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12 **UNITED STATES DISTRICT COURT**
 13 **SOUTHERN DISTRICT OF CALIFORNIA**
 14

<p>16 SECURITIES AND EXCHANGE 17 COMMISSION, 18 Plaintiff, 19 vs. 20 MARK J. BOUCHER and 21 STRATEGIC WEALTH ADVISOR GROUP SERVICES INC.,, 22 23 Defendants. 24 25</p>

Case No. '20CV1650 DMS MSB

COMPLAINT

JURY TRIAL DEMANDED

26
 27 Plaintiff Securities and Exchange Commission (“SEC”) alleges:
 28

1 **JURISDICTION AND VENUE**

2 1. The Court has jurisdiction over this action pursuant to Sections 20(b),
3 20(d)(1), and 22(a) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C. §§
4 77t(b), 77t(d)(1), and 77v(a); Sections 21(d)(1), 21(d)(3)(A), 21(e), and 27(a) of the
5 Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. §§ 78u(d)(1),
6 78u(d)(3)(A), 78u(e), and 78aa; and Sections 209(d), 209(e)(1) and 214 of the
7 Investment Advisers Act of 1940 (“Advisers Act”), 15 U.S.C. §§ 80b-9(d), 80b-
8 9(e)(1) and 90b-14.

9 2. Defendants have, directly or indirectly, made use of the means or
10 instrumentalities of interstate commerce, of the mails, or of the facilities of a national
11 securities exchange in connection with the transactions, acts, practices and courses of
12 business alleged in this complaint.

13 3. Venue is proper in this district pursuant to Section 22(a) of the Securities
14 Act, 15 U.S.C. § 77v(a); Section 27(a) of the Exchange Act, 15 U.S.C. § 78aa(a); and
15 Section 214(a) of the Advisers Act, 15 U.S.C. § 90b-14(a), because certain of the
16 transactions, acts, practices and courses of conduct constituting violations of the
17 federal securities laws occurred within this district. In addition, venue is proper in
18 this district because Defendant Mark J. Boucher (“Boucher”) resides in this district.

19 **SUMMARY**

20 4. This matter involves three multi-year fraudulent schemes perpetrated by
21 investment adviser Boucher and his one-person company, located in this district,
22 known as Strategic Wealth Advisor Group Services Inc. d/b/a as Strategic Wealth
23 Advisors Group Services Inc. and Strategic Wealth Advisors Group (“SWAG”).
24 Boucher provided investment advisory services while associated with two SEC
25 registered investment advisory firms, Firm A and Firm B. During his association
26 with Firm B and after his termination, he utilized SWAG in providing those services.
27 Between December 2010 and July 2020 (the “Relevant Period”), Boucher
28 misappropriated over \$2 million from the advisory and bank accounts of three of his

1 investment advisory clients including a widow in her 60s residing in Solvang,
2 California (“Client A”) and the trust of a deceased client. Boucher, both alone and
3 while later acting in his capacity as SWAG’s sole owner, control person, and
4 employee, made material misrepresentations and omissions as part of his fraud. For
5 example, he forged certain checks in a client’s name, impersonated a client over the
6 phone in order to have authorized a fraudulent wire transfer, told a client he could
7 trust her (while he was stealing her money) and lied and made material omissions to
8 cover up his fraud.

9 5. From 2000-2016, Boucher worked as an associated person with Firm A
10 and from 2016 to May of 2019 he was an associated person with Firm B acting
11 through his one-person company, SWAG. During the Relevant Period, Boucher’s
12 (and through him, SWAG’s) fraudulent activities included selling Client A’s
13 securities and diverting the proceeds to his personal use. To accomplish this, he
14 engaged in a variety of deceptive conduct, including forging her signature on checks.
15 His multi-year fraud resulted in the misappropriation of about \$669,000 from her
16 advisory accounts at Firm A and Firm B (together, the “Client A Advisory
17 Accounts”). At times, Boucher even withdrew funds from Client A’s Advisory
18 Accounts on margin, when there was not enough cash in the accounts to meet his
19 personal spending needs. Boucher used the money to pay his credit card debt, which
20 included personal expenses like car insurance, dinners, and trips to a five-star hotel
21 resort in Hawaii.

