UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, v. YASUNA MURAKAMI; AVI CHIAT; MC2 CAPITAL MANAGEMENT, LLC; MC2 CANADA CAPITAL MANAGEMENT, LLC; Defendants, And MC2 CAPITAL PARTNERS, LLC; MC2 CAPITAL VALUE PARTNERS, LLC; MC2 CAPITAL CANADIAN OPPORTUNITIES FUND, LLC, Relief Defendants	)	Case No. JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Securities and Exchange Commission (the "Commission") alleges the following against the defendants, Yasuna Murakami ("Murakami"); Avi Chiat ("Chiat"); MC2 Capital Management, LLC ("MC2 Capital"); and MC2 Canada Capital Management, LLC ("MC2 Canada"); and the relief defendants, MC2 Capital Partners, LLC (the "Partners Fund"); MC2 Capital Value Partners, LLC (the "Value Fund"); and MC2 Capital Canadian Opportunities Fund, LLC (the "Canadian Fund"), and hereby demands a jury trial:

PRELIMINARY STATEMENT

1. From 2007 to 2016, Yasuna Murakami and Avi Chiat defrauded more than 50 investors in three hedge funds run by their two-person investment advisory businesses, MC2

Capital and MC2 Canada, and violated their fiduciary duties as advisers to those funds, by lying to investors about the funds' performance in falsified account statements, falsified tax documents, falsified performance letters, and other misleading communications.

2. Murakami and Chiat raised more than $15 million from investors, and misled investors into believing they had invested it profitably. In reality, through unprofitable trading Murakami and Chiat lost more than 70% of the money raised for their first hedge fund in less than two years, and over nearly a decade Murakami stole more than $8 million of investor funds and spent those funds on personal and business expenses. Murakami used an additional $1.3 million of investor funds to make Ponzi-like payments to earlier investors as purported investment gains, using money he misappropriated from later investors. Chiat misled investors and prospective investors not only by lying about the performance of the funds, but also by omitting to inform them of many important facts suggesting there was a high risk that Murakami was stealing investor money.

3. By virtue of the defendants' fraudulent conduct, which is detailed further herein, the defendants engaged in:

a. fraud or deceptive conduct in connection with the purchase or sale of securities, in violation Section 10(b) of the Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 thereunder;

b. fraud in the offer or sale of securities, in violation of Section 17(a) of the Securities Act of 1933 ("Securities Act");

c. fraud or deceptive conduct upon advisory clients in violation of Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 ("Advisers Act"); and

d. fraud or deceptive conduct by an investment adviser to a pooled investment vehicle, in violation of Section 206(4) of the Advisers Act and Rule 206(4)-8 thereunder.

4. Murakami and Chiat also aided and abetted MC2 Capital's and MC2 Canada's violations of Sections 206(1), (2) & (4) of the Advisers Act and Rule 206(4)-8 promulgated thereunder.

5. The Commission seeks a permanent injunction and disgorgement pursuant to Section 21(d)(1) of the Exchange Act, 15 U.S.C. § 78u(d)(1), Section 20(b) of the Securities Act, 15 U.S.C. § 77t(b), and Section 209(d) of the Advisers Act, 15 U.S.C. § 80b-9(d). The Commission seeks the imposition of civil penalties pursuant to Section 21(d) of the Exchange Act, 15 U.S.C. § 78u(d), Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 209(e) of the Advisers Act, 15 U.S.C. § 80b-9(e).

JURISDICTION

6. This Court has jurisdiction over this action pursuant to Sections 21(d), 21(e), and 27 of the Exchange Act, 15 U.S.C. §§ 78u(d), 78u(e), & 78aa, Sections 20(d) and 22(a) of the Securities Act, 15 U.S.C. §§ 77t(d), 77v(a), and Sections 209(d), 209(e), and 214 of the Advisers Act, 15 U.S.C. §§ 80b-9(d), 80b-9(e), 80b-14.

7. Venue is proper in this District because the individual defendants reside in Massachusetts, all defendants transacted business in Massachusetts, and many investors are located here.

8. In connection with the conduct described in this Complaint, the defendants directly or indirectly made use of the mails or the means or instruments of transportation or communication in interstate commerce.

9. The defendants' conduct has involved fraud, deceit, or deliberate or reckless disregard of regulatory requirements, and has resulted in substantial loss, or significant risk of substantial loss, to other persons.

DEFENDANTS

10. **Yasuna Murakami** is a resident of Cambridge, Massachusetts. Since 2007, Murakami has been a partner and portfolio manager at MC2 Capital. Since 2011, Murakami has been a partner and portfolio manager at MC2 Canada. Since 2007, Murakami has solicited investments in three hedge funds he created and managed through MC2 Capital and MC2 Canada. On December 19, 2016, Murakami appeared before officers of the Commission to provide sworn testimony and asserted his Fifth Amendment privilege against self-incrimination in response to all questions regarding MC2 Capital, MC2 Canada, and the three hedge funds he operated.

11. **Avi Chiat** is a resident of Wellesley, Massachusetts. Between August 2007 and 2015, Chiat was a partner and portfolio manager at MC2 Capital. Between 2011 and 2015, Chiat was a partner and portfolio manager at MC2 Canada. In 2007, Chiat was registered with the Financial Industry Regulatory Authority, Inc., and the Commonwealth of Massachusetts as a registered representative of a brokerage firm. Those registrations were terminated on July 18, 2007. From May 2015 to April 2017, Chiat was registered with the Commonwealth of Massachusetts as an investment adviser representative at a Cambridge, Massachusetts investment advisory firm. Chiat is an attorney who was admitted to the Massachusetts bar on June 20, 2016, and is currently an inactive member.

12. **MC2 Capital Management, LLC** ("**MC2 Capital**") is a limited liability company organized on August 17, 2007, in the Commonwealth of Massachusetts, with a

principal place of business in Cambridge, Massachusetts. Murakami and Chiat were the sole managers of MC2 Capital. MC2 Capital was the Managing Member of and investment adviser to two hedge funds, the Partners Fund and the Value Fund, and was responsible for the funds' investments and day-to-day activities. MC2 Capital has never registered with the Commission.

