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8
9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11
12
13 SECURITIES AND EXCHANGE
COMMISSION,

14 Plaintiff,

15 vs.

16
17 AUSTIN DANGER ELLISON-
MEADE,

18 Defendant.
19

Case No.

COMPLAINT

20
21 Plaintiff Securities and Exchange Commission (“SEC”) alleges:

22 **JURISDICTION AND VENUE**

23 1. The Court has jurisdiction over this action pursuant to Sections 20(b),
24 20(d)(1) and 22(a) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C. §§
25 77t(b), 77t(d)(1) & 77v(a), Sections 21(d)(1), 21(d)(3)(A), 21(e) and 27(a) of the
26 Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. §§ 78u(d)(1),
27 78u(d)(3)(A), 78u(e) & 78aa(a), and Sections 209(d), 209(e)(1) and 214 of the
28 Investment Advisers Act of 1940 (“Advisers Act”), 15 U.S.C. §§ 80b-9(d), 80b-

1 9(e)(1) & 90b-14.

2 2. Defendant has, directly or indirectly, made use of the means or
3 instrumentalities of interstate commerce, of the mails, or of the facilities of a national
4 securities exchange in connection with the transactions, acts, practices and courses of
5 business alleged in this complaint.

6 3. Venue is proper in this district pursuant to Section 22(a) of the Securities
7 Act, 15 U.S.C. § 77v(a), and Section 27(a) of the Exchange Act, 15 U.S.C. § 78aa(a),
8 because certain of the transactions, acts, practices and courses of conduct constituting
9 violations of the federal securities laws occurred within this district.

10 **SUMMARY**

11 4. This case concerns a securities offering fraud perpetrated by defendant
12 Austin Danger Ellison-Meade (“Ellison-Meade”), who solicited investments in
13 Baycap.io, an investment club that he operated and managed as a pooled investment
14 vehicle from at least February 2019 to May 2021. Ellison-Meade is the 24-year old
15 “managing partner” of Baycap.io. He has never been registered with the Commission
16 in any capacity or associated with any Commission-registered investment adviser.
17 He claimed that he had developed a proprietary algorithm which accurately identified
18 stocks that were poised for growth. Through these representations, Ellison-Meade
19 raised approximately \$2.8 million from 31 individual investors, telling them that he
20 would use his proprietary algorithm to generate high investment returns, with very
21 little risk to investor capital. Ellison-Meade’s claims of profitable algorithmic trading
22 were false – rather than investing their money as represented, he instead
23 misappropriated investor funds from Baycap.io to pay his personal expenses and to
24 make Ponzi payments. To conceal his fraud, Ellison-Meade also distributed fake
25 account statements to investors in an effort to persuade them to maintain their
26 investments with him, and to contribute even more capital to Baycap.io.

27 5. By engaging in this conduct, defendant Ellison-Meade: (i) violated
28 Section 17(a) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C. § 77q(a); (ii)

1 violated Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”), 15
2 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5; and (iii) violated
3 Sections 206(1), 206(2), and 206(4) of the Investment Advisers Act of 1940
4 (“Advisers Act”), 15 U.S.C. § 80b-6(1), (2), and (4), and Rule 206(4)-8 thereunder,
5 17 C.F.R. § 275.206(4)-8.

6 6. With this complaint, plaintiff SEC seeks a permanent injunction
7 prohibiting future violations of the federal securities laws, a conduct-based
8 injunction, an order requiring defendant Ellison-Meade to disgorge his ill-gotten
9 gains along with prejudgment interest, and an order requiring Ellison-Meade to pay
10 civil penalties.

11 **DEFENDANT**

12 7. **Defendant Austin Danger Ellison-Meade**, age 24, held himself out as
13 the managing partner of an investment club called Baycap.io. Ellison-Meade has
14 never been registered with the Commission in any capacity, nor has he ever been
15 associated with any Commission registrant.

