

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

-against-

ROBERT MCCABE and  
MCCABE PROPERTIES, INC. (a/k/a MCCABE  
PROPERTIES),

Defendants.

**Complaint**

Civil Action No. \_\_\_\_\_

**JURY TRIAL DEMANDED**

Plaintiff Securities and Exchange Commission (“Commission”), for its Complaint against Defendants Robert McCabe (“McCabe”) and McCabe Properties, Inc. (a/k/a McCabe Properties) (“McCabe Properties”) (collectively, “Defendants”), alleges as follows:

**SUMMARY**

1. This case involves a securities offering fraud perpetrated by McCabe. Between 2010 and 2020, McCabe defrauded dozens of investors out of approximately one million dollars by selling them shares of stock of McCabe Properties based on false claims that McCabe Properties owned shares in an unaffiliated pharmaceutical company (“Company A”), and that investors would reap significant profits as a result of this ownership, in particular if and when Company A secured key drug approvals by regulators or was sold to another company.

2. In reality, McCabe and McCabe Properties did not own any interest in Company A, and McCabe simply spent the investors’ money on his personal expenses.

3. In perpetrating his fraud, McCabe exploited the relationships he had within his local community, as well as among members of his college’s alumni network, particularly his

fraternity brothers. He repeatedly abused the trust that his victims placed in him to sell them worthless investments under false pretenses.

### **VIOLATIONS**

4. By virtue of the foregoing conduct and as alleged further herein, Defendants McCabe and McCabe Properties have violated 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 thereunder [17 C.F.R. § 240.10b-5].

5. Unless Defendants are restrained and enjoined, they will engage in the acts, practices, transactions, and courses of business set forth in this Complaint or in acts, practices, transactions, and courses of business of similar type and object.

### **NATURE OF THE PROCEEDINGS AND RELIEF SOUGHT**

6. The Commission brings this action pursuant to the authority conferred upon it by Securities Act Sections 20(b) and 20(d) [15 U.S.C. §§ 77t(b) and 77t(d)] and Exchange Act Section 21(d) [15 U.S.C. § 78u(d)].

7. The Commission seeks a final judgment: (a) permanently enjoining Defendants from violating the federal securities laws and rules this Complaint alleges they have violated; (b) ordering Defendants to disgorge all ill-gotten gains they received as a result of the violations alleged here and to pay prejudgment interest thereon, including an order holding the Defendants jointly and severally liable for disgorgement and prejudgment interest; (c) ordering Defendants to pay civil money penalties pursuant to Securities Act Section 20(d) [15 U.S.C. § 77t(d)] and Exchange Act Section 21(d)(3) [15 U.S.C. § 78u(d)(3)]; and (d) ordering any other and further relief the Court may deem just and proper.

### JURISDICTION AND VENUE

8. This Court has jurisdiction over this action pursuant to Securities Act Section 22(a) [15 U.S.C. § 77v(a)] and Exchange Act Section 27 [15 U.S.C. § 78aa].

9. Defendants, directly and indirectly, have made use of the means or instrumentalities of interstate commerce or of the mails in connection with the transactions, acts, practices, and courses of business alleged herein.

10. Venue lies in this District under Securities Act Section 22(a) [15 U.S.C. § 77v(a)] and Exchange Act Section 27 [15 U.S.C. § 78aa]. McCabe may be found in, is an inhabitant of, and conducts business in the Eastern District of Pennsylvania, and certain of the acts, practices, transactions, and courses of business alleged in this Complaint occurred within this District, including some of the fraudulent investor solicitations as alleged below.

### DEFENDANTS<sup>1</sup>

11. **McCabe**, age 75, is a resident of Bangor, Pennsylvania. McCabe is the owner and president of McCabe Properties.

12. **McCabe Properties**, incorporated in 1986 in New Jersey, has its principal place of business in Belvidere, New Jersey.<sup>2</sup>

### FACTS

13. Between 2010 and 2020, McCabe defrauded dozens of investors, including friends and family members, out of approximately one million dollars by selling them shares of McCabe Properties stock based on false claims that McCabe Properties owned shares in Company A, an unaffiliated pharmaceutical company, and that investors would reap significant

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<sup>1</sup> Both Defendants agreed to toll any statute of limitations applicable to the claims alleged herein during the time period from July 10, 2020 through January 6, 2021.

<sup>2</sup> In May 2009, McCabe Properties' business status in New Jersey was revoked for failure to file annual reports.

profits as a result of this ownership, in particular if and when Company A secured key drug approvals from regulators or was sold to another company. McCabe defrauded approximately 40 investors out of approximately \$650,000 after July 2015.