22 6. Boucher’s (and SWAG’s) misconduct was not limited to Client A. In
23 March 2017, Boucher sold securities and wired \$60,000 of the sales proceeds from
24 another California client’s (“Client B’s”) advisory account to a California car
25 dealership to purchase himself a Camaro. To authorize the wire transfer, Boucher
26 impersonated Client B on a telephone call with a representative of a brokerage firm.
27 A year and a half later, Boucher brazenly sold the Camaro to Client B for \$52,000.

28 7. After his fraud against Client A was discovered in May 2019 and Firm B

1 terminated him, Boucher engaged in a separate scheme to steal the trust funds of a
2 recently deceased client (“Client C”). Boucher, who had served as Client C’s
3 investment adviser since at least 2015, had gained her trust and confidence. Before
4 Client C passed away in early August 2019, she had created a revocable trust
5 document that provided for the disposition of her assets upon her death. Boucher was
6 successor trustee and an investment adviser for the trust.

7 8. Upon her death, the trust assets consisted of, among other things,
8 advisory and bank accounts holding over \$1.8 million in securities and
9 cash. Boucher engaged in a scheme to misappropriate assets from these accounts
10 and use them for his personal gain. Between August 2019 and July of 2020, Boucher
11 misappropriated over \$1.5 million by sending cash and securities from trust accounts
12 to accounts he controlled, including his personal checking and brokerage accounts.
13 Boucher used trust assets to pay for his personal expenses and credit card debt.

14 9. Boucher and through him, SWAG, took steps to conceal his misconduct
15 from existing and future advisory clients. Among other things, he misrepresented to
16 Client A the full extent of his fraud. He misrepresented to Client B that his
17 misappropriation of funds to purchase a Camaro was simply a mistake. He registered
18 SWAG as a California investment adviser firm without disclosing to clients or
19 prospective clients that he had been fired from Firm B for stealing client funds, an
20 omission he corrected only after the SEC began its investigation.

21 10. Boucher also took steps to conceal his wrongdoing from SEC
22 Enforcement staff during the SEC’s investigation. Boucher created numerous
23 financial accounts in an unsuccessful attempt to obfuscate and hide his
24 misappropriations from Client C’s trust, and created a forged letter purportedly from
25 Client C to create the false impression that she had gifted him \$1.5 million.

26 11. By this conduct, Defendants Boucher and SWAG violated Sections
27 17(a)(1), 17(a)(2), and 17(a)(3) of the Securities Act, 15 U.S.C. §§ 77q(a)(1),
28 77q(a)(2), and 77q(a)(3); Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b); and

1 Exchange Act Rules 10b-5(a), 10b-5(b), and 10b-5(c), 17 C.F.R. §§ 240.10b-5(a),
2 240.10b-5(b), and 240.10b-5(c); and Sections 206(1) and 206(2) of the Advisers Act,
3 15 U.S.C. §§ 80b-6(1), and 80b-6(2).

4 12. The SEC seeks permanent injunctions, disgorgement with prejudgment
5 interest, and civil penalties against Defendants Boucher and SWAG.

6 THE DEFENDANTS

7 13. **Mark J. Boucher**, age 56, is a resident of Carlsbad, California and is the
8 sole owner, president and employee of SWAG. Boucher worked as an investment
9 adviser associated with Firm A from 2000 to March 2016 and associated with Firm B
10 from December 2016 to May 2019, when he was terminated for theft of Client A's
11 funds. An investment adviser is someone who, like Boucher (and through him,
12 SWAG), for compensation engages in the business of advising others as to the value
13 of securities or as to the advisability of investing in, purchasing, or selling securities,
14 or who, for compensation and as part of a regular business, issues or promulgates
15 analyses or reports concerning securities. During the Relevant Period, Boucher and
16 through him, SWAG, provided investment advice about securities to clients, and
17 received compensation in the form of asset management fees they obtained in
18 exchange for their services. In July 2019, Boucher registered SWAG as an
19 investment adviser in the State of California. Since that time, Boucher and SWAG
20 have been independently providing investment advice to approximately 50 clients and
21 managing about \$12.3 million of client funds. Boucher was registered with
22 California as an investment adviser representative at all relevant times.