16 **THE ALLEGATIONS**

17 **A. Ellison-Meade’s Fraudulent Baycap.io Securities Offering**

18 8. In early 2019, Ellison-Meade formed Baycap.io, a purported investment
19 club, began raising capital for Baycap.io, and operated Baycap.io as an unregistered
20 pooled investment vehicle.

21 9. Ellison-Meade held himself out as Baycap.io’s managing partner and
22 communicated in person, over the phone, and by email with potential investors.

23 10. Besides Ellison-Meade, no other person or entity played any role in the
24 management of Baycap.io.

25 11. From at least February 2019 to May 2021 (the “relevant period”),
26 Ellison-Meade raised at least \$2.8 million from about 31 individual investors.

27 12. In doing so, Ellison-Meade used friends and family to help him identify
28 and recruit potential investors.

1 13. Ellison-Meade sent partnership agreements to certain investors which
2 documented their investments in Baycap.io.

3 14. Ellison-Meade had ultimate authority over both the content of the
4 Baycap.io partnership agreements, and whether, how, and when to provide them to
5 Baycap.io investors for their execution.

6 15. The Baycap.io partnership agreement provided that Baycap.io's purpose
7 was "to invest the assets of the partnership solely in publicly traded individual
8 corporate stocks and bonds, and mutual funds, and ETF's (Exchange Traded Funds)
9 made up of those investments ... for the benefit of the partners."

10 16. The Baycap.io partnership agreement stated that "[o]ne partner shall
11 participate in the management and conduct the affairs of the partnership." In practice,
12 Ellison-Meade exercised such authority.

13 17. The Baycap.io partnership agreement provided that the investment
14 club's operator, Ellison-Meade, would be paid a 2% fee based on all capital
15 contributions. In addition, the agreement provided that the managing partner, also
16 Ellison-Meade, was entitled to a separate 20% fee on all investment profits.

17 18. When investing in Baycap.io, investors sent Ellison-Meade money via
18 wire transfer or check, which he then deposited in bank accounts he controlled.

19 **B. Ellison-Meade's False and Misleading Representations to Investors**

20 19. Ellison-Meade often pitched Baycap.io to potential investors in oral
21 presentations.

22 20. When raising funds from Baycap.io investors, Ellison-Meade also
23 provided some investors with written offering materials that described the proposed
24 Baycap.io investment.

25 21. Ellison-Meade had ultimate authority over both the content of these
26 written offering materials and whether and how to communicate those statements to
27 investors and potential investors in Baycap.io.
28

1 **1. Ellison-Meade represented that investors would receive high returns**
2 **through his proprietary algorithm**

3 22. As part of his investment pitch, Ellison-Meade stated that he had
4 developed an algorithm for picking stocks, and that the algorithm could grow a
5 \$10,000 investment into more than \$100,000 in one year of trading.

6 23. Ellison-Meade also claimed, at times, that he had created the algorithm
7 for a class project. Ellison-Meade represented that after he had tested the algorithm's
8 effectiveness using a dataset of historical stock prices, the algorithm had performed
9 so well that his college professor then arranged for him to speak with an investment
10 adviser who eventually opined that Ellison-Meade could sell the algorithm for
11 millions.

12 24. Ellison-Meade told potential investors, as part of his investment pitch,
13 that he had decided against selling the algorithm, and instead chose to use his
14 algorithm to trade stocks for the benefit of a select group of investors drawn from his
15 family and friends.

16 25. In written offering materials that he provided to some investors, Ellison-
17 Meade further represented that when "Algo Trading," he was able to predict the
18 NASDAQ through historical trends: "By focusing on simple variables I am able to
19 find patterns across all of the NASDAQ regardless or [sic] type of investment, there
20 is [sic] observable patterns that transcend the complex variables of a stock and as a
21 result are impacting [sic] by all variables" and that "[B]y focusing on these simple
22 variables we consistently predict growth within stocks at 69% accuracy and average
23 almost 2% growth a day just based on the previous day's performance." Thus,
24 according to Ellison-Meade's written offering materials, "[U]sing deep machine
25 learning we can beat the market with high accuracy."