13. **MC2 Canada Capital Management, LLC** ("**MC2 Canada**") is a limited liability company organized on May 18, 2011, in the Commonwealth of Massachusetts, with a principal place of business in Cambridge, Massachusetts. MC2 Canada was the Managing Member of and investment adviser for the Canadian Fund. Murakami, Chiat, and Donville Kent Asset Management Inc. ("Donville Kent") were members of MC2 Canada, which entitled each to share in the management and performance fees from managing the Canadian Fund. From 2011 to May 2015, Donville Kent managed the Canadian Fund's investments. MC2 Canada has never registered with the Commission.

RELIEF DEFENDANTS

14. **MC2 Capital Partners, LLC** (the "**Partners Fund**"), is a limited liability company organized on August 17, 2007, in the State of Delaware, with a principal place of business in Cambridge, Massachusetts. The Partners Fund is a pooled investment vehicle which was managed by Murakami and Chiat through MC2 Capital. The Partners Fund has never registered with the Commission.

15. **MC2 Capital Value Partners, LLC** (the "**Value Fund**"), is a limited liability company organized on August 28, 2008, in the State of Delaware, with a principal place of business in Cambridge, Massachusetts. The Value Fund is a pooled investment vehicle which was managed by Murakami and Chiat through MC2 Capital. The Value Fund has never registered with the Commission.

16. **MC2 Capital Canadian Opportunities Fund, LLC** (the "**Canadian Fund**"), is a limited liability company organized on May 18, 2011, in the State of Delaware, with a principal place of business in Cambridge, Massachusetts. The Canadian Fund is a pooled investment vehicle managed by Murakami, Chiat (until early 2015), and Donville Kent (until May 2015) through MC2 Canada. The Canadian Fund has never registered with the Commission.

STATEMENT OF FACTS

I. Fund and Investment History

A. MC2 Capital and The Partners Fund

17. In August 2007, Yasuna Murakami and his business partner Avi Chiat launched a hedge fund advisory firm, MC2 Capital, and their first hedge fund, the Partners Fund.

18. The Partners Fund was set up as a limited liability company, or LLC, a corporate structure through which the "members" of the LLC are entitled to share in the profits of the company. To become an investor in the Partners Fund, an individual purchased an interest in the fund and became a "non-managing member" of the fund. This was done by signing a Subscription Agreement and providing the amount of their investment to the Managing Member, MC2 Capital. The Subscription Agreement provided that the terms of the investment were further specified in the fund's Private Placement Memorandum ("PPM"), a document which is typically provided to prospective investors and describes the terms of a private offering for sale of a security.

19. The Partners Fund had a PPM which Murakami and Chiat provided to investors. It described the fund's investment strategy as "based upon the value investing style of the 'Graham & Dodd' school," according to which "the Fund will seek to make investments in companies and sectors whose shares appear to be under-priced. . . ."

20. MC2 Capital was the Managing Member of the Partners Fund, and Murakami and Chiat were the sole Managers of MC2 Capital. MC2 Capital, Murakami, and Chiat acted as investment advisers to the Partners Fund, and were responsible for day-to-day management of its investments. As such, they assumed a fiduciary duty to serve in the best interest of the Partners Fund. Investors in the fund expected to earn profits on their investments, and the success thereof depended solely on the efforts of MC2 Capital, Murakami, and Chiat.

21. According the Partners Fund's PPM, MC2 Capital was entitled to be compensated for investment adviser services it provided to the Partners Fund by (1) a monthly management fee, equal to one-twelfth of 2% of the fund's Net Asset Value[1] ("NAV"), and (2) a performance fee of 20% of any increase in the NAV for each quarter, subject to a "high water" provision.[2] The PPM further represented that MC2 Capital would be permitted a $50,000 advance, purportedly to pay for setup costs, which was to be credited against future management fees.

22. Murakami and Chiat raised $2,043,580 in Partners Fund investments in 2007, primarily from relatives of Chiat, but also including $200,000 invested by Murakami and $100,000 by Chiat.

23. Murakami and Chiat used this money to trade in securities on behalf of the Partners Fund using a brokerage account in the name of the Partners Fund. Partners Fund investors sent their money to the fund's brokerage account by wire or check, where it could then be utilized for trading. Murakami and Chiat directed the Partners Fund's trading.

[1] A fund's "Net Asset Value" is the value of its assets minus its liabilities.

[2] A "high water" provision prevents the payment of a performance fee when more recent investment returns do not make up for previous investment losses, *i.e.*, the fund remains below its "high water" mark.

24. In November 2007, Murakami's and Chiat's trading resulted in substantial losses for the Partners Fund. By the end of 2007, the fund had only $1,388,610 in total assets, having lost nearly one-third of its value.

25. In 2008, Murakami and Chiat raised an additional $1,637,000 in investments in the Partners Fund.

26. In March 2008, Murakami began systematically misappropriating investor money from the Partners Fund. Murakami directed wires of money from the brokerage account to bank accounts he controlled in the names of MC2 Capital Management LLC and MC2 Capital Partners, LLC. Murakami then used these funds for personal and business expenses, including meals, travel, and paying his personal credit card bills.

27. Murakami's and Chiat's trading continued to result in substantial losses for the Partners Fund in 2008. September and October 2008 were particularly devastating, as the fund lost more than $1.6 million. By the end of 2008, more than 80% the $3.68 million that the Partners Fund had received from investors was gone. Approximately $2.7 million had been lost in unprofitable trading, while $373,130 had been withdrawn by Murakami, leaving the Partners Fund with $598,532 in assets.