14. In reality, McCabe and McCabe Properties did not own any interest in Company A, and McCabe simply spent the investors' money on his personal expenses.

15. In perpetrating his fraud, McCabe exploited the relationships he had within his local community, as well as among members of his college's alumni network, particularly his fraternity brothers. He repeatedly abused the trust that his victims placed in him to sell them worthless investments under false pretenses.

16. In addition to his false statements about McCabe Properties' ownership of Company A shares, McCabe made other materially false or misleading statements to investors and potential investors and employed numerous deceptive devices.

17. For example, to lend credibility to his fraudulent solicitations, McCabe often sent press releases and articles about Company A to an email list he referred to as the "hit parade," which included many of the defrauded investors. These communications helped McCabe maintain an illusion of affiliation with and investment in Company A.

18. Over the years, orally and through email, McCabe also repeatedly offered stock of McCabe Properties for purchase to investors on this "hit parade" email list, sometimes falsely claiming in his communications that additional McCabe Properties shares were becoming available due to a prior investor's divorce or death and urging the potential investors to capitalize on this purportedly rare opportunity.

19. These false communications induced several of McCabe's victims to make repeated investments in McCabe Properties stock over the years.

20. At all relevant times, McCabe knew or recklessly disregarded that his statements to investors and prospective investors concerning McCabe Properties' ownership of Company A shares, as well as concerning the purportedly rare opportunities to purchase McCabe Properties' stock after another investor's death or divorce, were materially false or misleading.

21. At all relevant times, in connection with his fraudulent scheme, McCabe controlled McCabe Properties and acted through and on behalf of McCabe Properties.

22. Alleged below are examples of McCabe's fraudulent conduct with respect to three investors.

### **Investor A**

23. Beginning as early as July 2012, McCabe made repeated misrepresentations to induce Investor A to purchase shares of McCabe Properties stock. Over a nearly seven-year period, Investor A sent McCabe at least \$68,500 for shares of McCabe Properties stock, all based on McCabe's materially false and misleading statements. McCabe then used all Investor A's funds for his personal expenses.

24. McCabe first solicited Investor A in or around July 2012, during a conversation in which McCabe told Investor A that McCabe Properties held "founders' shares" of Company A, and that there were shares of McCabe Properties available for purchase. Shortly after that conversation, on or about July 27, 2012, McCabe forwarded Investor A an email providing additional detail about the purported opportunity to invest indirectly in Company A by purchasing shares of stock in McCabe Properties. In his email, McCabe stated that Company A was developing a new drug, which was awaiting regulatory approval, and that Company A would eventually be sold to another company. McCabe stated that he had previously invested millions in Company A through McCabe Properties, and that McCabe Properties' "only asset is

and will only be the holding of the [Company A] stock.” McCabe went on to state that several McCabe Properties stockholders had sold back their stock due to divorce, making it available for repurchase.

25. Between July and August 2012, McCabe provided Investor A additional false information about the proposed investment, including that each McCabe Properties share Investor A purchased would entitle Investor A to one “founders’ share” in Company A held by McCabe Properties. McCabe also told Investor A that McCabe Properties had acquired the “founders’ shares” at a price lower than any potential Initial Public Offering price or any price at which Company A would eventually be purchased, and that investors would reap significant profits once Company A was sold to another company.

26. Based on McCabe’s materially false and misleading statements, in August 2012, Investor A sent McCabe \$20,000. McCabe sent Investor A a certificate for shares of McCabe Properties and then used Investor A’s funds for personal expenses.

27. On or about January 16, 2014, McCabe again solicited Investor A to purchase McCabe Properties stock, again falsely invoking McCabe Properties’ purported investment in Company A. Investor A sent McCabe \$25,000, and McCabe again sent Investor A a stock certificate for shares of McCabe Properties and then used Investor A’s money for personal expenses.

28. In or around December 2017, Investor A inquired whether there were additional opportunities to invest in McCabe Properties. McCabe confirmed that there were additional shares of McCabe Properties available, perpetuating the fiction that investing in McCabe Properties stock was a rare opportunity, and, on January 31, 2018, Investor A sent McCabe \$15,000 to purchase more McCabe Properties shares. McCabe again sent Investor A a stock

certificate for shares of McCabe Properties and used the money for personal expenses.

29. The following year, in March 2019, McCabe told Investor A that a friend of McCabe's who had previously invested in McCabe Properties had died. McCabe went on to tell Investor A that his deceased friend's children were interested in selling their father's shares, and Investor A would have yet another opportunity to benefit from McCabe Properties' investment in Company A through the purchase of these now available McCabe Properties shares.