23 14. **SWAG** is a corporation Boucher formed in California on February 25,
24 2015 under the name Strategic Wealth Advisor Group Services Inc. SWAG is
25 located in Carlsbad, California. SWAG has been registered as an investment adviser
26 with California under the name Strategic Wealth Advisors Group Services, Inc. since
27 July 2019. In communications with clients and otherwise, Boucher sometimes
28 referred to it as Strategic Wealth Advisors Group. Boucher founded SWAG and

1 controlled it at all relevant times.

2 **THE ALLEGATIONS**

3 **A. Boucher's Role as Investment Adviser**

4 15. In 2000, Boucher became associated with Firm A, a dually SEC-
5 registered broker dealer and investment adviser. Boucher conducted his business
6 from an office or offices in Carlsbad, California.

7 16. Boucher established personal relationships with many of his advisory
8 clients including Client A by, for example, inviting them to his home and visiting
9 them at their homes.

10 17. In February 2015, Boucher incorporated SWAG in California, initially
11 using it for tax purposes.

12 18. In March of 2016, Firm A terminated Boucher for naming himself as
13 successor trustee to Client C's trust and executor of her will without prior firm
14 approval. Boucher did not tell Clients A, B and C (together, the "Clients") that he
15 had been terminated from Firm A.

16 19. In December 2016, Boucher became associated with Firm B,
17 headquartered in Fresno, California. Many of Boucher's existing clients, including
18 the Clients, followed him to Firm B. Boucher conducted his business from an office
19 in Carlsbad, California. Boucher provided his clients, including the Clients, with
20 account transfer paperwork, and their accounts were transferred to Firm B's account
21 custodian, a national brokerage firm (the "Brokerage Firm"). Boucher had electronic
22 access to continue to monitor and trade in the Clients' accounts.

23 20. While at Firm B, Boucher held himself out to his clients as the president
24 of SWAG. He emailed his clients using a SWAG email address he had created,
25 communicated using SWAG letterhead and signature lines, and had SWAG's name
26 and address included on his clients' account statements. Boucher reported his
27 advisory income as income of SWAG to the IRS and State of California from at least
28 2016 through at least 2018.

1 21. While at Firm B, Boucher and through him, SWAG, continued to
2 provide investment advice to clients and received compensation in the form of asset
3 management fees for their services. In addition, Client C's trust document provided
4 Boucher with authority as trustee to make investment decisions for the trust and
5 provided for compensation for his services as trustee.

6 22. During the Relevant Period, Boucher generally had between 80 and 100
7 advisory clients. An advisory client is someone for whom an investment adviser
8 renders investment advice or makes investment decisions. Because the Clients were
9 advisory clients, Boucher and SWAG owed them a fiduciary duty. In other words,
10 Boucher and SWAG were required to place their clients' interests ahead of their own
11 and to disclose all material facts to their clients about their investment.

12 23. Boucher's and SWAG's clients were typically individual investors and
13 small businesses who relied primarily on them for investment advice.

14 24. During the Relevant Period, Boucher alone and later (while at Firm B),
15 acting through SWAG, managed Client A's and B's securities accounts on a
16 discretionary trading basis, but had no authority to withdraw funds without Client
17 authorization. Clients A and B looked exclusively to Boucher to manage those
18 accounts and, pursuant to the discretionary authority the Clients had granted, Boucher
19 personally managed their investments in those accounts throughout their relationship.
20 While associated with Firm B, Boucher and SWAG received compensation in
21 connection with those services, including asset management fees paid by these and
22 other clients. Boucher and SWAG split those fees with Firm B.

23 25. Upon learning of Boucher's fraud against Client A, Firm B terminated
24 him on or about May 22, 2019.