28. In 2009 and 2010, Murakami continued to misappropriate investor money from the Partners Fund. At the end of 2010, the fund was left with only $45,372 in assets. In September 2011, Murakami transferred the Partners Fund brokerage account to a different broker, and then drained the account to only a few thousand dollars by the end of November 2011. In total, Murakami withdrew more than $1 million from the Partners Fund, grossly in excess of any fees to which MC2 Capital was entitled. At the end of October 2016, the Partners Fund had less than $3,000 in assets.

B. The Value Fund

29. In August 2008, Murakami and Chiat created a new fund, the Value Fund. Like the Partners Fund, the Value Fund's PPM described a purported value-investing strategy and a compensation structure through which MC2 Capital would be entitled to a monthly management fee (one-twelfth of 2% of the NAV) and a performance fee (20% of the quarterly increase in the NAV, subject to a high water provision).

30. The Value Fund was a pooled investment vehicle, and MC2 Capital was its Managing Member. MC2 Capital, Murakami, and Chiat acted as investment advisers to the Value Fund, and were responsible for day-to-day management of its portfolio. As such, they assumed a fiduciary duty to serve in the best interest of the Value Fund. Investors in the fund expected to earn profits on their investments, and the success thereof depended solely on the efforts of MC2 Capital, Murakami, and Chiat.

31. Murakami and Chiat struggled initially to raise investments in the Value Fund, receiving $250,000 from one investor in November 2008 and nothing in 2009. From 2010 to 2013, Murakami and Chiat raised an additional $585,000 from four new investors. In total, they raised $835,000 in the Value Fund.

32. Starting in June 2010, Murakami misappropriated substantially all of the Value Fund's assets. Only $700,000 was actually deposited into the Value Fund's brokerage account and traded. The remaining $135,000 was deposited instead into a bank controlled by Murakami, and used for personal and business expenses.

33. Out of the $700,000 that was transferred to the brokerage account and traded, Murakami withdrew $643,438, which he spent on personal and business expenditures, including to cover up his thefts from other funds.

C. The Canadian Fund

34. In 2011, Murakami and Chiat launched another advisory firm, MC2 Canada, and a third hedge fund, the Canadian Fund. Like the earlier funds, the Canadian Fund was set up as a limited liability company in which investors could purchase a membership interest by executing a Subscription Agreement which incorporated the Canadian Fund's PPM. According to the PPM, MC2 Canada was entitled to a monthly management fee (one-twelfth of 2% of the NAV) and a performance fee (20% of the quarterly increase in the NAV, subject to a high water provision).

35. The Canadian Fund was a pooled investment vehicle, and MC2 Canada was its Managing Member. MC2 Canada, Murakami, and Chiat acted as investment advisers to the Canadian Fund and were responsible for its day-to-day management. Accordingly, they assumed a fiduciary duty to serve in the best interest of the Canadian Fund. Investors in the fund expected to earn profits on their investments, and the success thereof depended solely on the efforts of MC2 Canada, Murakami, and Chiat.

36. Murakami, Chiat, and MC2 Canada entered into an arrangement with Donville Kent, a Canadian asset management firm, whereby Donville Kent managed the Canadian Fund's investments. The Canadian Fund's PPM described its objective as "to mimic the investment strategy and investments of the Donville Kent Asset Management Inc. Capital Ideas Fund," which it further described as having the objective to "exceed the annual returns of the S&P 500 or another index whose return mirrors the S&P," using a value-investing strategy.

37. In marketing materials, Murakami and Chiat described the Canadian Fund as being "managed by one of the top performing portfolio managers in Canada," touted the track record of the Capital Ideas Fund, and represented that Donville Kent would be "responsible for the day-to-day operation of the Funds [*sic*] pursuant to management agreements."

38. Murakami and Chiat raised approximately $10.93 million for the Canadian Fund from investors from 2011 to 2016.

39. From the Canadian Fund's inception in 2011 until May 2015, a vice president at Donville Kent directed the trading for the Canadian Fund, using the fund's brokerage account. In exchange for its advisory services, Donville Kent was given a membership interest in MC2 Canada, which entitled Donville Kent to 70% of the management and performance fees earned by MC2 Canada.

40. On February 27, 2015, Donville Kent gave notice of its termination of its relationship with MC2 Canada and the Canadian Fund. Within days, Chiat declared that he would no longer be involved in the Canadian Fund or any MC2 entity, and arranged for family members and several friends to withdraw their investments in the Canadian Fund. Following a 90-day notice period, Donville Kent stopped directing the trading in the Canadian Fund.

41. From 2011 to 2016, Murakami misappropriated at least $6 million from Canadian Fund investors and spent the money on personal and business expenses. He also withdrew approximately $1.3 million from the Canadian Fund and used it to make Ponzi-like payments of purported returns to earlier investors. By the end of November 2016, the Canadian Fund brokerage account was empty.

II. The Defendants Intentionally Misled Investors Regarding the Performance of Their Funds

42. Through MC2 Capital and MC2 Canada, Murakami and Chiat misled investors in the Partners Fund, the Value Fund, and the Canadian Fund. The defendants made these misstatements in writing, in falsified tax documents, inflated individual account statements, and wholly fictitious reports that falsely represented the funds' results. Murakami and Chiat also made these misstatements to investors and prospective investors orally, in person or by phone.

Although Murakami and Chiat held themselves out to investors as investment advisers to the funds, they omitted to state the material facts necessary to make their other statements about the funds not misleading.

43. Murakami and Chiat began making misleading statements to their investors after the Partners Fund suffered substantial trading losses in 2007, and continued to do so during the duration of their work for MC2 Capital. Murakami and Chiat made similar misstatements to investors in the Value Fund, starting in 2008. With respect to both funds, Murakami and Chiat misled investors by reporting false account balances that far exceeded the actual assets of the funds.

44. Murakami's and Chiat's false statements about performance and capital account balances to investors in the Canadian Fund concealed Murakami's misappropriation of investor funds, overstated the fund's performance, and overstated investors' individual capital account balances.

