

2. Anderson, who had made significant investments in Drake's, planned to increase the company's revenues to position it for a sale to a larger company. When Anderson saw that Drake's 2021 revenue was headed towards an over 30 percent shortfall from the amount he had touted to investors, he orchestrated sham sales in late 2021 to make it appear that Drake's sales had dramatically increased. In mid-2022, he utilized a similar scheme when Drake's was short on cash. Anderson used promotional materials containing these inflated sales figures to raise more than \$2.4 million from Drake's investors.

3. First, in the last two weeks of December 2021, Anderson directed Drake's staff to book approximately \$2.6 million in sham sales. To accomplish these sham sales, Anderson used bank accounts in the names of his entities BBFY and Liquid Solutions (an unregistered Anderson d/b/a entity), to transfer funds to Drake's. Anderson then transferred approximately the same amount from Drake's to another of his entities, Captain Drake, to recoup his funds. In these round-trip bank transfers, no physical inventory was transferred; indeed, Drake's did not have sufficient inventory to fill the "orders." There were no documents evidencing the sales such as bills of lading, title transfers, or invoices. The sham sales were included in Drake's offering documents, fraudulently increasing Drake's annual sales while concealing that Anderson's entities were the supposed customers.

4. Between February and December 2022, using offering documents that included these 2021 sham sales, Drake's and Anderson raised approximately \$1.5 million from investors in an offering of convertible debt.

5. Second, when Drake's needed cash to continue operations in the summer of 2022, Anderson again orchestrated sham purchases of bulk alcohol from Drake's by Liquid Solutions. Drake's did not transfer any bulk alcohol to Liquid Solutions, Liquid Solutions did not take

possession of any bulk alcohol, and no bulk alcohol was deducted from Drake's inventory.

Anderson transferred \$391,000 from Liquid Solutions to Drake's and directed Drake's staff to book these transactions as sales to Liquid Solutions.

6. Between approximately February and March 2023, using offering documents that included the false 2022 sales, Drake's and Anderson raised over \$900,000 from investors in a rights offering for Drake's preferred stock.

NATURE OF THE PROCEEDINGS AND REQUESTED RELIEF

7. The SEC brings this action pursuant to the authority conferred on it by Section 20(b) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77t(b)] and Section 21(d) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78u(d)]. The SEC seeks permanent injunctions against Defendants and civil penalties pursuant to Securities Act Section 20(d) [15 U.S.C. § 77t(d)] and Exchange Act Section 21(d) [15 U.S.C. § 78u(d)].

JURISDICTION AND VENUE

8. This Court has jurisdiction over this action pursuant to Sections 20(b), 20(d)(1), and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b), 77t(d)(1), and 77v(a)], and Sections 21(d)(1), 21(d)(3)(A), 21(e), and 27(a) of the Exchange Act [15 U.S.C. §§ 78u(d)(1), 78u(d)(3)(A), 78u(e), and 78aa(a)].

9. Defendants, directly or indirectly, singly or in concert with others, made use of the means or instrumentalities of interstate commerce, the means and instruments of transportation or communication in interstate commerce, or of the mails, in connection with the acts, practices, transactions, and courses of business alleged in this Complaint, including soliciting investors located in Minnesota and other states by telephone and email, providing

documents containing false and misleading statements to investors via email, obtaining funds from those investors through interstate commerce, and conducting bank transfers.

10. Venue is proper in the District of Minnesota pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Section 27(a) of the Exchange Act [15 U.S.C. § 78aa(a)] because Anderson resides in this district, and BBFY and Captain Drake conduct business in this district. In addition, certain of the acts and transactions constituting violations of the Securities Act and Exchange Act alleged in the Complaint occurred in this district, including the offer and sale of securities, and the provision of false information, to one or more investors located in this district.

DEFENDANTS

11. **Mark D. Anderson**, age 55, is a resident of Maple Plain, Minnesota. Anderson was the founder and CEO of Drake’s until he resigned on April 1, 2023. He also served on Drake’s Board of Directors (“Board”) for the duration of its operations.

12. **BBFY USA, Inc.** is a Wyoming corporation based in Fernley, Nevada. BBFY purports to do business in “warehouse operations.” Anderson is the only employee of BBFY and is responsible for its operations. Anderson and his wife own and control BBFY.