25 26. In June of 2019, Boucher, acting on behalf of SWAG, applied to register
26 SWAG as an investment adviser with the State of California. The application was
27 approved in July of 2019. In September of 2019 and January of 2020, Boucher,
28 acting on behalf of SWAG, filed Firm Brochures and Brochure Supplements for

1 SWAG in the form of Forms ADV Part 2A and 2B, respectively. According to a
2 Form ADV Boucher filed on or about January 17, 2020, SWAG and Boucher have 49
3 clients and manage over \$12 million in investor assets.

4 **B. Boucher's Fraudulent Thefts from Client A**

5 27. In 2010, Boucher began a scheme to steal assets from Client A's
6 Advisory Account at Firm A. Boucher knew that Client A's husband reviewed his
7 account statements and would ask questions about them, but that Client A did not
8 review her account statements. Accordingly, Boucher did not steal any money from
9 her husband's accounts, but misappropriated at least \$230,577 from Client A's
10 Advisory Account while at Firm A until his termination in March 2016. From 2010
11 until March 2016, Boucher fraudulently utilized 49 checks drawn on the Client A
12 Advisory Account at Firm A in the name of Client A to pay his personal credit card
13 bills. Most of the withdrawals were the proceeds of sales of securities that Boucher
14 initiated in Client A's Advisory Account at Firm A.

15 28. For example, in October of 2015, Boucher sold securities in Client A's
16 Advisory Account at Firm A for approximately \$3,726. From these proceeds plus
17 cash in the account, he forged a check for \$5,000 in Client A's name and made out to
18 American Express, which he deposited at American Express on or about October 3,
19 2015. Mr. Boucher instructed American Express to allocate the check to two
20 different accounts of his at American Express, to pay his personal credit card
21 balances.

22 29. Client A's husband passed away in May 2017 and Boucher continued to
23 manage her accounts, including the Client A Advisory Account at Firm A. By this
24 time, Boucher was a long-time family friend, helping Client A with personal errands
25 and various household projects on his bi-monthly visits to her home in Solvang,
26 California.

27 30. In January of 2018, after he became associated with Firm B, Boucher
28 (now acting in his capacity as sole control person and employee of SWAG) resumed

1 his fraudulent scheme of misappropriating funds from Client A, using her Advisory
2 Account at Firm B to pay his credit card bills at American Express and Citibank.
3 From January 2018 through April 2019, he forged 21 more checks and made seven
4 unauthorized electronic withdrawals which together totaled about \$438,709. Most of
5 the withdrawals were the proceeds of securities sales that Boucher initiated in the
6 Client A Advisory Account at Firm B. At other times, Boucher wrote checks drawn
7 on the cash balance in the account, and even withdrew funds on margin when the
8 Client A Advisory Account at Firm B lacked sufficient funds to meet his personal
9 spending needs.

10 31. For example, in February 2019, Boucher sold securities in Client A's
11 Advisory Account at Firm B for approximately \$16,109. From those proceeds, he
12 forged a check for \$8,393.19 in Client A's name and made out to American Express,
13 which he deposited at American Express on or about February 16, 2019. Mr.
14 Boucher instructed American Express to allocate the check to four different accounts
15 of his at American Express, to pay his personal credit card balances. In addition, on
16 or about February 21, he forged another check from the same stock sale proceeds in
17 the amount of \$1,989.29. He used this check to pay his personal credit card balance
18 at Citi Cards.

19 32. During the Relevant Period, Boucher used Client A's funds to pay off
20 credit card debt that included extravagant personal expenses. From 2010 to 2016
21 alone, he spent over \$125,000 in vacations and travel. He paid tens of thousands of
22 dollars for airfare to fly numerous female companions to San Diego or Hawaii. He
23 also spent over \$80,000 on hotels, mostly in Hawaii, including at a five-star hotel
24 resort. His expenditures reflected routine visits to expensive restaurants, including
25 Ruth's Chris Steakhouse, Shearwater at the Hotel Del Coronado, and Fleming's
26 Steakhouse. He also used his credit cards to make rental payments for his personal
27 residence.