45. At all relevant times, Murakami and Chiat actually knew, or were reckless in not knowing, that their statements to investors about the performance of the funds and that their capital account balances therein were false.

A. The Defendants Provided Investors With Falsified Schedule K-1s

46. MC2 Capital provided investors in the Partners Fund and the Value Fund with Schedule K-1s, a tax form issued annually to investors in a partnership, which reflected account balances for individual investors which Murakami and Chiat knew to be false.

47. MC2 Capital first issued falsified Schedule K-1s to investors in early 2008, regarding balances in the Partners Fund at the end of 2007. As both Murakami and Chiat knew, the Partners Fund was audited after the end of 2007 by an independent audit firm, which

produced audited financial statements for the Partners Fund, and those audited financial statements were provided to Murakami and Chiat. The audited financial statements for the Partners Fund for 2007 reflected substantial trading losses. In addition to its audit, the independent audit firm was tasked with preparing Schedule K-1s for investors in the Partners Fund. To prevent investors from seeing the Partners Fund's trading losses or losses to their account balances, Murakami arranged for the auditor to send investors' Schedule K-1s directly to MC2 Capital, not to investors, and then one or both of Murakami and Chiat fabricated new Schedule K-1s which showed phony trading results and account balances and provided those fabricated Schedule K-1s to investors. For example, MC2 Capital provided one pair of husband and wife investors with a Schedule K-1 for the Partners Fund which claimed only a small loss. In reality, their capital account balance had declined by $505,475, nearly one-third of their investment, according to the auditor.

48. In successive years, MC2 Capital provided Partners Fund investors with falsified Schedule K-1s which portrayed increasing capital account balances for individual investors. In reality, the Partners Fund had not only failed to earn profits, it had been reduced to only de minimis assets due to the undisclosed trading losses and Murakami's thefts. For example, MC2 Capital provided the husband and wife investors referred to in paragraph 47 with a Schedule K-1 for 2011 that falsely reflected a gain of more than $700,000 over their initial investment, and a total capital account balance at year-end of $3,713,375. In reality, at the end of 2011, the entire Partners Fund had total assets of only $3,548. This same couple continued to receive fabricated Schedule K-1s for the Partners Fund each tax year, continuing through 2015. The Schedule K-1s showed a continuous string of phony profits, ultimately reflecting an ending capital balance of

$6,238,835. In reality, by the end of 2015, the actual capital account balance for the entire fund was less than $3,000.

49. Starting in 2011, MC2 Capital provided investors in the Value Fund with fabricated Schedule K-1s that depicted increasing account balances, even as the assets in the Value Fund were substantially depleted. For example, MC2 Capital issued a Schedule K-1 for 2011 to an investor who had invested $250,000 in the Value fund in November 2008. The Schedule K-1 falsely stated that the investor had a year-end capital account balance of $341,490. In reality, at the end of 2011, the entire Value Fund had only $11,202 in assets.

50. MC2 Canada provided investors in the Canadian Fund with false and misleading annual Schedule K-1s from 2011 to 2016. For many Canadian Fund investors, a third-party accounting firm prepared Schedule K-1s and provided them directly to investors. To conceal his appropriation of Canadian Fund investor money, Murakami provided false and incomplete information about the fund's investors to the firm, so the resulting Schedule K-1s would not reflect the existence of other investors and investments in the Canadian Fund. In this way, the investors who received Schedule K-1s from the accounting firm saw account balances which generally fit their expectations. Meanwhile, for the investors whose existence Murakami concealed from the accounting firm, Murakami fabricated Schedule K-1s which falsely reported the existence and/or size of their capital account balances.

B. The Defendants Provided Investors With False Individual Account Statements

51. The defendants routinely provided investors in the Partners Fund, the Value Fund, and the Canadian Fund with false monthly individual account statements. As investment advisers and fiduciaries, the defendants were supposed to accurately report how the funds were actually performing, without misleading investors by omitting to state material facts about the

funds. Instead, the defendants lied to investors by reporting phony profits and did not inform investors of trading losses, misappropriation, or that the funds lacked sufficient assets to repay investors. As a result, investors received serial monthly account statements which grossly overstated their actual capital account balance.

52. For example, on October 1, 2010, MC2 Capital provided a couple who had invested a combined $187,000 in the Partners Fund in February 2008 with a monthly report reflecting that their combined capital account was over $215,000. In reality, at the time, the Partners Fund had only $74,601 in total assets.

C. The Defendants Provided Investors With False Fund Performance Updates

53. Although the defendants held themselves out as investment advisers and fiduciaries who were accurately reporting fund performance to investors, they regularly provided investors in the Partners Fund, the Value Fund, and the Canadian Fund with false information about the performance of the funds through periodic emails, letters, in-person meetings, and phone calls. Through these formal and informal performance updates, Murakami and Chiat misrepresented the funds' actual performance. The updates failed to account for Murakami's misappropriation, and, in the case of the Partners Fund and Value Fund, the funds' trading losses.

54. From 2007 to 2016, Murakami and Chiat (until his departure) provided investors with quarterly and yearly reports or "shareholder letters" for the Partners Fund and Value Fund which contained false representations about performance, accompanied by a fictitious narrative describing the funds' activities, holdings, and market outlook, and often comparing the funds favorably to the S&P 500. For example, Chiat emailed a "Performance Letter" to an investor in December 2007, writing, "We are pleased with our performance, and look forward to continuing

with our investment thesis." The attached performance letter falsely stated that the Partners Fund was "up 8.2% year-to-date." In reality, the fund had suffered significant trading losses and was down in value.

55. In February 2013, Chiat emailed investors a "2012 Annual Shareholder Letter" which falsely claimed an annual return of 16.62% for the Value Fund and contained a lengthy fictional description of the MC2 Capital's market outlook and the Value Fund's holdings and activities. In reality, the Value Fund had less than $15,000 in total assets at the end of 2012 and was no longer actively trading.