13. **Captain Drake, LLC** is a Nevada corporation based in Reno, Nevada, with its principal offices in Minneapolis, Minnesota. Captain Drake buys and sells ingredients related to the alcohol industry, among other products. Anderson and his wife own and control Captain Drake.

RELATED ENTITIES

14. **Drake’s Organic Spirits, Inc.** was a Minnesota corporation based in Minneapolis, Minnesota. Drake’s developed and marketed USDA organic-certified and gluten-free alcoholic spirits and related products. Drake’s was initially formed as a limited liability

company on April 8, 2016, but was converted to a corporation on December 30, 2020. Drake's ceased operations in 2023, was administratively dissolved in January 2026, and has no assets.

15. **Liquid Solutions** is a "doing business as" entity name created and used by Anderson. Liquid Solutions is not registered with any state as a business entity. Anderson began using this entity name as early as 2013 when he obtained a bank account in the name of "Mark Anderson d/b/a Liquid Solutions." Anderson used the entity name for commodity trading activities.

FACTS

I. DRAKE'S BACKGROUND

16. In 2016, Anderson formed Drake's to develop, produce, and market USDA organic-certified alcohol spirits and related products. Anderson's goal was to grow Drake's and sell it to a larger corporation at a profit.

17. As CEO of the company, among other things, Anderson oversaw Drake's employees, supply chain, finances, and securities offerings during at least December 2021 to March 2023 (the "Relevant Period"). In his role as CEO, Anderson had signature authority over Drake's bank accounts and had access to its accounting system.

18. Drake's used external accountants, acting as consultants, to compile its financial statements. While the external accountants were at times referred to as Drake's "CFO" or "Interim CFO" by Anderson and others, they were not officers or employees of the company, and their duties were more consistent with those of an external director of finance or controller. These external accountants reported to Anderson and acted at his direction.

19. Drake's employed a bookkeeper (the "Bookkeeper") who was responsible for the company's human resources, making QuickBooks entries, shipping samples to customers, and

occasionally creating invoices. The Bookkeeper reported to Anderson and acted at his direction, including making entries in QuickBooks at Anderson's direction.

20. Drake's employed a person as its Head of Operations (the "Head of Operations") who was responsible for, among other things, production planning, order processing, and shipping product. Although some Drake's documents refer to Drake's Head of Operations as Drake's "controller," that individual did not perform the duties of a controller. Drake's Head of Operations reported to Anderson and acted at his direction.

21. The Bookkeeper, Drake's Head of Operations, and Anderson were the only employees who worked in Drake's offices.

22. From its inception, Drake's struggled to generate sufficient revenue and cash flow to fund its operations, and relied on investor funding to continue operating. From its founding in 2016 to when it ceased operations in 2023, Drake's raised approximately \$21 million from approximately 180 investors in multiple securities offerings. In addition, Anderson personally invested approximately \$3-4 million in Drake's.

II. ANDERSON AND DRAKE'S OFFERED AND SOLD SECURITIES THROUGH TWO SECURITIES OFFERINGS.

23. During the Relevant Period, Drake's conducted two securities offerings: (1) a convertible debt offering during 2021 and 2022; and (2) a February 2023 rights offering.

A. The 2021/2022 Convertible Debt Offering

24. From late 2021 through December 2022, Drake's conducted a convertible debt offering seeking to raise \$5 million (the "2021/2022 Convertible Debt Offering").

25. Anderson and others acting at Anderson's direction, acting on behalf of Drake's, distributed offering documents for the 2021/2022 Convertible Debt Offering to Drake's investors by email. The offering documents included, among other things, a private placement

memorandum (“PPM”) and a subscription agreement. Drake’s distributed three different PPMs to Drake’s investors in connection with the 2021/2022 Convertible Debt Offering: a PPM dated November 23, 2021 (“November 2021 PPM”), a PPM dated February 14, 2022 (“February 2022 PPM”), and a PPM dated August 8, 2022 (“August 2022 PPM”).