26 26. The written offering materials also claimed that Ellison-Meade's
27 NASDAQ "Algo Trading" strategy "[b]eats all other investments," asserting that
28 "[w]ith almost 2% average interest a day trading 4 days a week last year, we had

1 returns of almost 1300%” and that “[t]his year we have a projection of around
2 800%.”

3 27. Other written offering materials included a line graph purporting to show
4 a \$10,000 investment in January 2018 growing to nearly \$130,000 in value at the end
5 of December 2018. Ellison-Meade claimed to one investor, based on the graph, that a
6 one-year investment of \$100,000 could expect to earn \$300,000 in profit.

7 **2. Ellison-Meade represented that investors faced little risk**

8 28. As part of his investment pitch, Ellison-Meade also represented that he
9 used various strategies to minimize the risk of investor loss.

10 29. For example, Ellison-Meade explained to one investor that he only
11 traded stocks, bonds, and mutual funds, and that he reduced those positions to cash at
12 the end of every trading day.

13 30. He also told a different investor that he traded different stocks every day.

14 31. Last, Ellison-Meade represented to investors that he had designed his
15 proprietary trading algorithm with an automatic trigger that would limit any investor
16 losses to 10%. And so when one investor asked Ellison-Meade if he could lose his
17 entire investment, Ellison-Meade assured the investor that could not happen: “Worst
18 case would be 10%. I have it set so that I cant [sic] lose more than 10%.”

19 32. Finally, Ellison-Meade sought to entice investment when representing
20 Baycap.io membership in written offering materials as an exclusive opportunity
21 available to only a select few: “Most investment opportunities such as this are
22 completely behind closed doors and never accept new investors,” and that “[f]or now
23 we are only going to be accepting 15 investors, this is due to the way we are
24 structuring our investment pool.”

25 **3. Ellison-Meade represented that investments in Baycap.io were**
26 **transparent and liquid**

27 33. As part of his investment pitch, Ellison-Meade also emphasized the
28 liquidity and transparency of investments in Baycap.io.

1 34. Ellison-Meade stated to investors and potential investors that an
2 investment in Baycap.io was like a checking account, since investors would have
3 ready access to information about their investment through a Baycap.io online portal.

4 35. Ellison-Meade represented to investors and potential investors that their
5 investments were highly liquid, and that they could withdraw funds “in under a
6 week.”

7 **C. Ellison-Meade’s Scheme to Misappropriate Funds and Make Ponzi-Like**
8 **Payments**

9 36. Rather than investing their funds as represented, Ellison-Meade
10 misappropriated investor funds for his personal use and to make Ponzi-like payments
11 to other investors.

12 37. In the relevant period, Ellison-Meade raised at least \$2.8 million from
13 Baycap.io investors and then spent most of those funds on his personal expenses.

14 38. As one example, at the end of September 2019, an Ellison-Meade
15 financial account had a balance of just \$501. In early October 2019, however, the
16 account received funds from two Baycap.io investors totaling \$265,000. Over the
17 first week of October, Ellison-Meade then spent more than \$25,000 on luxury items
18 from Rolex, Louis Vuitton, and Yves Saint Laurent, as well as \$47,000 on private jet
19 services.

20 39. In addition to misappropriating investor money for his personal use,
21 Ellison-Meade used incoming investor funds to make Ponzi-like payments to other
22 investors.

23 40. In the relevant period, Ellison-Meade transferred about \$131,000 in
24 purported investment gains to Baycap.io investors. However, most of that amount
25 was funded by new investor capital.

26 41. Because of Ellison-Meade’s misappropriation, most of Baycap.io’s
27 investors have not received their promised investment returns nor a return of their
28 invested capital.

1 42. To further this fraud, Ellison-Meade engaged in a host of deceptive
2 conduct. He led some investors to believe that their investments with Baycap.io were
3 earning high profits by flaunting his expensive lifestyle, and by providing them with
4 fake account statements. He sought to explain his inability to honor investor
5 withdrawal requests with false excuses. Finally, Ellison-Meade also impersonated
6 another individual, using a fake email account, in an effort to deflect the blame.