56. With respect to the Canadian Fund, Murakami and Chiat (until his departure), adapted Donville Kent's monthly newsletters to Capital Ideas Fund investors, replaced references to that fund with the Canadian Fund, substituted the Canadian Fund's purported performance numbers for the Capital Ideas Fund's performance numbers, and distributed them to investors, falsely indicating that Donville Kent had authored a performance newsletter specifically directed to Canadian Fund investors. The Canadian Fund performance numbers contained in the newsletter were misleading in that they failed to account for Murakami's misappropriation of investor funds, and thus overstated the fund's performance. In other words, even when Donville Kent's trading in securities on behalf of the Canadian Fund resulted in a profit, the fund's overall net performance was overstated because it failed to account for the substantial amounts that Murakami had misappropriated from the fund.

57. Murakami and Chiat also regularly misled investors in all three funds in more informal communications. For example, in November 2008, despite the Partners Fund's losses in the preceding two months, Chiat emailed one Partners Fund investor that "[e]verything is going well here," and that "[w]e are doing fine given the volatility in the market . . . ."

Murakami and Chiat regularly spoke in person or by phone with investors and prospective investors, and misled them by lying about fund performance or by omitting to inform them of the true status of the funds.

D. Donville Kent's Termination of Its Relationship with the Defendants

58. On February 27, 2015, Donville Kent gave notice of its termination of its relationship with MC2 Canada and the Canadian Fund. Murakami concealed this termination from investors and the fund's auditor in order to mislead investors into thinking their investments were safe and remained under the management of Donville Kent.

59. For example, in June 2015, Murakami provided Canadian Fund investors with an audited financial statement for the Canadian Fund which falsely represented that the Canadian Fund still had a relationship with Donville Kent, and affirmatively stated that there had been no material changes to the operations of the fund since the end of 2014.

E. Murakami Furnished Investors With Fabricated Third Party Statements

60. Following Chiat's departure and Donville Kent's termination of its relationship with MC2 Canada and the Canadian Fund in the spring of 2015, Murakami began receiving frequent complaints from investors about receiving irregular, belated, and seemingly inaccurate account statements, and expressing concern about the integrity of the funds and Murakami. From 2015 to the present, many investors in the three MC2 funds made requests to withdraw the full amount of their investments. Murakami sought to avoid and delay these redemptions through a litany of excuses. To forestall their redemption requests, Murakami furnished several investors with fabricated documents purporting to be from the Partners Fund's former broker. These fabricated brokerage records falsely showed substantial assets held in MC2-related accounts and in individual investor accounts. In reality, as of 2015, neither Murakami nor any

MC2 entity, fund, or investor therein held any accounts at that brokerage firm and had not since 2011.

III. The Defendants Fraudulently Solicited Additional Investments and Investors

61. Both Murakami and Chiat were well aware that their ability to raise new money depended on painting a successful picture of the funds. They used the same and similar misstatements as described above to solicit new investors and additional amounts from existing investors.

62. For example, in one email, Chiat informed Murakami that relatives who had invested wanted "to see the results that we can bring, and WILL give additional capital three and six months into it." In 2008, after Murakami and Chiat provided them with false reports of the return on their initial investment, these investors invested an additional $1.25 million in the Partners Fund.

63. Murakami and Chiat solicited investments in all three funds utilizing gross misrepresentations about the funds' history and performance, and without disclosing the material fact that the funds lacked sufficient assets to repay investors. They frequently provided investors and prospective investors with marketing materials, shareholder letters, and monthly reports containing false and misleading information about track record and performance.

64. For example, the first investor in the Value Fund invested $250,000 in November 2008. In May 2008, Chiat emailed the investor a document on MC2 Capital letterhead which purported to reflect "the unaudited monthly results for MC2 Capital Management as of May 28, 2008." That document reported 2007 returns of 6.5% and 2008 year-to-date results of 7.25%. Over successive months, Chiat sent the investor similar performance letters and, on November 3, 2008, emailed him a monthly performance letter which claimed returns of -1.15% in September 2008 and -4.90% in October 2008, with a year-to-date return of 3.25%. In reality, as of late 2008

there were still no investors in the Value Fund, and, as described above, the Partners Fund (sharing the same advisers and purported investment strategy) had just suffered devastating losses.

65. After the Value Fund had been subscribed by investors, Murakami and Chiat continued to market the fund to prospective investors using false information about performance and history, and to mislead investors by omitting important facts. For example, in October 2010, MC2 Capital distributed a marketing presentation which touted the Value Fund's purported past performance: "MC2 Value Fund returned .86% in 2008, 10.29% in 2009, and 6.31% YTD (end of third quarter 2010)." In reality, the Value Fund had lost money each year of its operations.

66. Murakami and Chiat made false representations about the Partners Fund and the Value Fund to several investors who ultimately invested in the Canadian Fund. These misrepresentations falsely portrayed Murakami and Chiat as successful hedge fund managers. In reality, their two funds were defunct and they owed investors large amounts of money they did not have. For example, Murakami and Chiat sent a series of misstatements regarding the Partners Fund and the Value Fund from October 2008 to 2012 to an investor who ultimately invested a total of $100,000 in the Canadian Fund in 2012.

IV. Murakami Misappropriated Investor Money While Chiat Recklessly Misled Investors

A. Murakami Misappropriated Investor Money for Personal and Business Use

67. The defendants together raised over $15 million from investors in total for the Partners Fund, the Value Fund, and the Canadian Fund. From March 2008 through 2016, Murakami took and spent more than $8 million in total from the three funds on personal and business expenses.

68. Murakami misappropriated funds by wire transfers from the funds' brokerage accounts into bank accounts he controlled in the names of the MC2 funds or entities, or by retaining new investments in those bank accounts rather than transferring the money into the funds' brokerage accounts.