26. On or about November 27, 2021, Anderson and others acting at Anderson’s direction, acting on behalf of Drake’s, emailed the November 2021 PPM to Drake’s investors. Per the PPM, the Convertible Debt Offering was for unsecured convertible promissory notes that accrued interest and then automatically converted to Drake’s Class A common stock on the second anniversary date of the issuance at \$3.30 per Class A common stock share. In other words, a promissory note investor who at the end of two years was owed \$10,000 on that note would receive 3,030 shares ($10,000/3.30=3,030$). Investors who participated in the 2021/2022 Convertible Debt Offering also received a warrant to purchase a number of Class A common stock shares equal to (i) 50% of the number of shares that the investor’s note initially converted into if invested on or prior to December 6, 2021 or (ii) 30% if invested on December 7, 2021, or thereafter, with a 5-year term and exercisable at \$3.50 per share.

27. On approximately February 16, 2022, Anderson and others acting at Anderson’s direction, acting on behalf of Drake’s, emailed the February 2022 PPM to Drake’s investors. The February 2022 PPM lowered the conversion price of the Class A common stock to \$2.30 per share, and provided that investors participating after February 1, 2022, would also receive a warrant to purchase a number of Class A common stock shares equal to 50% of the number of shares that the investor’s note initially converted into, exercisable at \$3.50 per share. Additionally, the February 2022 PPM included Drake’s financial statements, including a Profit and Loss statement for years including 2021 (“Drake’s 2021 P&L Statement”).

28. On May 1, 2022, during the course of the 2021/2022 Convertible Debt Offering, Anderson, acting on behalf of Drake's, authorized the dissemination of an investor update he had prepared, titled "The Drake Report" ("The May 2022 Drake Report"). The May 2022 Drake Report stated that "Drake's achieved double-digit growth for the 4th year in a row with approx. \$10mm revenue & 70,000 cases in 2021."

29. On August 8, 2022, Anderson and others acting at Anderson's direction, acting on behalf of Drake's, disseminated the August 2022 PPM to Drake's investors. The August 2022 PPM lowered the conversion price of the Class A common stock to \$0.50 per share, and provided that investors participating after August 8, 2022, would also receive a warrant to purchase a number of Class A common stock shares equal to 50% of the number of shares that the investor's note initially converted into, exercisable at \$0.70 per share. The August 2022 PPM included Drake's financial statements, including Drake's 2021 P&L Statement.

30. Between approximately February 16, 2022, the date that Drake's disseminated the February 2022 PPM, and December 5, 2022, Drake's raised approximately \$1.5 million from approximately 13 investors through the 2021/2022 Convertible Debt Offering.

31. The Drake's convertible promissory notes offered and sold by Drake's in the 2021/2022 Convertible Debt Offering are a "security" within the meaning of Section 2(a)(1) of the Securities Act [15 U.S.C. § 77b(a)(1)] and Section 3(a)(10) of the Exchange Act [15 U.S.C. § 78c(a)(10)], which define a "security" to include, among other things, "any note."

B. The 2023 Rights Offering

32. By early 2023, Drake's Board, including Anderson, determined that Drake's needed to raise more money from investors to fund its business, with the goal of enabling Drake's to continue its operations until the company could be merged with another company or sold.

33. Drake's Board, including Anderson, authorized a rights offering to Drake's shareholders to meet short-term funding needs of the company and on approximately February 8, 2023, Drake's disseminated offering documents to then current shareholders for a rights offering of Class A preferred stock, seeking to raise approximately \$1.6 million (the "2023 Rights Offering"). The offering documents included, among other things, a letter from Drake's describing the offering (the "2023 Rights Offering Letter"), Drake's financial statements including a Profit and Loss statement for the period of January to October 2022 ("Drake's January-October 2022 P&L Statement"), and a subscription agreement.

34. The 2023 Rights Offering provided existing shareholders with the right to purchase one share of Class A preferred stock at \$0.70 per share for every ten shares of common stock owned and stated that Class A preferred stock is convertible into 10 shares of common stock, which resulted in an effective purchase price of \$0.07 per share of common stock.

35. Between approximately February 8, 2023, and March 13, 2023, Drake's raised \$923,974 from 71 investors pursuant to the 2023 Rights Offering.