7 **D. Ellison-Meade's Representations of Algorithmic Trading, High Returns,**
8 **Low Risk, Liquidity, and Transparency Were False and Misleading**

9 43. Ellison-Meade represented that he would use investor capital to trade
10 stocks, bonds, and ETFs through his proprietary trading algorithm.

11 44. No such securities trading occurred. Instead, Ellison-Meade
12 misappropriated investor funds to pay his personal expenses and/or make Ponzi-like
13 payments to other investors.

14 45. Ellison-Meade represented as well that investors would receive high
15 investment returns through his algorithmic trading program.

16 46. Ellison-Meade's promised investment returns were an impossibility
17 since he did not trade in securities with investor funds as represented.

18 47. Ellison-Meade represented that any investor losses would be limited due
19 to various trading strategies and an automatic trigger he built into the algorithm.

20 48. Because Meade engaged in no actual securities trading and used investor
21 funds for his own personal expenses and for Ponzi-like payments, Baycap.io investor
22 losses were not limited to 10%.

23 49. Ellison-Meade further represented that investors could withdraw their
24 invested funds at any time, subject to only a brief processing delay.

25 50. Ellison-Meade's claim of investment liquidity was false and Baycap.io
26 investors were unable to withdraw their money as represented because Ellison-Meade
27 had misappropriated their funds.

28 51. Ellison-Meade also represented that Baycap.io investors would be able

1 to track the performance of their investments through an online portal.

2 52. Ellison-Meade's claim of investment transparency was false because
3 none of Baycap.io's investors ever received access to such a portal.

4 53. The false and misleading statements alleged above concerning Ellison-
5 Meade's algorithm, and Ellison-Meade's corresponding claims of high returns, little
6 risk of capital to investors, and investment liquidity and transparency, were all
7 material to investors and potential investors in Baycap.io because reasonable
8 investors would have considered it important when making their investment decision
9 to know that Baycap.io would not pay Ellison-Meade's promised returns, to know
10 that their losses would not be limited to 10% of their invested capital, to know that
11 Ellison-Meade would not use their invested funds for securities trading but instead
12 misappropriate them to pay his personal expenses and/or make Ponzi-like payments,
13 and to know that Ellison-Meade would be consequently unable to return their
14 invested capital within a few days of their request.

15 **E. Ellison-Meade Lulled Investors with Further Misrepresentations**

16 54. To conceal his fraud, Ellison-Meade lulled investors with more false and
17 misleading representations.

18 55. Although investors in Baycap.io never received access to Ellison-
19 Meade's represented online portal that would allow them to track their investments,
20 Ellison-Meade provided some investors with fake account statements and invoices
21 purportedly reflecting their promised gains.

22 56. For example, Ellison-Meade sent two investors statements that were
23 supposedly for accounts Ellison-Meade had opened at a registered broker-dealer.

24 57. However, that broker-dealer has no record of any securities accounts
25 corresponding to the names and account numbers appearing on the statements, and
26 the statements provided by Ellison-Meade to those investors were fake.

27 58. Ellison-Meade sent other investors investment statements and documents
28 that reflected supposed robust investment returns. These documents were fake as

1 well.

2 59. The false documents that Ellison-Meade provided to certain investors led
3 them to believe that their Baycap.io investments were generating investment returns,
4 and encouraged them to keep their capital invested with Ellison-Meade.

5 60. At other times, when Ellison-Meade was unable to honor an investor's
6 request to withdraw their funds, Ellison-Meade offered various false excuses to
7 explain his inability to return their money.

8 61. Ellison-Meade told some investors that they had made their request too
9 late in the quarter to be processed.

10 62. He separately claimed that Baycap.io's brokerage firm was at fault for
11 failing to release the funds.

12 63. In another instance, Ellison-Meade falsely claimed that he had
13 accidentally used the wrong number in wire transfer instructions.

