

**RICHARD R. BEST**  
**REGIONAL DIRECTOR**  
Sanjay Wadhwa  
Vanessa De Simone  
Alexander M. Vasilescu  
John Lehmann  
Attorneys for Plaintiff  
**SECURITIES AND EXCHANGE COMMISSION**  
New York Regional Office  
Brookfield Place  
200 Vesey Street, Suite 400  
New York, New York 10281-1022  
(212) 336-0178 (Vasilescu)

**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF NEW YORK**

**SECURITIES AND EXCHANGE  
COMMISSION,**

**Plaintiff,**

**-against-**

**RAND HECKLER and  
RAND HECKLER, INC.**

**Defendants.**

**COMPLAINT**

**20 Civ. \_\_\_\_ ( )**

**JURY TRIAL DEMANDED**

Plaintiff Securities and Exchange Commission (“Commission”), for its Complaint against Defendants Rand Heckler (“Heckler”) and Rand Heckler, Inc. (“Heckler, Inc.”) (collectively, “Defendants”), alleges as follows:

**SUMMARY OF ALLEGATIONS**

1. In 2015, Heckler, then a securities broker, began soliciting hundreds of thousands of dollars in investments from an elderly investor (“Investor A”) and the investor’s son by claiming to manage a successful hedge fund. Heckler instructed Investor A and his son to make the investments in the purported hedge fund by sending money to Heckler, Inc., an entity Heckler

owned and controlled. In fact, Heckler never managed a hedge fund and never otherwise invested the payments made by Investor A and his son to Heckler, Inc. Instead, Heckler misappropriated these funds to pay for his mortgage payments, car payments, a country club membership, and numerous other personal expenses.

2. To conceal and sustain this fraudulent scheme, Defendants periodically provided Investor A and his son with fake account statements that purported to show investments made by Heckler, Inc. in stocks and other securities. Motivated in part by these statements, Investor A and his son continued to invest in Defendants' sham hedge fund, transferring at least \$755,000 to Heckler, Inc. between 2015 and 2020.

3. In June 2019, Heckler was barred by the Financial Industry Regulatory Authority ("FINRA") from associating with any FINRA-registered broker-dealer for failing to provide information to FINRA in connection with a complaint filed by a different investor.

4. In approximately January 2020, Investor A's son became suspicious of Heckler after learning of his FINRA bar, and demanded a partial redemption of his father's investment.

5. Unable to meet this redemption demand, Heckler solicited a new \$100,000 investment from the wife of a former brokerage customer ("Investor B"), who had recently received a life insurance payment following her husband's death. After falsely promising Investor B that this investment would pay substantial dividends, Heckler persuaded Investor B to transfer \$100,000 to a bank account that Investor B believed was associated with the dividend investment. In reality, the bank account belonged to Investor A, and the purpose of the transfer was so that Heckler could repay Investor A in a Ponzi-like fashion.

## **VIOLATIONS**

6. By virtue of the foregoing conduct and as alleged further herein, Defendants Heckler and Heckler, Inc. 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]; and Sections 206(1), 206(2) and 206(4) of the Investment Advisers Act of 1940 (“Advisers Act”) [15 U.S.C. §§ 80b-6(1), 80b-6(2) and 80b-6(4)] and Rule 206(4)-8 thereunder [17 C.F.R. § 275.206(4)-8].

7. 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**

8. 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)], Exchange Act Section 21(d) [15 U.S.C. § 78u(d)], and Advisers Act Sections 209(d) and 209(e) [15 U.S.C. §§ 80b-9(d) and 80b-9(e)].

9. 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; (c) ordering Defendants to pay civil money penalties pursuant to Securities Act Section 20(d) [15 U.S.C. § 77t(d)], Exchange Act Section 21(d)(3) [15 U.S.C. § 78u(d)(3)], and Advisers Act Section 209(e) [15 U.S.C. § 80b-9(e)]; and (d) ordering any other and further relief the Court may deem just and proper.

