This Court has jurisdiction over this action pursuant to Sections 20(b) and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b) and 77v(a)] and Sections 21(d) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d) and 78aa].

8. Venue in this district is proper pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Section 27 of the Exchange Act [15 U.S.C. § 78aa]. Among other things, certain of the acts, transactions, practices and courses of business constituting the violations alleged herein occurred within the Roanoke Division in the Western District of Virginia. In

addition, Defendant Tucker resides within the Roanoke Division in the Western District of Virginia.

DEFENDANT

9. **Donna Jessee Tucker**, age 58, resides in Roanoke, Virginia. During all relevant times, Tucker was a registered representative associated with the Brokerage Firm, and was located in its Roanoke, Virginia branch office. She previously held Financial Industry Regulatory Authority (“FINRA”) Series 7 and 66 licenses. FINRA has barred Tucker from association with any FINRA member in any capacity following Tucker’s failure to respond to FINRA’s requests for information in connection with the fraudulent conduct described in this complaint.

FACTS

Tucker Misappropriated Funds from Customer A

10. Between February 2009 and April 2013, Tucker misappropriated approximately \$346,789 from Customer A, a blind couple, residing in Virginia, who had two IRA and two individual brokerage accounts at the Brokerage Firm.

11. Tucker befriended Customer A and gained their trust. She assisted Customer A with some of their medical needs. Tucker also assisted Customer A with paying their monthly bills, which allowed Tucker access to Customer A’s checkbook linked to one of their brokerage accounts with the Brokerage Firm.

12. Tucker, however, took advantage of Customer A’s trust. Throughout the period of the conduct, Tucker repeatedly engaged in unauthorized transactions in Customer A’s brokerage account to generate cash, forged checks made out to “cash” from the account, and then cashed the checks at a credit union. For example, on August 13, 2009, Tucker redeemed 1,700 shares of a mutual fund, Nuveen Tax Advance Total Return Strategy Fund (“JTA”), generating

proceeds of \$22,733. Between September 8 and September 25, 2009, Tucker withdrew \$16,350 from Customer A's brokerage account by forging checks made out to "cash" and, subsequently, cashing such checks for her benefit.

13. Tucker concealed her fraud from Customer A, in part, by convincing them to conduct their banking online and arranging for them only to receive their statements from the Brokerage Firm electronically. Tucker knew that they could neither access nor review their statements online.

14. Tucker further concealed the scheme by lying to Customer A about their holdings and providing them with fabricated documents reflecting fictitious brokerage account balances.

15. In fact, after Tucker secretly withdrew funds from Customer A's IRA account, the IRS sent Customer A a delinquency letter in March 2011 concerning their failure to pay taxes on the premature distribution from the IRA account. When confronted, Tucker falsely told Customer A that the letter was sent in error and that the money remained in the IRA account. To support her cover story, Tucker furnished Customer A with a falsified brokerage statement from the Brokerage Firm that she had altered to show that Customer A's funds remained in the account. She also gave Customer A a fake letter that she claimed she sent to the IRS to resolve the delinquency issue.

16. Through this fraudulent conduct, Tucker liquidated almost all of the assets in the four accounts held by Customer A at the Brokerage Firm, resulting in the accounts running very low balances and checks being returned for insufficient funds. In order to avoid detection, Tucker convinced Customer A to stop issuing checks from their brokerage account at the Brokerage Firm and, instead, to conduct their banking and check writing from their account at another bank.

17. To further conceal her illicit conduct, Tucker again lied to Customer A, telling them that she would automatically transfer investment returns monthly to the account at the other bank. In reality, to dupe Customer A into believing the couple was still receiving investment returns, Tucker deposited money into Customer A's bank account using funds that she had misappropriated from another customer's line of credit, as further described in this complaint.

Customer B

Tucker Misappropriated Funds from Customer B

18. Between August 2010 and January 2013, Tucker defrauded Customer B—an elderly couple, residing in Virginia, who had three accounts at the Brokerage Firm—by forging their signatures to obtain a line of credit in their name through a bank affiliate of the Brokerage Firm (the “Bank”). She then diverted \$383,500 in loan proceeds to her personal bank accounts.