14 **F. Ellison-Meade Acted With Scienter and His Conduct Was Negligent**

15 64. Ellison-Meade was Baycap.io's manager and he had sole authority to
16 make all investment decisions on its behalf.

17 65. Ellison-Meade deposited the vast majority of investor capital in bank
18 accounts that he controlled, as their sole signatory.

19 66. Ellison-Meade personally raised capital from defrauded investors by
20 pitching them on his proprietary trading algorithm, and promises of high returns,
21 liquidity, transparency, and low investment risk in Baycap.io.

22 67. Nonetheless, Ellison-Meade engaged in no meaningful securities trading
23 with the investor funds he raised.

24 68. Moreover, Ellison-Meade took deliberate steps to conceal his fraud from
25 Baycap.io investors through fake documents, false excuses, and other deceptive
26 conduct.

27 69. Ellison-Meade knew, or was reckless in not knowing, that his
28 representations of algorithmic trading, high investment returns, liquidity,

1 transparency, and low investment risk were false and misleading.

2 70. Ellison-Meade knew, or was reckless in not knowing, that through his
3 conduct, he was misappropriating investor funds for his personal use and to make
4 Ponzi-like payments to other investors.

5 71. Ellison-Meade's false and misleading representations of algorithmic
6 trading, high investment returns, liquidity, transparency, and low investment risk
7 were negligent, and in engaging in that conduct Ellison-Meade acted unreasonably.

8 72. Ellison-Meade's misappropriation of investor funds, lulling conduct, and
9 other deceptive acts in furtherance of his fraud – providing fake account statements
10 and false excuses for investor losses – were negligent, and in engaging in that
11 conduct Ellison-Meade acted unreasonably.

12 **G. Ellison-Meade Acted as an Investment Adviser**

13 73. Ellison-Meade controlled which securities were traded and when for the
14 Baycap.io investment club, and the Baycap.io partnership agreements that Ellison-
15 Meade had investors sign provided for him to receive compensation for his
16 investment advice through a fee that was calculated based on the Baycap.io
17 investment club's trading profits.

18 74. During the relevant period, Ellison-Meade was therefore engaged in the
19 business of advising others as to the value of securities or as to the advisability of
20 investing in, purchasing, or selling securities, which he did in exchange for
21 compensation.

22 75. Ellison-Meade therefore acted as an investment adviser when engaging
23 in the conduct alleged by this complaint.

24 **H. Baycap.io Investment Club Memberships Are Securities**

25 76. Ellison-Meade represented to investors and potential investors that
26 Baycap.io members were investing money in an investment club.

27 77. When soliciting these investments, Ellison-Meade represented to
28 investors and potential investor funds would be pooled and used to trade stock in a

1 brokerage account that Ellison-Meade would maintain on behalf of the investment
2 club.

3 78. The Baycap.io partnership agreements that Ellison-Meade had investors
4 sign also stated that investor funds would be pooled together in a financial account
5 selected by the Baycap.io investment club partnership, and that “[s]ecurities owned
6 by the partnership shall be registered in the partnership [sic] name.” Ellison-Meade
7 would then use those pooled funds to trade securities and make profit distributions to
8 investors based on the overall net asset value of the partnership.

9 79. Accordingly, as represented to investors and potential investors by
10 Ellison-Meade, the Baycap.io investment club pooled investor funds and interests,
11 and the fortunes of each investor were linked to those of Ellison-Meade, the
12 investment club’s promoter.

13 80. The Baycap.io partnership agreements that Ellison-Meade had investors
14 sign further provided that investors had no role in the selection of securities traded by
15 Baycap.io, Baycap.io’s trading strategy, the management or oversight of assets, or
16 any profit calculations, allocations, and distributions.

17 81. Under the terms of the Baycap.io partnership agreements that Ellison-
18 Meade had investors sign, investors were passive and they provided nothing beyond
19 money for investment.

20 82. Accordingly, as represented to investors and potential investors by
21 Ellison-Meade, all profits from investing in the Baycap.io investment club were to be
22 derived solely from the efforts of Ellison-Meade, the investment club’s managing
23 partner.