### **JURISDICTION AND VENUE**

10. This Court has jurisdiction over this action pursuant to Securities Act Section 22(a) [15 U.S.C. § 77v(a)], Exchange Act Section 27 [15 U.S.C. § 78aa], and Advisers Act Section 214 [15 U.S.C. § 80b-14].

11. 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.

12. Venue lies in this District under Securities Act Section 22(a) [15 U.S.C. § 77v(a)], Exchange Act Section 27 [15 U.S.C. § 78aa], and Advisers Act Section 214 [15 U.S.C. § 80b-14]. Defendant Heckler's residence and Defendant Heckler, Inc.'s principal place of business are in the Eastern District of New York, and certain of the acts, transactions, practices and courses of business alleged herein took place in the Eastern District of New York. Defendants solicited investments from an investor, Investor B, who resides in the Eastern District of New York.

### **DEFENDANTS**

13. **Heckler**, age 64, resides in Glen Cove, New York. From 1995 until April 2019, Heckler worked as a registered representative for various broker-dealers located in New York and Florida. Heckler was associated with a registered broker-dealer located in New York, New York ("Brokerage Firm A") from December 2013 until April 2019, when Brokerage Firm A closed. On June 14, 2019, Heckler was barred by FINRA from associating with any FINRA member firm for failing to respond to a FINRA request for documents and information made in connection with a customer complaint. Heckler is not currently registered with the Commission in any capacity.

14. **Heckler, Inc.** is a New York corporation organized and incorporated by Heckler in October 2009. Heckler is the Chief Executive Office of Heckler, Inc. and Heckler, Inc.'s principal place of business is Heckler's home in Glen Cove, New York. Heckler claimed to operate a hedge fund through Heckler, Inc. and used bank accounts in the name of Heckler, Inc. to receive, and then misappropriate for his personal use, investor funds. Heckler, Inc. has never been registered with the Commission in any capacity.

## FACTS

### I. DEFENDANTS SOLICITED INVESTMENTS IN THEIR SHAM HEDGE FUND

15. Heckler, with and through Heckler, Inc., tricked Investor A and Investor A's son into investing hundreds of thousands of dollars in a sham hedge fund that Heckler purported to manage.

16. Prior to 2015, Heckler acted as the broker for certain investment accounts held by Investor A and Investor A's charitable foundation at Brokerage Firm A.

17. In approximately 2015, Heckler told Investor A that he had begun managing a hedge fund, and encouraged Investor A to invest in this hedge fund. Among other things, Heckler claimed that the hedge fund offering was only available to friends and close associates, and that there were 15 to 20 investors in the hedge fund. Heckler claimed that he made investment decisions for the fund.

18. Investor A agreed to invest in the hedge fund. Beginning in at least December 2015, Investor A began transferring money to Heckler, Inc., believing that this money would be invested in the hedge fund.

19. Over time, Heckler solicited additional investments in the purported hedge fund from Investor A. As Investor A's health declined, and Investor A's son took a larger role in managing his father's financial affairs, Heckler also solicited additional investments in the hedge fund from Investor A's son.

20. In some cases, Heckler told Investor A's son that the purpose of these additional investments was so that the hedge fund could build a position in a particular stock or other security. As with Investor A's initial investment, Heckler instructed Investor A and Investor A's son to make these additional investments by writing checks or wiring funds to Heckler, Inc.

21. Between at least December 2015 and January 2020, Investor A and Investor A's son

transferred at least \$755,000 to Heckler, Inc. for hedge fund investments.

## **II. DEFENDANTS' CLAIMS ABOUT THE HEDGE FUND WERE FALSE**

22. As Defendants knew or were reckless in not knowing, Defendants' claims about the purported hedge fund were false. In fact, the hedge fund never existed and Defendants never otherwise used the funds received from Investor A and Investor A's son to make securities investments.