28 33. In May of 2019, Client A uncovered Boucher's fraud when she received

1 a letter from American Express stating that a payment from Client A's Advisory
2 Account at Firm B to Boucher's American Express accounts was out of balance and
3 could not be processed. Client A confronted Boucher, who initially denied any
4 wrongdoing. When she showed him the letter from American Express, he
5 acknowledged making the payment. The next day, Client A called the Brokerage
6 Firm, which conducted an investigation, found numerous instances of theft, and
7 alerted Firm B.

8 34. Firm B and the Brokerage Firm both investigated Boucher and
9 concluded that Boucher had misappropriated funds from the Client A Advisory
10 Account at Firm B. When confronted about the misappropriation, Boucher admitted
11 to Firm B that he had possession of Client A's check book from the Client A
12 Advisory Account at Firm B and wrote checks to pay his credit card expenses.
13 Boucher also offered to reimburse Client A, and paid Firm B approximately \$482,105
14 to make Client A whole and to reimburse Firm B for interest and advisory fees. Firm
15 B fully reimbursed Client A.

16 35. After Boucher's fraud became known, Firm A also conducted an
17 investigation and reimbursed Client A for the amounts stolen from the Client A
18 Advisory Account at Firm A while Boucher was associated with Firm A, plus interest
19 and fees. However, Boucher has not reimbursed Firm A or Client A for any of the
20 misappropriations he made while he was an associated person of Firm A.

21 **C. Boucher's Fraudulent Theft from Client B**

22 36. In March of 2017, Boucher engaged in a second fraudulent scheme to
23 misappropriate Client B's funds in order to purchase a Chevrolet Camaro ZL1.

24 37. During the week of March 16, 2017, the mother of Client B lay in the
25 hospital, dying.

26 38. Boucher, and through him, SWAG, exploited this situation to
27 misappropriate funds to purchase the car. On March 16, 2017, Boucher sold
28 securities and created a wire authorization form to send \$60,000 in proceeds from the

1 sale from Client B's advisory account to a California car dealership. The wire
2 authorization form was then faxed to the Brokerage Firm from Client B's business
3 office in Garden Grove, California, where Boucher had an appointment that day.

4 39. In order to process the wire transfer, the Brokerage Firm requested
5 verification of Client B's signature. On March 17, 2017, Boucher called the
6 Brokerage Firm. In that telephone conversation, Boucher impersonated Client B,
7 provided proof of identity using Client B's birthdate and phone number, and said that
8 he (as Client B) authorized the wire transfer.

9 40. When the car dealership asked why Client B's name, rather than
10 Boucher's, appeared as the source of funds on the wire receipt, Boucher sent an email
11 falsely stating that the Brokerage Firm had made a mistake in the name, and that the
12 wire was from him.

13 41. This scheme was successful, and Boucher took delivery of the Camaro
14 in April of 2017.

15 42. After owning the car for approximately 17 months, Boucher
16 communicated in texts and by telephone with Client B, saying he knew that Client B
17 admired Boucher's Camaro and offering to sell it to Client B for its trade in value. In
18 September of 2018, Client B purchased the car from Boucher for about \$52,000, not
19 realizing that Boucher had secretly wired funds from Client B's account to buy the
20 car in the first place.

21 43. Boucher has not reimbursed Client B for the \$60,000 Boucher stole to
22 purchase the car.

23 **D. Boucher's Fraudulent Theft from Client C's Trust**

24 44. After his fraud against Client A was discovered in May 2019 and Firm B
25 terminated him, Boucher engaged in a third scheme to steal the trust funds of recently
26 deceased Client C. Boucher, who had served as Client C's investment advisor since
27 at least 2015, had gained her trust and confidence. Before Client C passed away in
28 early August of 2019, she had created a revocable trust document that provided for

1 the disposition of her assets upon her death. The document provided that, except for
2 personal items, all trust assets should be held in trust for and disbursed to a sole
3 beneficiary – Canine Companions for Independence, Inc. (“CCI”). CCI is a non-
4 profit organization that provides service dogs free of charge to adults, children and
5 veterans with disabilities.