36. The Drake's Class A preferred stock offered and sold by Drake's in the 2023 Rights Offering is a "security" within the meaning of Section 2(a)(1) of the Securities Act [15 U.S.C. § 77b(a)(1)] and Section 3(a)(10) of the Exchange Act [15 U.S.C. § 78c(a)(10)], which define a "security" to include, among other things, "any . . . stock."

III. ANDERSON, AND BBFY AND CAPTAIN DRAKE ACTING THROUGH ANDERSON, ENGAGED IN DECEPTIVE CONDUCT IN CONNECTION WITH CONDUCTING SHAM TRANSACTIONS BETWEEN DRAKE'S AND ANDERSON'S COMPANIES TO FALSELY INFLATE DRAKE'S SALES.

37. Anderson, and BBFY and Captain Drake acting through Anderson, engaged in a scheme to mislead Drake's investors as to Drake's 2021 and 2022 sales. As detailed below, Anderson, and BBFY and Captain Drake acting through Anderson, committed numerous acts in

furtherance of this scheme. In addition, Anderson made false and misleading statements, described in Section IV, and authorized their distribution, in furtherance of the scheme.

38. Pursuant to this scheme, Anderson falsely inflated Drake's sales by conducting sham transactions with his entities, BBFY, Liquid Solutions, and Captain Drake, and instructing Drake's employees to book those sham transactions as Drake's sales. Those fake sales were then included in Drake's financial statements, which were made part of offering documents used to solicit investors in Drake's 2021/2022 Convertible Debt Offering and the 2023 Rights Offering.

A. Defendants' Deceptive Conduct in Connection With the December 2021 Sham Round-Trip Transactions

39. In 2020, according to Drake's financial statements, its sales were approximately \$5.7 million.

40. By late 2021, Anderson determined that Drake's would need \$10 million in annual sales to position itself for acquisition. On or about November 27, 2021, Anderson stated in a letter that accompanied the November 2021 PPM disseminated to Drake's investors that the company "expect[s] to double revenue again placing our valuation at the point we would like to achieve for a sale."

41. As of December 11, 2021, Drake's year-to-date sales were approximately \$6.5 million, with no specific transactions lined up to close the shortfall.

42. Between December 16 and 31, 2021, Anderson orchestrated a series of sham sales and sham purchases between Drake's and three Anderson-controlled entities – Liquid Solutions, BBFY, and Captain Drake – making it appear that Drake's had sold over \$2.6 million of bulk alcohol and citric acid in that period.

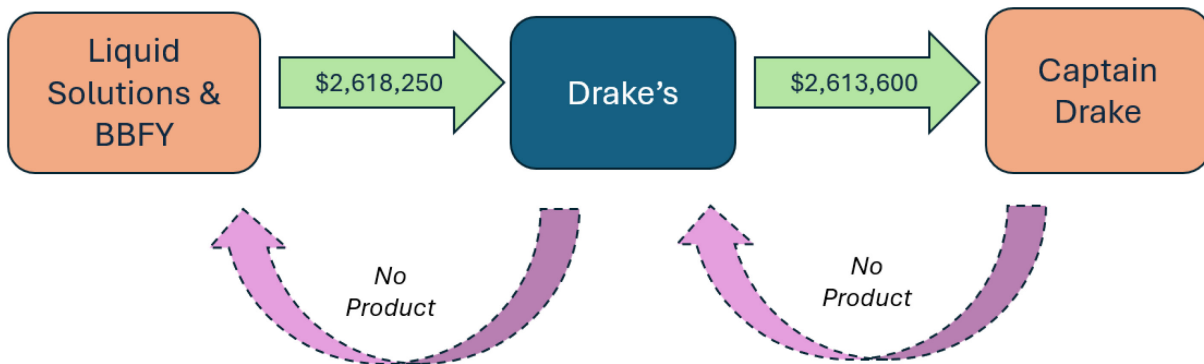
43. For example, on December 24, 2021, Anderson transferred \$99,850 from the Liquid Solutions' bank account to a Drake's bank account; on the bank transfer memo line,

Anderson stated it was for the sale of “Bulk Organic Alc” from Drake’s to Liquid Solutions. On the same date, Anderson transferred \$99,800 from Drake’s to Captain Drake; on the memo line, he stated it was for the purchase of “Bulk Organic Alc” from Captain Drake. This was a sham round-trip transaction between Anderson entities Liquid Solutions and Captain Drake conducted through Drake’s, in which no product was bought or sold and Anderson recouped all but \$50. Money passed from one Anderson-controlled entity to another through Drake’s, but no purchase or sale of any product occurred. Anderson made the bank account transfers in connection with all of the transactions described in this section.