24 83. The Baycap.io investment club memberships that Ellison-Meade offered
25 and sold to investors and potential investors were therefore securities in the form of
26 investment contracts.

27 **I. Baycap.io is a Pooled-Investment Vehicle**

28 84. According to Ellison-Meade’s representations to investors and potential

1 investors and the terms of the partnership agreements that Ellison-Meade had
2 investors sign, the Baycap.io investment club held itself out as being primarily
3 engaged in the business of investing in securities.

4 85. Baycap.io investment club memberships were not publicly offered.

5 86. Ellison-Meade raised funds from approximately 31 individuals that
6 invested in Baycap.io investment club memberships.

7 87. Baycap.io was therefore a pooled investment vehicle.

8 **FIRST CLAIM FOR RELIEF**

9 **Fraud in the Connection with the Purchase and Sale of Securities**

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

11 88. The SEC realleges and incorporates by reference paragraphs 1 through
12 87 above.

13 89. Defendant Ellison-Meade's representations to investors and potential
14 investors in Baycap.io of algorithmic trading, high investment returns, liquidity,
15 transparency, and little investment risk were false and misleading because Ellison-
16 Meade never used investor funds to trade in securities as represented. In addition,
17 Ellison-Meade defrauded Baycap.io investors by misappropriating their funds for his
18 personal use and to make Ponzi-like payments to other investors. And last, Ellison-
19 Meade engaged in lulling and other deceptive conduct designed to conceal his fraud
20 when he provided fake account statements and false excuses to investors.

21 90. By engaging in the conduct described above, Defendant Ellison-Meade,
22 directly or indirectly, in connection with the purchase or sale of a security, by the use
23 of means or instrumentalities of interstate commerce, of the mails, or of the facilities
24 of a national securities exchange: (a) employed devices, schemes, or artifices to
25 defraud; (b) made untrue statements of a material fact or omitted to state a material
26 fact necessary in order to make the statements made, in the light of the circumstances
27 under which they were made, not misleading; and (c) engaged in acts, practices, or
28 courses of business which operated or would operate as a fraud or deceit upon other

1 persons.

2 91. Defendant Ellison-Meade, with scienter, employed devices, schemes and
3 artifices to defraud; made untrue statements of a material fact or omitted to state a
4 material fact necessary in order to make the statements made, in the light of the
5 circumstances under which they were made, not misleading; and engaged in acts,
6 practices or courses of conduct that operated as a fraud on the investing public by the
7 conduct described in detail above.

8 92. By engaging in the conduct described above, Defendant Ellison-Meade
9 violated, and unless restrained and enjoined will continue to violate, Section 10(b) of
10 the Exchange Act, 15 U.S.C. § 78j(b), and Rules 10b-5(a), 10b-5(b), and 10b-5(c)
11 thereunder, 17 C.F.R. §§ 240.10b-5(a), 240.10b-5(b) & 240.10b-5(c).

12 **SECOND CLAIM FOR RELIEF**

13 **Fraud in the Offer or Sale of Securities**

14 **Violations of Section 17(a) of the Securities Act**

15 93. The SEC realleges and incorporates by reference paragraphs 1 through
16 87 above.

17 94. Defendant Ellison-Meade's representations to investors and potential
18 investors in Baycap.io of algorithmic trading, high investment returns, liquidity,
19 transparency, and little investment risk were false and misleading because Ellison-
20 Meade never used investor funds to trade in securities as represented. In addition,
21 Ellison-Meade defrauded Baycap.io investors by misappropriating their funds for his
22 personal use and to make Ponzi-like payments to other investors. And last, Ellison-
23 Meade engaged in lulling and other deceptive conduct designed to conceal his fraud
24 when he provided fake account statements and false excuses to investors

25 95. By engaging in the conduct described above, Defendant Ellison-Meade,
26 directly or indirectly, in the offer or sale of securities, and by the use of means or
27 instruments of transportation or communication in interstate commerce or by use of
28 the mails directly or indirectly: (a) employed devices, schemes, or artifices to

1 defraud; (b) obtained money or property by means of untrue statements of a material
2 fact or by omitting to state a material fact necessary in order to make the statements
3 made, in light of the circumstances under which they were made, not misleading; and
4 (c) engaged in transactions, practices, or courses of business which operated or would
5 operate as a fraud or deceit upon the purchaser.