30. On April 4, 2019, Investor A sent McCabe \$8,500. As before, McCabe sent Investor A a stock certificate for shares of McCabe Properties and used the money for personal expenses.

31. McCabe's statements to Investor A in connection with Investor A's 2012, 2014, 2018, and 2019 purchases of McCabe Properties stock were materially false and misleading. In reality, neither McCabe nor McCabe Properties had invested any money in Company A, or owned any interest in Company A. Moreover, the purportedly limited availability of McCabe Properties stock was entirely fictitious.

### **Investor B**

32. Investor B was first introduced to McCabe through Investor A. Beginning in early 2014 through April 2019, McCabe repeatedly lied to Investor B, falsely telling her that McCabe Properties owned Company A shares, and soliciting her to purchase shares of McCabe Properties stock for at least \$91,500, all of which McCabe used for personal expenses.

33. In early 2014, McCabe first told Investor B that he was an original investor in Company A. McCabe later told Investor B that he owned Company A shares through his holding company, McCabe Properties, and that Investor B could benefit from his investment in Company A by purchasing McCabe Properties shares.

34. As a result of McCabe's false statements, on or about July 18, 2014, Investor B sent McCabe \$30,000 to purchase shares of McCabe Properties stock. McCabe sent Investor B a stock certificate for McCabe Properties shares and used the money for his personal expenses.

35. Between 2014 and 2019, McCabe also included Investor B on emails he regularly sent to an email list that McCabe referred to as the "hit parade," often falsely touting the purportedly rare opportunities to make additional investments in McCabe Properties and referencing articles and press releases about Company A.

36. For example, on July 13, 2018, McCabe sent an email to Investor B and others, stating, in pertinent part:

Subject: [Company A] available

[L]ast year two of the original folks on 'the hit parade' passed away. as a result some of their shares in our holding company McCabe Properties, Inc. became available at their historic/original price and so re-offered; and subsequently sold to both 'hit parade' and new, interested participants. three weeks ago another 'hit parade' individual passed away, and a portion of their shares: \$45,000 [16,854] are now available on a first-come first-served basis. the acquisition price offered is at the historic/original price, and there are no fees or commissions. please let me know if you have an interest. merci, mccabe

37. Two months later, on September 20, 2018, McCabe followed up with another email to Investor B and others, stating, in pertinent part:

Subject: et tu, [Company A] available

[O]nce again yet another original participant in 'the hit parade' has passed away, at 79 . . . now available are 19,663 McCabe Properties, Inc. shares [\$52,500] on a first-come first-served basis; some or all . . . please let me know if you have an interest. be well, mccabe

38. On September 21, 2018, Investor B responded to McCabe's fraudulent solicitation and expressed an interest in investing an additional \$10,000-\$20,000. Creating the illusion that the shares of McCabe Properties stock were limited, McCabe responded that same day and told Investor B that "right now 10,487 shares [\$28,000] remain." Investor B then agreed to buy



“\$25,000 in shares if it is still available.” McCabe responded to Investor B within minutes, stating “. . . absolutely. first-come first-served. you’re in! . . . love yuh, mccabe.”

39. On or about October 1, 2018, Investor B sent \$25,000 to McCabe to purchase McCabe Properties shares. McCabe promptly sent Investor B a certificate for shares of McCabe Properties and used her money for his personal expenses.

40. McCabe defrauded Investor B again in March 2019, again falsely touting a purportedly rare opportunity to invest in McCabe Properties stock after another investor’s death. On or about April 8, 2019, Investor B sent \$36,500 to McCabe to purchase the shares. McCabe then sent Investor B a certificate for shares of McCabe Properties and used her money for his personal expenses.

41. McCabe’s statements to Investor B in connection with Investor B’s 2014, 2018, and 2019 investments in McCabe Properties, alleged above, including statements in McCabe’s July 13, September 20, and September 21, 2018 emails alleged above, were materially false and misleading. In reality, McCabe and McCabe Properties had no investments in Company A, and the limited availability of McCabe Properties shares was pure fiction.

### **Investor C**

42. During November and December 2019, McCabe repeatedly lied to Investor C about McCabe Properties’ ownership of Company A stock to induce Investor C to invest \$37,000 in McCabe Properties stock.