44. During the last two weeks of 2021, Anderson directed Drake’s Bookkeeper to make QuickBooks journal entries for 11 such “sales” to Liquid Solutions or BBFY, totaling \$2,618,250, and 10 “purchases” from Captain Drake in an almost identical amount, \$2,613,600.

45. The total flow of these transactions is depicted here:

December 16 – 31, 2021 “Sales”



46. The specific round-trip bank transfers were:

- (1) Liquid Solutions transferred \$180,000 to Drake's on December 16, 2021, and Drake's transferred \$179,500 to Captain Drake on December 20, 2021.
- (2) Liquid Solutions transferred \$99,850 to Drake's on December 24, 2021, and Drake's transferred \$99,800 to Captain Drake on the same day.
- (3) Liquid Solutions transferred \$225,000 to Drake's on December 27, 2021, and Drake's transferred \$224,500 to Captain Drake on the same day.
- (4) BBFY transferred \$248,000 to Drake's on December 27, 2021, and Drake's transferred \$247,300 to Captain Drake on the same day.
- (5) Liquid Solutions transferred a total of \$290,000, in two separate transfers of \$140,000 and \$150,000, to Drake's on December 28, 2021, and Drake's transferred \$289,500 to Captain Drake on December 29, 2021.
- (6) BBFY transferred \$237,500 to Drake's on December 28, 2021, and Drake's transferred \$237,000 to Captain Drake on December 31, 2021.
- (7) BBFY transferred \$226,000 to Drake's on December 29, 2021, and Drake's transferred \$225,500 to Captain Drake on December 30, 2021.
- (8) Liquid Solutions transferred \$358,900 to Drake's on December 30, 2021, and Drake's transferred \$357,900 to Captain Drake on the same date.
- (9) Liquid Solutions transferred \$375,000 to Drake's on December 31, 2021, and Drake's transferred \$374,800 to Captain Drake on the same date.
- (10) Liquid Solutions transferred \$378,000 to Drake's on December 31, 2021, and Drake's transferred \$377,800 to Captain Drake on the same date.

47. Memo lines in the bank account records, and the corresponding journal entries in Drake's books that Anderson instructed Drake's Bookkeeper to make, stated that the purported transactions with Liquid Solutions were for bulk alcohol and the purported transactions with BBFY were for citric acid.

48. Anderson used the Liquid Solutions and BBFY bank accounts as conduits to transfer funds to his other accounts and to engage in cryptocurrency transactions. Other than these round-trip bank transfers and sham transactions with Drake's, Liquid Solutions and BBFY were not engaged in the business of buying or selling bulk alcohol or citric acid in 2021 or 2022.

49. All of these bank transfers from Liquid Solutions and BBFY to Drake's were reflected in Drake's books as sales revenue, for a total of \$2,618,250.

50. Anderson conducted these bank transfers between Drake's and his entities – Liquid Solutions and BBFY – to artificially increase sales figures for Drake's.

51. These purported sales of bulk alcohol to Liquid Solutions and citric acid to BBFY, and purchases of the same from Captain Drake, did not occur. Captain Drake did not transfer any bulk alcohol or citric acid to Drake's. Drake's did not transfer any bulk alcohol or citric acid to Liquid Solutions or BBFY. Liquid Solutions and BBFY did not take possession of any bulk alcohol or citric acid. No bulk alcohol or citric acid was deducted from Drake's inventory. The quantity of product claimed to be involved in the purported transactions exceeded the amount of product Drake's had in inventory. Apart from the bank transfers and journal entries, there are no documents supporting the purported sales, such as invoices, purchase orders, or title transfers.

52. Anderson instructed Drake's Head of Operations to create invoices for the purported transactions and told Drake's Bookkeeper that Drake's Head of Operations would

forward the invoices. In an email to Drake's Head of Operations, Anderson stated, "If anything is wrong about this [referring to the transactions at issue] I'll take the blame and handle it." Despite this assurance, Drake's Head of Operations refused to create the invoices. No invoices were created and the Bookkeeper never received any invoices for the purported transactions.