6 96. Defendant Ellison-Meade, with scienter, employed devices, schemes and
7 artifices to defraud; with scienter and/or negligence, obtained money or property by
8 means of untrue statements of a material fact or by omitting to state a material fact
9 necessary in order to make the statements made, in light of the circumstances under
10 which they were made, not misleading; and, with scienter and/or negligence, engaged
11 in transactions, practices, or courses of business which operated or would operate as a
12 fraud or deceit upon the purchaser.

13 97. By engaging in the conduct described above, Defendant Ellison-Meade
14 violated, and unless restrained and enjoined will continue to violate, Sections
15 17(a)(1), 17(a)(2), and 17(a)(3) of the Securities Act, 15 U.S.C. §§ 77q(a)(1),
16 77q(a)(2), & 77q(a)(3).

17 **THIRD CLAIM FOR RELIEF**

18 **Fraud by an Investment Adviser**

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

20 98. The SEC realleges and incorporates by reference paragraphs 1 through
21 88 above.

22 99. During the relevant period, Defendant Ellison-Meade was engaged in the
23 business of advising others as to the value of securities or as to the advisability of
24 investing in, purchasing, or selling securities, which he did in exchange for
25 compensation. Ellison-Meade was therefore an investment adviser to Baycap.io and
26 certain investors. Ellison-Meade's representations to investors and potential investors
27 in Baycap.io of algorithmic trading, high investment returns, liquidity, transparency,
28 and little investment risk were false and misleading because Ellison-Meade never

1 used investor funds to trade in securities as represented. In addition, Ellison-Meade
2 defrauded Baycap.io investors by misappropriating their funds for his personal use
3 and to make Ponzi-like payments to other investors. And last, Ellison-Meade
4 engaged in lulling and other deceptive conduct designed to conceal his fraud when he
5 provided fake account statements and false excuses to investors.

6 100. By engaging in the conduct described above, Defendant Ellison-Meade,
7 directly or indirectly, by use of the mails or means and instrumentalities of interstate
8 commerce: (a) employed or is employing devices, schemes or artifices to defraud
9 clients or prospective clients; and engaged in or is engaging in transactions, practices,
10 or courses of business which operated as a fraud or deceit upon clients or prospective
11 clients.

12 101. By engaging in the conduct described above, Defendant Ellison-Meade
13 has violated, and unless restrained and enjoined, is reasonably likely to continue to
14 violate, Sections 206(1) and (2) of the Advisers Act, 15 U.S.C. §§ 80b-6(1) & 80b-
15 6(2).

16 **FOURTH CLAIM FOR RELIEF**

17 **Fraud Involving a Pooled Investment Vehicle**

18 **Violations of Section 206(4) of the Advisers Act and Rule 206(4)-8**

19 102. The SEC realleges and incorporates by reference paragraphs 1 through
20 88 above.

21 103. During the relevant period, Baycap.io was a pooled investment vehicle
22 and Defendant Ellison-Meade acted as that pooled investment vehicle's investment
23 adviser. Ellison-Meade's representations to investors and potential investors in
24 Baycap.io of algorithmic trading, high investment returns, liquidity, transparency, and
25 little investment risk were false and misleading because Ellison-Meade never used
26 investor funds to trade in securities as represented. In addition, Ellison-Meade
27 defrauded Baycap.io investors by misappropriating their funds for his personal use
28 and to make Ponzi-like payments to other investors. And last, Ellison-Meade

1 engaged in lulling and other deceptive conduct designed to conceal his fraud when he
2 provided fake account statements and false excuses to investors.