6 45. In 2015, Client C had named Boucher successor trustee over the trust; as
7 such, Boucher was obligated to disburse Client C’s assets in the manner set forth in
8 her revocable trust document. Boucher also acted as the trust’s investment advisor,
9 and owed the same duties and obligations to the trust as he did to individual advisory
10 clients.

11 46. Upon her death, Client C’s trust assets were worth over \$2.6 million and
12 consisted of, among other things, advisory accounts holding over \$1.8 million in
13 securities and cash, a house worth approximately \$725,000, and a bank account
14 holding over \$36,000.

15 47. Starting in August and through December 2019, Boucher opened several
16 new bank and advisory accounts in the name of the trust. He liquidated the securities
17 in Client C’s existing advisory accounts and transferred over \$1.8 million to the new
18 accounts he created. From there, he engaged in numerous misappropriations. For
19 example:

20 (a) In October 2019, Boucher transferred net proceeds of
21 approximately \$509,871 from one of the new trust bank accounts he created to his
22 own personal checking account.

23 (b) Between at least September 2019 and January 2020, Boucher
24 wrote checks from trust bank accounts and used at least \$43,972 of trust funds to pay
25 his personal credit card expenses.

26 (c) In April 2020, Boucher transferred approximately \$371,672 of
27 securities from a trust fund advisory account he created (and where he had bought
28 securities with trust funds) to his own personal brokerage account.

1 (d) Between August 2019 and May 2020, Boucher withdrew cash
2 from trust bank accounts of at least \$37,751 for his own (non-trust related) purposes.

3 48. The approximate total value of money and securities Boucher
4 misappropriated from Client C's trust between August 2019 and the present is over
5 \$1.5 million.

6 **E. Boucher's and SWAG's Material Misrepresentations and Omissions**
7 **and Deceptive Conduct**

8 49. Boucher and through him, SWAG, owed a fiduciary duty to his Clients
9 A and B, which includes a duty to disclose all material facts relating to the advisory
10 relationship. Boucher also owed this duty to Client C's trust.

11 50. Boucher, acting in his capacity as SWAG's sole control person and
12 employee, failed to disclose to Clients A or B that he was selling securities in their
13 accounts or making transfers of funds from their accounts for his personal benefit
14 beyond legitimate advisory fees. Boucher did not inform them that he intended to
15 take their funds prior to, or at any time during, their relationship.

16 51. He also told Client A in 2016 that he was voluntarily leaving Firm A
17 instead of disclosing he had been terminated. As a result of this material omission,
18 Client A kept her accounts with him, allowing him to resume his fraud.

19 52. When Client A became widowed in 2017 at the age of 68, she informed
20 Boucher that she wanted her investments to provide her with income to live on as
21 well as savings for retirement. Boucher, acting his capacity as SWAG's sole control
22 person and employee, told her that he was setting a goal to reach the level of \$2
23 million in her accounts. He would periodically tell her not to worry, that her accounts
24 were doing fine, and that she could trust him. In fact, while lulling Client A, Boucher
25 was systematically selling securities and withdrawing funds from her Trust Account
26 on a monthly basis to pay his credit card bills.

27 53. Boucher, both individually and later (while at Firm B) acting in his
28 capacity as sole control person and employee of SWAG, forged checks in Client A's

1 name to pay his credit card bills.

2 54. Boucher, acting in his capacity as sole control person and employee of
3 SWAG, impersonated Client B on a phone call with the Brokerage Firm to authorize
4 the wire transfer to purchase the Camaro.

5 55. After his fraud was uncovered, Boucher and through him, SWAG, took
6 steps to conceal his misconduct from existing and future advisory clients. For
7 example, he lied to Client A, claiming that there was only one instance of
8 misappropriation, when he knew he had forged dozens of checks and made
9 unauthorized electronic transfers out of Client A's Advisory Accounts. Boucher also
10 forged a letter, purportedly from Client C, in an attempt to convince SEC
11 Enforcement staff, CCI and other parties that Client C had gifted him \$1.5 million a
12 few days before she died.

13 56. Boucher and through him, SWAG, also lied to Client B and Firm B,
14 denying he had misappropriated Client B's funds and blaming it on a mistake.