19. The Bank lines of credit are available to brokerage customers of the Brokerage Firm. The loans are collateralized by the securities in customers' brokerage accounts, and can be used for general purposes. The lines of credit cannot be used to purchase, carry or trade securities.

20. In August 2010, Tucker completed a credit line application on Customer B's behalf, without their authorization or knowledge, and pledged the securities in their brokerage accounts as collateral for the loan. She forged Customer B's signatures on the credit line application.

21. Approximately one year later, on August 3, 2011, Tucker emailed her assistant at the Brokerage Firm, known as a client service associate (“CSA”), falsely claiming that, instead of using a traditional mortgage, Customer B wanted to borrow funds against the Bank line of credit to buy a house. To accomplish this, Tucker stated that she intended to wire \$295,000 from

the line of credit to her personal credit union account, claiming, falsely, that she had a letter from Customer B authorizing the transfer.

22. Later that day, Tucker took steps to ensure that Customer B did not learn of the unauthorized credit line. Tucker instructed her CSA to enroll Customer B to receive all account notifications electronically at a personal email address belonging to Tucker. Tucker then lied to Customer B in an email in which she claimed that the electronic delivery of the Brokerage Firm account statements was now mandatory.

23. Thereafter, Tucker instructed her CSA to print out copies of Customer B's brokerage statements for their three accounts and mail them to Customer B, excluding the "general summary" of the accounts, which referenced the Bank line of credit, and the statements relating to the Bank line of credit.

24. On August 4, 2011, Tucker instructed her CSA to wire the \$295,000 from Customer B's Bank line of credit to Tucker's personal account at a credit union.

25. Between August 4, 2011, and December 26, 2012, Tucker caused to be wired at least eighteen separate disbursements against Customer B's line of credit, ranging from \$600 to \$13,000, to accounts that Tucker controlled at the Brokerage Firm and two credit unions.

26. Tucker forged all of the letters of authorization required for the disbursements from the Bank line of credit.

Tucker's Other Fraudulent Conduct

27. Between January 2008 and March 2013, Tucker defrauded Customer C, another elderly couple, by misrepresenting the value of their accounts at the Brokerage Firm. Customer C originally invested \$250,000 with Tucker, who made monthly disbursements to them under the false pretense that the funds disbursed represented investment returns.

28. Tucker repeatedly lied to Customer C about their investment performance and account balance. In early 2008, Tucker told them that the earnings on their investments could cover a monthly disbursement of \$2,100 to fund their living expenses. In reality, the account did not generate a positive investment return and, in fact, lost money.

29. Between January 2008 and Spring 2012, Tucker repeatedly liquidated securities in Customer C's account to fund the withdrawals covering Customer C's living expenses. Tucker's unauthorized actions were also calculated to conceal Tucker's frequent, unprofitable trading activity in Customer C's account. Tucker typically bought and sold securities for short durations with no discernable investment strategy, causing significant losses in the account.

30. Nonetheless, Customer C relied on Tucker's representations, and accepted the monthly disbursement, believing it to be drawn from the returns on their investments when in fact Tucker was simply sending them a portion of their principal. Customer C continued to provide Tucker with funds to be deposited into their account, including \$26,000 in July 2009.

31. The combination of Tucker's mismanagement of Customer C's account, and monthly payments to them under the guise of investment returns, resulted in the complete dissipation of the account by Spring 2012. In order to hide her conduct, Tucker funded some of the disbursements with proceeds from Customer B's line of credit. She later convinced Customer C to use their home equity line of credit to fund their living expenses instead of the professed return on their investments.

32. Tucker also falsely told Customer C that she had placed their assets in a special account at the Brokerage Firm that would better preserve and grow their existing principal balance. Tucker then sent Customer C fake brokerage statements that purported to show appreciating account values in excess of \$250,000. Tucker further concealed her conduct by

ensuring that Customer C only received their statements from the Brokerage Firm electronically, knowing that they would not access their accounts online.

33. In addition, Tucker lied to Customers D, E and F about their investment performance by, among other things, providing them with forged documents purportedly corroborating her false claims.