3 104. By engaging in the conduct described above, Defendant Ellison-Meade,
4 directly or indirectly, by engaging in the conduct described above, while acting as an
5 investment adviser to a pooled investment vehicle, directly or indirectly, by use of the
6 mails or means or instrumentalities of interstate commerce: (a) made untrue
7 statements of a material fact or omitted to state a material fact necessary in order to
8 make the statements made, in the light of the circumstances under which there were
9 made, not misleading, to any investor or prospective investor in the pooled
10 investment vehicle; or (b) engaged in acts, practices, or courses of business that were
11 fraudulent, deceptive, or manipulative with respect to any investor or prospective
12 investor in the pooled investment vehicle.

13 105. By engaging in the conduct described above, Defendant Ellison-Meade
14 has violated, and unless restrained and enjoined, is reasonably likely to continue to
15 violate, Section 206(4) of the Advisers Act, 15 U.S.C. § 80b-6(4), and Rule 206(4)-8
16 thereunder, 17 C.F.R. § 275.206(4)-8.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, the SEC respectfully requests that the Court:

19 **I.**

20 Issue findings of fact and conclusions of law that Defendant committed the
21 alleged violations.

22 **II.**

23 Issue a judgment, in a form consistent with Rule 65(d) of the Federal Rules of
24 Civil Procedure, permanently enjoining defendant Ellison-Meade, and his officers,
25 agents, servants, employees and attorneys, and those persons in active concert or
26 participation with any of them, who receive actual notice of the judgment by personal
27 service or otherwise, and each of them, from violating Section 17(a) of the Securities
28 Act [15 U.S.C. §77q(a)], Section 10(b) of the Exchange Act [15 U.S.C. §§ 78j(b)]

1 and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], and Section 206 of the Advisers
2 Act [15 U.S.C. § 80b-6] and Rule 206(4)-8 thereunder [17 C.F.R. § 275.206(4)-8].

3 **III.**

4 Issue a judgment, in a form consistent with Rule 65(d) of the Federal Rules of
5 Civil Procedure, permanently enjoining defendant Ellison-Meade from, directly or
6 indirectly, including, but not limited to, through any entity owned or controlled by
7 him, participating in the issuance, purchase, offer, or sale of any security in an
8 unregistered offering by an issuer, provided, however, that such injunction shall not
9 prevent him from purchasing or selling securities for his own personal account.

10 **IV.**

11 Order Defendant to disgorge all funds received from his illegal conduct,
12 together with prejudgment interest thereon, pursuant to Sections 21(d)(3), 21(d)(5)
13 and 21(d)(7) of the Exchange Act [15 U.S.C. § 78u(d)(3), § 78u(d)(5), & 78u(d)(7)].

14 **V.**

15 Order Defendant to pay civil penalties under Section 20(d) of the Securities
16 Act [15 U.S.C. § 77t(d)], Section 21(d)(3) of the Exchange Act [15 U.S.C. §
17 78u(d)(3)], and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)].

18 **VI.**

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

23 **VII.**

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

26 ///

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28 ///

1 Dated: January 24, 2023

2 */s/ Gary Y. Leung*
3 _____
4 GARY Y. LEUNG
5 Attorney for Plaintiff
6 Securities and Exchange Commission
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Complaints and Other Initiating Documents

[2:23-cv-00521 Securities and Exchange Commission v. Ellison-Meade](#)

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

Notice of Electronic Filing

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Case Name: Securities and Exchange Commission v. Ellison-Meade

Case Number: [2:23-cv-00521](#)

Filer: Securities and Exchange Commission

Document Number: [1](#)

Docket Text:

COMPLAINT No Fee Required - US Government, filed by Plaintiff Securities and Exchange Commission. (Attorney Gary Y. Leung added to party Securities and Exchange Commission(pty:pla))(Leung, Gary)

2:23-cv-00521 Notice has been electronically mailed to:

Gary Y. Leung leungg@sec.gov, gilliamk@sec.gov, irwinma@sec.gov, larofiling@sec.gov

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