15 57. As previously stated in paragraph 26, above, in September 2019 and
16 January 2020 SWAG, acting through Boucher, filed firm brochures and brochure
17 supplements for SWAG in the form of Form ADV Part 2A and 2B (the "Brochures")
18 as part of the process of registering SWAG as an investment adviser with the state of
19 California. Such brochures are the primary disclosure document that investment
20 advisers provide to their clients. When filed, such brochures are available to the
21 public on the Investment Adviser Public Disclosure (IAPD) website.

22 58. Boucher, acting through SWAG, did not disclose his termination and the
23 reasons for it to clients or prospective clients, either in SWAG's Brochures or
24 otherwise. Boucher, acting through SWAG, only revised the Brochures in January
25 2020 – after he became aware of the SEC's investigation of him – to disclose that he
26 had been terminated by Firm B for misappropriating client funds.

27 59. Boucher and through him, SWAG, obtained money and property by
28 means of his materially false and misleading statements and omissions and deceptive

1 acts.

2 60. Any reasonable investor would have considered it material that their
3 investment funds were being used by Boucher for his personal benefit.

4 61. Boucher and through him, SWAG knew, or were reckless in not
5 knowing, that they were deceiving Clients A and B regarding the use of their funds.

6 62. Boucher and through him SWAG, also knew, or were reckless in not
7 knowing, that they were deceiving the Brokerage Firm about Boucher's identity and
8 authorization of the wire transfer from Client B's account in March 2017.

9 63. Any reasonable brokerage firm would have considered it material that
10 Boucher was impersonating a client or lying about a client's authorization of a
11 transaction.

12 64. Any reasonable investor or prospective investor would have considered
13 it material that Boucher had been terminated by Firm B for misappropriating client
14 funds.

15

16

FIRST CLAIM FOR RELIEF

17

Fraud in Connection with the Purchase or Sale of Securities

18

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

19

(Against All Defendants)

20

21 65. The SEC realleges and incorporates by reference paragraphs 1 through
22 64 above.

22

23 66. As alleged above, Boucher and SWAG made numerous material
24 misrepresentations and omissions and engaged in multiple schemes to defraud
25 investors.

25

26 67. By engaging in the conduct described above, Defendants Boucher and
27 SWAG, and each of them, directly or indirectly, in connection with the purchase or
28 sale of a security, and by the use of means or instrumentalities of interstate
commerce, of the mails, or of the facilities of a national securities exchange,

1 knowingly and recklessly: (a) employed devices, schemes, or artifices to defraud; (b)
2 made untrue statements of a material fact or omitted to state a material fact necessary
3 in order to make the statements made, in light of the circumstances under which they
4 were made, not misleading; and (c) engaged in acts, practices, or courses of business
5 which operated or would operate as a fraud or deceit upon other persons.

6 68. By engaging in the conduct described above, Defendants Boucher and
7 SWAG violated, and unless enjoined will continue to violate, Section 10(b) of the
8 Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5thereunder, 17 C.F.R. §§ 240.10b-
9 5(a) & 240.10b-5(c).

10

11

SECOND CLAIM FOR RELIEF

12

Fraud in the Offer or Sale of Securities

13

Violations of Sections 17(a) of the Securities Act

14

(Against All Defendants)

15

16 69. The SEC realleges and incorporates by reference paragraphs 1 through
17 68 above.

17

18 70. As alleged above, by misusing investor funds, Defendant Boucher and
19 through him SWAG, engaged in schemes to defraud investors.

19

20 71. By engaging in the conduct described above, Defendants Boucher and
21 SWAG, and each of them, directly or indirectly, in the offer or sale of securities, and
22 by the use of means or instrumentalities of interstate commerce, of the mails, or of
23 the facilities of a national securities exchange: (1) knowingly and recklessly
24 employed devices, schemes, or artifices to defraud; (2) knowingly, recklessly, and
25 negligently obtained money or property by means of untrue statements of a material
26 fact or by omitting to state a material fact necessary in order to make the statements
27 made, in light of the circumstances under which they were made, not misleading; and
28 (3) knowingly, recklessly and negligently engaged in transactions, practices, or
29 courses of business which operated or would operate as a fraud or deceit upon the

1 purchaser.