69. Murakami spent approximately $2.7 million of these misappropriated investor funds directly from MC2-entity bank accounts to finance personal and business expenses. Murakami used an additional $1.8 million of misappropriated investor money held in MC2-entity bank accounts to pay off large balances on his personal credit card.

70. Murakami frequently transferred misappropriated investor money from MC2-entity bank accounts into his personal bank accounts. In total, Murakami transferred approximately $3.7 million of misappropriated investor money into his personal accounts. He spent much of this money on personal expenses such as luxury automobiles, clothing, sporting events, meals, flights, and hotels.

B. Murakami Made Ponzi-Like Payments to Earlier Investors Using Money Received from Later Investors

71. In some cases, investors sought to withdraw their money and Murakami paid to investors the amount reflected on their current (but falsely inflated) capital account statement. Murakami paid these investors not only their invested capital, but also the phony profits that Murakami and Chiat had reported to them. Approximately $5.4 million of the $15 million raised by Murakami and Chiat for all three funds was paid out to such investors. That included approximately $1.3 million which Murakami paid as purported investment gains, to be consistent with the phony account statements, and in furtherance of his scheme.

72. In several cases, Murakami used money that he misappropriated from the Canadian Fund investors to pay Partners Fund and Value Fund investors who requested

withdrawals. For example, in December 2014, an investor requested a complete withdrawal from the Value Fund and the Canadian Fund. In January 2015, Murakami paid the investor a total of $963,753, purportedly from his Value Fund and Canadian Fund capital accounts. In reality, all of the money came from the Canadian Fund. Murakami falsely informed Donville Kent, Chiat, and the fund's independent administrator that the money went to other Canadian Fund investors, and created fake wire transfer records to bolster this false claim.

C. Murakami Used the Services of Independent Fund Administrators and Auditors to Create a False Appearance of Security and Legitimacy

73. Murakami procured the services of third parties to lend a patina of safety and legitimacy to the Canadian Fund. For example, Murakami told Canadian Fund investors that that the fund was administered by an independent fund administrator, thereby giving the impression that an independent third party was calculating capital account balances and investment returns. To conceal his misappropriation, Murakami provided false information to the fund administrator about investors' existence, amount and timing of investments, and withdrawals. The fund administrator then calculated capital account balances and investment returns using the false information, and generated account statements that Murakami knew were false. The fund administrator then provided the statements to investors.

74. In early to mid-2015, several Canadian Fund investors complained that they were not receiving account statements regularly, and that their statements appeared to be inconsistent. Murakami retained an independent auditor to audit the Canadian Fund's financial statements for the year 2014. Murakami told investors that the audit firm was conducting an audit, and used the fact of their ongoing work as an assurance of integrity. Murakami provided the auditor with false information during the audit and, as a result, the audited financial statements did not accurately reflect the fund's liabilities to its investors, which were greater than its assets. In mid-

2015, Murakami furnished the false financial statements to investors in order to assuage their concerns so that they would not request withdrawals.

D. Chiat Misled Investors and Prospective Investors by Omitting to State Material Facts About Murakami's Misappropriation Scheme

75. In dealing with investors and prospective investors, Chiat held himself out as an investment adviser and a fiduciary. Chiat was prohibited by law from making an untrue statement of material fact or omitting to state a material fact necessary to make his statements made not misleading. Contrary to his obligations, Chiat misled investors into believing that he was intimately involved in the operations of three successful hedge funds, and omitted to state a multitude of material facts that he knew about which suggested that Murakami was misappropriating investor money.

76. Chiat knew but omitted to state to investors that Murakami had virtually unfettered and sole control over investor money, and that after 2011 Chiat did not have access to the bank accounts and brokerage accounts which held that money, despite Chiat asking for such access on multiple occasions.

77. Chiat knew or suspected that Murakami used Canadian Fund money to make Ponzi-like payments to Partners Fund and Value Fund investors who sought withdrawals, but omitted to state this to investors and prospective investors. Chiat knew that the Partners Fund and Value Fund were insolvent when he began soliciting investments in the Canadian Fund, and that for years he and Murakami had led investors to believe that their investments were flourishing by making repeated misstatements of fund performance and individual account balances. For example, when a substantial investor in the Value Fund sought to withdraw all of his funds in January 2015, Chiat had no reasonable basis for believing that the Value Fund had sufficient assets to pay him. Chiat knew about this investor's large withdrawal *and* about a

contemporaneous large wire transfer from the Canadian Fund, specifically questioned to whom it went, and expressed disbelief to Murakami about Murakami's assertion that it went to a different Canadian Fund investor.

78. Chiat knew but omitted to state to Canadian Fund investors and prospective investors that Murakami frequently kept money received from new investors in bank accounts that only Murakami controlled, rather than transferring it into the Canadian Fund's brokerage account so that it could be traded by Donville Kent as promised to investors.

79. Chiat knew but omitted to state to Canadian Fund investors and prospective investors that Murakami gave false information about the amount of an incoming investment to Donville Kent and kept the remainder in a bank account that only Murakami controlled. In May 2013, Chiat understood that Murakami withheld $50,000 from a $150,000 investment prior to the funds being transferred to the Canadian Fund's brokerage account and that Murakami had falsely informed Donville Kent (which had access to the brokerage account and the ability to see the amount of new investments) that the investor may have only been investing $100,000. Chiat requested that Murakami give him access to MC2-entity and fund bank accounts, and expressed the need to have a "second pair of eyes" on those accounts. Nevertheless, after Murakami failed to provide Chiat with access to the bank accounts, Chiat continued to solicit investments in the Canadian Fund until early 2015.