34. In 2012, for instance, Tucker misled Customer D, who had invested approximately \$655,000 with Tucker, concerning a \$32,000 loss Customer D had sustained as a result of Tucker's purchases and sales of bonds in two of Customer D's brokerage accounts. Tucker lied to Customer D, claiming that she did not suffer any losses and that the bonds were insured.

35. When Customer D disputed Tucker's claims, Tucker sent her a series of forged letters between May 17, 2012, and July 20, 2012—purportedly from the CFOs of the two companies that issued the bonds—stating that Customer D's principal had been deposited to her account.

36. About two weeks after receiving Tucker's fraudulent letters, Customer D purchased a total of \$517,269 in mutual funds and bonds, using some of the proceeds from the sales of the two bonds from which Tucker had claimed Customer D had not suffered any losses.

37. Similarly, Tucker lied to Customer E, a couple who had invested approximately \$177,000 with Tucker, concerning \$14,000 in losses they had suffered as a result of Tucker's purchases and sales of bonds in their two accounts. As with Customer D, Tucker falsely told Customer E that they did not suffer any losses.

38. When Customer E questioned Tucker's claims, on May 31, 2012, and July 31, 2012, Tucker sent them several letters purportedly from the Fixed Income Department at the

Brokerage Firm claiming that the principal of the bonds would be deposited into their account at the Brokerage Firm overnight. These letters were false and forged by Tucker.

39. In or around the time they received these letters, Tucker caused Customer E to purchase \$52,474 of additional bonds, using some of the proceeds from the sale of one of the two bonds.

40. Based on Tucker's misrepresentations regarding these investments, Customers D and E continued to invest with Tucker.

41. In another instance, Tucker lied to Customer F, a 79-year old customer, about Tucker's use of a margin account to fund the customer's monthly car payment. Tucker had previously assured Customer F that she had sufficient funds to support a car payment, and that Tucker would fund the payments through investment returns or sales of assets within her account. Tucker funded the car payments, however, through a margin account without informing or otherwise obtaining Customer F's approval. By the time Tucker's fraudulent conduct was discovered, she had caused a debit balance of approximately \$21,500 in Customer F's account.

Tucker's Fraud Is Discovered

42. By late March 2013, Tucker's fraud was discovered, which resulted in her resignation from the Brokerage Firm on April 1, 2013. Following Tucker's resignation, the Brokerage Firm conducted an internal review of Tucker's customer complaints and reimbursed several customers, including those discussed in this complaint, for the losses incurred as a result of Tucker's fraudulent conduct.

FIRST CLAIM FOR RELIEF

Violations of Section 17(a) of the Securities Act

43. The Commission realleges and incorporates by reference each and every allegation in paragraphs 1 through 42, inclusive, as if they were fully set forth herein.

44. By engaging in the conduct described above, Defendant Tucker, knowingly or recklessly, in the offer or sale of securities, directly or indirectly, by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails:

- a. employed devices, schemes, or artifices to defraud;
- b. obtained money or property by means of an untrue statement of a material fact or an omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- c. engaged in transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon the purchaser.

45. By engaging in the foregoing conduct, Defendant Tucker violated, and unless enjoined will continue to violate, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

SECOND CLAIM FOR RELIEF

Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder

46. The Commission realleges and incorporates by reference each and every allegation in paragraphs 1 through 45, inclusive, as if they were fully set forth herein.

47. By engaging in the conduct described above, Defendant Tucker, knowingly or recklessly, in connection with the purchase or sale of securities, directly or indirectly, by the use of any means or instrumentalities of interstate commerce, or of the mails, or of any facility of any national securities exchange:

- a. employed devices, schemes, or artifices to defraud;
- b. made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- c. engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any person.

48. By engaging in the foregoing conduct, Defendant Tucker violated, and unless enjoined will continue to violate, 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.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that the Court enter a final judgment:

I.

Permanently restraining and enjoining Tucker and her agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, from violating, directly or indirectly, 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.

Ordering Tucker to disgorge any and all ill-gotten gains derived from the activities set forth in this complaint; and

III.

Granting such other and further relief as this Court may deem just and appropriate.

Respectfully submitted,

Dated: July 31, 2014.

/s/ Christopher R. Kelly_____

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