23. The funds sent to Heckler, Inc. by Investor A and Investor A's son for hedge fund investments were deposited in bank accounts held by Heckler, Inc. and co-mingled with other assets, including Heckler's personal assets. Since 2015, none of the funds in Heckler, Inc.'s bank accounts have been transferred to a broker-dealer so that they could be used to make legitimate securities investments, and Defendants never opened a brokerage account for Heckler, Inc. or any hedge fund associated with Heckler, Inc.

24. Instead, Heckler used Heckler Inc.'s account as his personal piggybank and misappropriated Investor A's money to cover his own expenses, which included mortgage, car and credit card payments. Heckler also used the co-mingled funds for luxuries such as country club membership dues, spa visits and fine dining. Defendants never disclosed to Investor A or his son that Investor A's investment funds were being used for Heckler's personal expenses.

## **III. DEFENDANTS CONCEALED THEIR FRAUD**

25. Defendants concealed and perpetuated their fraud by periodically sending Investor A and his son fake account statements that claimed to show Investor A's investments in the hedge fund.

26. These account statements listed an account number and the purported total balance and market value of the account's holdings. The statements also listed the name, symbol, current price per share, and total value of each of the various stocks and other securities in which the

Defendants' hedge fund had supposedly invested, including Home Depot, Apple and Macy's. In some cases, the names of the issuer on the statement were misspelled or otherwise misidentified (e.g., "Chipolte").

27. Additionally, Defendants periodically sent Investor A and his son phony trade confirmation documents, which claimed to show details regarding particular trades made by the hedge fund. These trade confirmations were labeled "Rand Heckler Inc, LP" (sic) or "Rand Heckler Inc,Lp Fund" (sic) and listed, among other things, the stock, price and date of the purported trades.

28. These trade confirmations often included information that was inconsistent with actual stock market conditions and rules. For example, two confirmations purported to show purchases of Chipotle stock made on May 28, 2018—even though that date was Memorial Day and the markets were closed. Similarly, another trade confirmation claimed that "Rand Heckler Inc, LP" had purchased 700 shares of Twitter stock on July 9, 2018 for \$35.19 per share, even though the lowest trade price reported for Twitter that day was \$42.08.

29. Defendants knew or were reckless in not knowing that these account statements and trade confirmations were false and misleading because, in fact, no hedge fund existed and Defendants had not made the investments described on the account statements and trade confirmations.

#### **IV. HECKLER DEFRAUDED INVESTOR B TO PAY BACK INVESTOR A**

30. Defendants' scheme began to unravel in early 2020 when Investor A's son learned of Heckler's FINRA bar and demanded a \$100,000 redemption of his father's interest in the hedge fund.

31. Heckler told Investor A's son that, to meet the redemption request, he would sell shares in an exchange traded fund, SPDR Gold Shares ("GLD"). In fact, Heckler raised funds to pay back Investor A and forestall the discovery of Defendants' scheme by defrauding another

investor, Investor B.

32. Heckler was acquainted with Investor B because, among other connections, Investor B's late husband had been a customer of Heckler's while Heckler was employed by Brokerage A.

33. Heckler was aware that Investor B had received a life insurance payment of approximately \$100,000 as a result of her husband's death in 2019. Heckler told Investor B that he would invest the \$100,000 for her and that, based on the investment, she would receive dividends of \$600 per month.

34. On February 28, 2020, Heckler went with Investor B to her bank. At Heckler's direction, Investor B wired \$100,000 from her bank account to a bank account held by Investor A. Heckler represented to Investor B that, by transferring this money, she was funding the dividend investment he had previously recommended. As Heckler knew or was reckless in not knowing, his representations to Investor B about the dividend investment and the bank transfer were false: Heckler never made a legitimate investment on behalf of Investor B and the true purpose of the bank transfer was so that Heckler could partially repay Investor A in a Ponzi-like fashion.

35. Subsequently, Heckler sent Investor A's son a phony trade confirmation indicating that Defendants had sold GLD shares worth approximately \$100,000 on February 28, 2020.

36. Since February 2020, Defendants have continued to intentionally or recklessly deceive Investor A, Investor A's son and Investor B regarding the true disposition of the funds they entrusted to Defendants.