80. Chiat knew but omitted to state to investors and prospective investors that Murakami often sought to exclude Chiat from communications about the amount, timing, and destination of investors' incoming wire transfers. For example, on May 27, 2013, Chiat learned that Murakami was attempting to exclude Chiat from future communications with an incoming Canadian Fund investor whom Chiat had just solicited, and whom Chiat knew intended to invest

$100,000. The investor had not yet wired his initial investment. Chiat recognized, at a minimum, that his lack of information about the Canadian Fund's accounts and operations was inconsistent with his ongoing solicitation of investments in the Canadian Fund. He complained to Murakami, "I am trying to sell a fund that I know nothing about at all." On or about June 6, 2013, the investor wired $100,000 into a bank account controlled by Murakami. Murakami deposited only $50,000 of that amount into the Canadian Fund brokerage account and misappropriated the rest.

81. Chiat knew but omitted to state to investors and prospective investors that money was taken out of the Canadian Fund under circumstances that Chiat found highly suspicious, and that Chiat did not believe Murakami's explanation for it was truthful. On or about May 30, 2014, Murakami wired $475,000 from the Canadian Fund's brokerage account to a bank account he controlled in the name of MC2 Canada, and $20,750 to Chiat, for a combined total of $495,750 out of the Canadian Fund. Through a series of subsequent transfers, Murakami misappropriated the $475,000. Of the $475,000, Murakami (1) used $160,000 to repay an investor in the Value Fund; (2) used $72,000 for a payment for his personal credit card; (3) transferred over $180,000 into his personal bank accounts; and (4) paid $50,000 to an investor which included payment of purported investment returns from the Value Fund.

82. Chiat learned that approximately $495,000 had been or was being wired out of the Canadian Fund. Murakami falsely told Chiat that it was for a partial withdrawal from the Canadian Fund by a family office investor. In reality, that investor had not requested a withdrawal. Chiat was aware of a heightened risk of misappropriation, and wrote to Murakami, "It is simple, an investor wants $495,000, and I want to confirm it with someone besides you." Chiat threatened to contact the family office investor directly for confirmation, but did not do so.

Chiat also threatened to contact the brokerage firm for confirmation, but did not do so. On June 3, 2014, Murakami wrote to Chiat:

> Reminder to you. We are audited and currently being audited by one of the largest firms on the planet. We have an admin that is going over EACH and EVERY transaction we have done since inception. There is no chance of what your worst fears are, because EVERYTHING is trackable. . . . Your worst fears are not only unfounded, but impossible to happen at this point. Even if we went with your worst case fears, it would be tracked.

83. Later that day, Murakami wrote to Chiat, "You[r] accusations and attitude are never going to be forgotten by me." Instead of contacting the family office investor or brokerage firm, Chiat continued to solicit new investments in the Canadian Fund, just as he had before, omitting to state his serious concerns. In the next several days, Chiat coordinated a phone call between a prospective investor and Donville Kent, sent an email to the financial advisor for a Canadian Fund investor touting positive performance and attaching a recent newsletter, and arranged the details of a $50,000 additional investment in the Canadian Fund by an existing investor. Chiat misled these investors by omitting to inform them of the facts suggesting a substantial risk of Murakami misappropriating their money.

84. In 2016, after years of lying to investors, turning a blind eye to Murakami's stealing, and violating his duties as an investment adviser and fiduciary, Chiat took advantage of Murakami's misappropriation scheme for his personal benefit and to the detriment of Canadian Fund investors. Chiat requested withdrawals from the Partners Fund on behalf of himself and relatives who were investors. Murakami used money from the Canadian Fund to pay Chiat and two of Chiat's relatives, purportedly as withdrawals of their invested capital and phony returns in the Partners Fund. In reality, Chiat knew that the Partners Fund investments had been lost in 2007 and 2008, but nevertheless requested and received a payment in April 2016 of $195,022 for

himself, and arranged for relatives to receive a total $690,069, all of which came from the Canadian Fund.

CONCLUSION

85. By misrepresenting fund performance and individual account balances to investors, soliciting new investments by misrepresenting the funds' track records, and through Murakami's misappropriating investor money for personal and business use, the defendants caused losses to investors of more than $11.2 million, all in violation of the laws of the United States as set forth below.

FIRST CLAIM FOR RELIEF
(Violation of Section 10(b) of the Exchange Act and Rule 10b-5)
(All Defendants)

86. The Commission repeats and incorporates by reference the allegations in the preceding paragraphs of the Complaint as if set forth fully herein.

87. The defendants, directly or indirectly, acting intentionally, knowingly or recklessly, by the use of means or instrumentalities of interstate commerce or of the mails, in connection with the purchase or sale of securities: (a) have employed or are employing devices, schemes or artifices to defraud; (b) have made or are making untrue statements of material fact or have omitted or are omitting to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading; or (c) have engaged or are engaging in acts, practices, or courses of business which operate as a fraud or deceit upon certain persons.

88. As a result, the defendants have 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 thereunder, 17 C.F.R. § 240.10b-5.

SECOND CLAIM FOR RELIEF
(Violation of Section 17(a) of the Securities Act)
(All Defendants)

89. The Commission repeats and incorporates by reference the allegations in the preceding paragraphs of the Complaint as if set forth fully herein.

90. The defendants, directly or indirectly, acting intentionally, knowingly or recklessly, in the offer or sale of securities by the use of the means or instruments of transportation or communication in interstate commerce or by the use of the mails: (a) have employed or are employing devices, schemes or artifices to defraud; (b) have obtained or are obtaining money or property by means of untrue statements of material fact or omissions 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) have engaged or are engaging in transactions, practices or courses of business which operate as a fraud or deceit upon purchasers of the securities.

91. As a result, the defendants have violated and, unless enjoined, will continue to violate, Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

THIRD CLAIM FOR RELIEF
(Violation of Sections 206(1) and 206(2) of the Advisers Act)
(All Defendants)

92. The Commission repeats and incorporates by reference the allegations in the preceding paragraphs of the Complaint as if set forth fully herein.

93. Murakami, Chiat, MC2 Capital Management, LLC, and MC2 Canada Capital Management, LLC, each operated as an "investment adviser" within the meaning of Section 202(a)(11) of the Advisers Act, 15 U.S.C. § 80b-2(a)(11). Murakami and Chiat served in that capacity with respect to the Partners Fund, the Value Fund, and the Canadian Fund. MC2

Capital Management, LLC, served in that capacity as to the Partners Fund and the Value Fund. MC2 Canada Capital Management served in that capacity for the Canadian Fund.