2 72. By engaging in the conduct described above, Defendants Boucher and
3 SWAG violated, and unless enjoined will continue to violate, Sections 17(a) of the
4 Securities Act, 15 U.S.C. §§ 77q(a).

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6

THIRD CLAIM FOR RELIEF

7

Fraud by an Investment Adviser

8

Violations of Sections 206(1) and 206(2) of the Advisers Act

9

(Against all Defendants)

10 73. The SEC realleges and incorporates by reference paragraphs 1 through
11 72 above.

12 74. During the relevant period, Defendants Boucher and SWAG were
13 investment advisers.

14 75. Defendant Boucher committed the acts alleged above during the period
15 of his association with Firm A.

16 76. Defendant Boucher and through him SWAG, committed the acts alleged
17 above during period of Boucher's association with Firm B.

18 77. Defendant Boucher also committed the acts alleged above after his
19 termination by Firm B.

20 78. Through the acts alleged above, Boucher, directly or indirectly, by use of
21 the mails or means and instrumentalities of interstate commerce, knowingly,
22 recklessly and negligently: (a) employed devices, schemes or artifices to defraud
23 clients or prospective clients; and (b) engaged in transactions, practices, or courses of
24 business which operated as a fraud or deceit upon clients or prospective clients.

25 79. Through the acts of Boucher alleged above, SWAG, directly or
26 indirectly, by use of the mails or means and instrumentalities of interstate commerce,
27 knowingly, recklessly and negligently: (a) employed devices, schemes or artifices to
28 defraud clients or prospective clients; and (b) engaged in transactions, practices, or

1 courses of business which operated as a fraud or deceit upon clients or prospective
2 clients.

3 80. By engaging in the conduct described above, Defendants Boucher and
4 SWAG, have violated Sections 206(1) and (2) of the Advisers Act, 15 U.S.C. §§ 80b-
5 6(1) & 80b-6(2).

6 81. By reasons of the actions alleged in this Complaint, pursuant to Sections
7 209(d) and (f) of the Advisers Act, 15 U.S.C. § 80b-9(d) and (f), Boucher and SWAG
8 violated and, unless enjoined will continue to violate, Sections 206(1) and (2) of the
9 Advisers Act, 15 U.S.C. §§ 80b-6(1) & 80b-6(2).

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PRAYER FOR RELIEF

12

WHEREFORE, the SEC respectfully requests that the Court:

13

I.

14

Issue findings of fact and conclusions of law that Defendants committed the
15 alleged violations.

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II.

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Issue judgments, in forms consistent with Rule 65(d) of the Federal Rules of
18 Civil Procedure, permanently enjoining Boucher and SWAG and their officers,
19 agents, servants, employees and attorneys, and those persons in active concert or
20 participation with any of them, who receive actual notice of the judgment by personal
21 service or otherwise, and each of them, from violating Section 17(a) of the Securities
22 Act, 15 U.S.C. §§ 77e(a), 77e(c), and 77q(a), Section 10(b) of the Exchange Act, 15
23 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5, and permanently
24 enjoining Boucher and SWAG and their officers, agents, servants, employees and
25 attorneys, and those persons in active concert or participation with any of them, who
26 receive actual notice of the judgment by personal service or otherwise, and each of
27 them, from violating Sections 206(1) and 206(2) of the Advisers Act, 15 U.S.C. §§
28 80b-6(1) and 80b-6(2).

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III.

Order Defendants to disgorge all funds received from their illegal conduct, together with prejudgment interest thereon.

IV.

Order Defendant Boucher to pay civil penalties under Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3), and Section 209(e)(1) of the Advisers Act.

V.

Retain jurisdiction of this action in accordance with the principles of equity and the Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders and decrees that may be entered, or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

VI.

Grant such other and further relief as this Court may determine to be just and necessary.

Dated: August 25, 2020

/s/ Daniel J. Maher

Daniel J. Maher
Attorney for Plaintiff
Securities and Exchange Commission