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

37. The Commission re-alleges and incorporates by reference here the allegations in paragraphs 1 through 36.

38. 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.

39. 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)**

40. The Commission re-alleges and incorporates by reference here the allegations in paragraphs 1 through 36.

41. 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.

42. 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].

**THIRD CLAIM FOR RELIEF**  
**Violations of Advisers Act Sections 206(1) and 206(2)**  
**(Both Defendants)**

43. The Commission re-alleges and incorporates by reference here the allegations in paragraphs 1 through 30, 35 and 36.

44. At all relevant times, Defendants were investment advisers under Advisers Act Section 202(11) [15 U.S.C. § 80b-2(11)].

45. Defendants, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly have: (i) knowingly or recklessly employed one or more devices, schemes, or artifices to defraud any client or prospective client, and/or (ii) knowingly, recklessly, or negligently engaged in one or more transactions, practices, and courses of business which operated or would operate as a fraud or deceit upon any client or prospective client.

46. By reason of the foregoing, Defendants, directly or indirectly, have violated and, unless enjoined, will again violate Advisers Act Sections 206(1) and 206(2) [15 U.S.C. §§ 80b-6(1) and 80b-6(2)].

**FOURTH CLAIM FOR RELIEF**  
**Violations of Advisers Act Section 206(4) and Rule 206(4)-8(a) Thereunder**  
**(Both Defendants)**

47. The Commission re-alleges and incorporates by reference here the allegations in paragraphs 1 through 30, 35 and 36.

48. At all relevant times, Defendants were investment advisers under Advisers Act Section 202(11) [15 U.S.C. § 80b-2(11)], to a pooled investment vehicle, as defined in Rule 206(4)-8(b) [17 C.F.R. § 275.206(4)-8(b)].

49. Defendants knowingly, recklessly, or negligently (i) 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, to any investor or prospective investor in the pooled investment vehicle, and/or (ii) engaged in one or more acts, practices, or courses of business that were fraudulent, deceptive, or manipulative, with respect to any investor or prospective investor in the pooled investment vehicle.

50. By reason of the foregoing, Defendants, directly or indirectly, have violated and, unless enjoined, will again violate Advisers Act Section 206(4) [15 U.S.C. § 80b-6(4)] and Rule 206(4)-8(a)(2) thereunder [17 C.F.R. § 275.206(4)-8(a)(2)].

### **PRAYER FOR RELIEF**

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

#### **I.**

Permanently enjoining Heckler and his agents, servants, employees and attorneys and all persons in active concert or participation with any of them from violating, directly or indirectly, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], 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], and Sections 206(1), 206(2) and 206(4) of the Advisers Act [15 U.S.C. §§ 80b-6(1), 80b-6(2) and 80b-6(4)] and Rule 206(4)-8 thereunder [17 C.F.R. § 275.206(4)-8];

#### **II.**

Permanently enjoining Heckler, Inc. and its agents, servants, employees and attorneys and all persons in active concert or participation with any of them from violating, directly or indirectly, Sections 17(a) of the Securities Act [15 U.S.C. § 77q(a)], 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], and Sections 206(1), 206(2) and

206(4) of the Advisers Act [15 U.S.C. §§ 80b-6(1), 80b-6(2) and 80b-6(4)] and Rule 206(4)-8 thereunder [17 C.F.R. § 275.206(4)-8];

**III.**

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

**IV.**

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 Advisers Act Section 209(e) [15 U.S.C. § 80b-9(e)]; and

**VIII.**

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

Dated: New York, New York  
September 30, 2020

/s/ Richard R. Best

RICHARD R. BEST  
REGIONAL DIRECTOR  
Sanjay Wadhwa  
Vanessa De Simone  
Alexander M. Vasilescu  
John Lehmann  
Attorneys for Plaintiff  
SECURITIES AND EXCHANGE COMMISSION  
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200 Vesey Street, Suite 400  
New York, New York 10281-1022  
(212) 336-0178 (Vasilescu)  
VasilescuA@sec.gov