94. As alleged herein, Murakami, Chiat, MC2 Capital Management, LLC, and MC2 Canada Capital Management, LLC, while acting as investment advisers, directly or indirectly, by use of the mails or means and instrumentalities of interstate commerce, knowingly, willfully, or recklessly: (a) employed or are employing devices, schemes, or artifices to defraud clients; and (b) engaged or are engaging in transactions, practices, and courses of business which operated and operate as a fraud or deceit upon clients.

95. As a result, Murakami, Chiat, MC2 Capital Management, LLC, and MC2 Canada Capital Management, LLC, violated, and unless enjoined will continue to violate, Sections 206(1) and 206(2) of the Advisers Act, 15 U.S.C. §§ 80b-6(1)-(2).

FOURTH CLAIM FOR RELIEF
(Violation of Sections 206(4) of the Advisers Act and Rule 206(4)-8 Thereunder)
(All Defendants)

96. The Commission repeats and incorporates by reference the allegations in the preceding paragraphs of the Complaint as if set forth fully herein.

97. Murakami, Chiat, MC2 Capital Management, LLC, and MC2 Canada Capital Management, LLC, each operated as an "investment adviser" within the meaning of Section 202(a)(11) of the Advisers Act, 15 U.S.C. § 80b-2(a)(11). Murakami and Chiat served in that capacity with respect to the Partners Fund, the Value Fund, and the Canadian Fund. MC2 Capital Management, LLC, served in that capacity as to the Partners Fund and the Value Fund. MC2 Canada Capital Management served in that capacity for the Canadian Fund.

98. The Partners Fund, Value Fund, and Canadian Fund were or are pooled investment vehicles within the meaning of Rule 206(4)-8(b), 17 C.F.R. § 275.206(4)-8(b).

99. As alleged herein, Murakami, Chiat, MC2 Capital Management, LLC, and MC2 Canada Capital Management, LLC, while acting as investment advisers to pooled investment vehicles, directly or indirectly, by use of the mails or means and instrumentalities of interstate commerce, engaged or are engaging in acts, practices, or courses of business which were fraudulent, deceptive, or manipulative.

100. As a result, Murakami, Chiat, MC2 Capital Management, LLC, and MC2 Canada Capital Management, LLC, violated, and unless enjoined will continue to violate, Sections 206(4) of the Advisers Act, 15 U.S.C. § 80b-6(4), and Rule 206(4)-8 thereunder, 15 C.F.R. § 275.206(4)-8.

FIFTH CLAIM FOR RELIEF
(Aiding and Abetting Violations of Sections 206(1), (2) & (4) and Rule 206(4)-8 thereunder)
(Murakami and Chiat)

101. The Commission repeats and incorporates by reference the allegations in the preceding paragraphs of the Complaint as if set forth fully herein.

102. Murakami and Chiat knew or recklessly disregarded that MC2 Capital's and MC2 Canada's conduct was improper and knowingly rendered to these entities substantial assistance in this conduct.

103. As a result, Murakami and Chiat aided and abetted MC2 Capital's and MC2 Canada's violations of Sections 206(1), (2), and (4) of the Advisers Act, 15 U.S.C. §§ 80b-6(1), (2) & (4), and Rule 206(4)-8 thereunder, 15 C.F.R. § 275.206(4)-8.

SIXTH CLAIM FOR RELIEF
(Other Equitable Relief, Including Unjust Enrichment)
(Relief Defendants)

104. The Commission repeats and incorporates by reference the allegations in the preceding paragraphs of the Complaint as if set forth fully herein.

105. Section 21(d)(5) of the Exchange Act, 15 U.S.C. § 78u(d)(5), states: "In any action or proceeding brought or instituted by the Commission under any provision of the securities laws, the Commission may seek, and any Federal court may grant, any equitable relief that may be appropriate or necessary for the benefit of investors."

106. The relief defendants have received investors' funds derived from the unlawful acts or practices of the defendants under circumstances dictating that, in equity and good conscience, they should not be allowed to retain such funds.

107. As a result, the relief defendants are liable for unjust enrichment and should be required to return their ill-gotten gains, in an amount to be determined by the Court.

PRAYER FOR RELIEF

WHEREFORE, the Commission requests that this Court:

A. Enter a permanent injunction restraining the defendants, as well as their agents, servants, employees, attorneys, and other persons in active concert or participation with them, from directly or indirectly engaging in the conduct described above, or in conduct of similar purport and effect, in violation of:

1. Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5;
2. Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a); and
3. Sections 206(1), (2), and (4) of the Advisers Act, 15 U.S.C. §§ 80b-6(1), (2), & (4), and Rule 206(4)-8 thereunder, 17 C.F.R. § 275.204(4)-(8).

B. Enter orders permanently enjoining Murakami and Chiat from directly or indirectly, including but not limited to, through any entity they own or control, participating in the issuance, purchase, offer, or sale of any security, provided, however, that such injunctions

shall not prevent Murakami or Chiat from purchasing or selling securities for their own personal accounts;

C. Order the defendants to disgorge their ill-gotten gains, plus prejudgment interest;

D. Order the relief defendants to disgorge all unjust enrichment and/or ill-gotten gain received from the defendants, plus prejudgment interest;

E. Order the defendants to pay an appropriate civil monetary penalty pursuant to Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3); Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d); and Section 209(e)(1) of the Advisers Act, 15 U.S.C. § 80b-9(e);

F. Retain jurisdiction over this action to implement and carry out the terms of all orders and decrees that may be entered; and

G. Award such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

The Commission demands a jury trial on all claims so triable.

Dated: May 22, 2017

Respectfully submitted:

SECURITIES AND EXCHANGE COMMISSION

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