43. On November 14, 2019, McCabe sent Investor C an email that included a link to an article about Company A. In the body of the email, McCabe mentioned that “once again [Company A] has yet another positive headline in JAMA . . . follow the money\$\$\$\$\$\$ . . . patience. mccabe.” Over several days that followed, Investor C and McCabe had the following

email conversation:

Investor C: Hi Bob!/Are you trying to sell me on this?  
McCabe: hey [Investor C] ! sell? not. [Company A] sells itself, with both [Company A drugs] under Approval Review by the FDA and by European Medicines Agency . . . I was reaching out to invite you to join in “the hit parade” of participants [the usual suspects]. the average is \$37,500 and the minimum is \$5,000 [@ \$2.67]. mccabe . . .  
Investor C: Besides obviously having the money, what is required to get on boarded to this?  
McCabe: [Investor C] . . . to get involved, essentially just confirming how much you’d like to participate with [check payable to McCabe Properties, Inc.], also who’s [sic] name or names the M/P certificate is to be made out to. that’s about it [Investor C]. mccabe  
Investor C: Pencil me in for \$35K. It will take a few weeks for me to liquidate the funds.  
McCabe: [Investor C], you’re set.

44. To induce Investor C to purchase McCabe Properties shares, in one or more conversations during November 2019, McCabe described McCabe Properties to Investor C as a vehicle for investment in Company A. McCabe also told Investor C that the profits that would be reaped from McCabe Properties’ investment in Company A shares would be distributed to McCabe Properties shareholders.

45. McCabe’s statements to Investor C alleged above were materially false and misleading. In reality, McCabe had no investment in Company A, and the minimum and average investment amounts and investment price that he quoted in his email to Investor C were pure fabrication.

46. Based on McCabe’s false and misleading statements alleged above, Investor C sent McCabe \$37,000 on or about December 22, 2019, to purchase shares of McCabe Properties. Within a week, McCabe sent Investor C a McCabe Properties stock certificate. McCabe then used Investor C’s funds for personal expenses.

47. McCabe at all relevant times knew or recklessly disregarded that his statements to

Investor A, Investor B, and Investor C alleged above were materially false or misleading.

**FIRST CLAIM FOR RELIEF**  
**Violations of Securities Act Section 17(a)**  
**(Both Defendants)**

48. The Commission re-alleges and incorporates by reference here the allegations in paragraphs 1 through 47.

49. Defendants, directly or indirectly, singly or in concert, in the offer or sale of securities and by the use of the means or instruments of transportation or communication in interstate commerce or the mails, (1) knowingly or recklessly have employed one or more devices, schemes or artifices to defraud, (2) knowingly, recklessly, or negligently have obtained money or property by means of one or more untrue statements of a material fact or omissions of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, and/or (3) knowingly, recklessly, or negligently have engaged in one or more transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon the purchaser.

50. By reason of the foregoing, Defendants, directly or indirectly, singly or in concert, have violated and, unless enjoined, will again violate Securities Act Section 17(a) [15 U.S.C. § 77q(a)].

**SECOND CLAIM FOR RELIEF**  
**Violations of Exchange Act Section 10(b) and Rule 10b-5 Thereunder**  
**(Both Defendants)**

51. The Commission re-alleges and incorporates by reference here the allegations in paragraphs 1 through 47.

52. Defendants, directly or indirectly, singly or in concert, in connection with the purchase or sale of securities and by the use of means or instrumentalities of interstate

commerce, or the mails, or the facilities of a national securities exchange, knowingly or recklessly have (i) employed one or more devices, schemes, or artifices to defraud, (ii) made one or more untrue statements of a material fact or omitted to state one or more material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, and/or (iii) engaged in one or more acts, practices, or courses of business which operated or would operate as a fraud or deceit upon other persons.

53. By reason of the foregoing, Defendants, directly or indirectly, singly or in concert, have violated and, unless enjoined, will again violate Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

### **PRAYER FOR RELIEF**

WHEREFORE, the Commission respectfully requests that the Court enter a Final Judgment:

#### **I.**

Permanently enjoining Defendants, their agents, servants, employees and attorneys and all persons in active concert or participation with any of them from violating, directly or indirectly, Securities Act Section 17(a) [15 U.S.C. § 77q(a)], Exchange Act Section 10(b) [15 U.S.C. §§ 78j(b)], and Rule 10b-5 thereunder [17 C.F.R. §§ 240.10b-5];

#### **II.**

Ordering Defendants, jointly and severally, to disgorge all ill-gotten gains they received directly or indirectly, with prejudgment interest thereon, as a result of the alleged violations;

#### **III.**

Ordering Defendants to pay civil monetary penalties under Securities Act Section 20(d) [15 U.S.C. § 77t(d)] and Exchange Act Section 21(d)(3) [15 U.S.C. § 78u(d)(3)]; and

**IV.**

Granting any other and further relief this Court may deem just and proper.

Dated: September 30, 2020

Respectfully submitted,

*s/ Chevon Walker*

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