53. In early 2022, Drake's external accountant compiled the company's 2021 financial statements. The accountant included the purported Liquid Solutions and BBFY sales as revenue in the financial statements but repeatedly sought supporting documentation from Anderson. Anderson did not disclose to the accountant that Liquid Solutions and BBFY were related-parties controlled by Anderson. Anderson told the accountant that Drake's Head of Operations would forward documentation evidencing the Liquid Solutions and BBFY transactions, but the Head of Operations refused to create the invoices and the documentation was never provided. The accountant ended his relationship with the company in May 2022, because he was uncomfortable with Drake's and Anderson.

54. Drake's 2021 P&L Statement, which was incorporated in financial statements Anderson reviewed, provided to the Board, and included in the February 2022 and August 2022 PPMs, was part of the 2021 financial statements prepared by the external accountant. Anderson authorized the dissemination of the February 2022 and August 2022 PPMs.

55. Drake's 2021 P&L Statement reflects "Sales of Product Income (Net)," which is a part of "Total Revenue," as \$9,622,442 for 2021. This included the December 2021 sham transactions with BBFY and Liquid Solutions. Without the sham transactions, Drake's "Sales of Product Income (Net)" would have totaled \$7,004,192 [$\$9,622,442 - \$2,618,250$]. Including the sham transactions caused an approximate 37% overstatement of Drake's "Sales of Product Income (Net)" in Drake's 2021 P&L Statement.

56. Anderson knew or was severely reckless in not knowing, and should have known, that his conduct in connection with the 2021 round-trip transactions described in this section was deceptive and that it resulted in a material deception.

57. Anderson, as the principal of BBFY and Captain Drake, had the power to act and did act on behalf of BBFY and Captain Drake and, thus, his actions alleged herein as well as his state of mind, are imputed to BBFY and Captain Drake.

58. That the 2021 round-trip transactions described in this section did not constitute actual sales and purchases and were with entities controlled by Anderson would be important to a reasonable investor for, among other reasons, causing a 37% overstatement of Drake's 2021 revenue.

B. Anderson's Deceptive Conduct in Connection With the 2022 Sham Sales Transactions

59. In June 2022, Drake's was again experiencing cash flow problems.

60. Between June and August 2022, Anderson made five bank account transfers, totaling approximately \$391,000, from Liquid Solutions to Drake's. Anderson directed Drake's Bookkeeper to make QuickBooks journal entries recording these transactions as sales of bulk alcohol. For example, Anderson told the Drake's Bookkeeper in an email: "Liquid solutions just purchased 7 of the organic cane alc loads... and paid drakes organic via bank transfer \$208,564.46. this should be booked in [sic] june 2022 sales." Anderson did not tell the Bookkeeper that Liquid Solutions was his company.

61. The specific bank transfers from Liquid Solutions to Drake's, for a total of \$391,010.98, were:

- (1) Liquid Solutions transferred \$90,000 to Drake's on June 13, 2022;
- (2) Liquid Solutions transferred \$208,564.49 to Drake's on June 30, 2022;

- (3) Liquid Solutions transferred \$35,000 to Drake's on July 12, 2022;
- (4) Liquid Solutions transferred \$29,446.49 to Drake's on July 14, 2022; and
- (5) Liquid Solutions transferred \$28,000 to Drake's on August 29, 2022.

62. Drake's recorded \$390,782.08 of purported sales revenue from Liquid Solutions relating to these transfers.

63. The \$228.90 difference between the amount transferred from Liquid Solutions to Drake's and the amount reflected in Drake's accounting records is due to an accounting error.

64. These purported sales from Drake's to Liquid Solutions did not occur. Drake's did not transfer any bulk alcohol to Liquid Solutions. Liquid Solutions did not take possession of any bulk alcohol. No bulk alcohol was deducted from Drake's inventory.

65. Anderson, along with the rest of Drake's Board, authorized the 2023 Rights Offering and Drake's disseminated offering documents to Drake's shareholders, including Drake's January-October 2022 P&L Statement. Drake's January-October 2022 P&L Statement reflects "Sales of Product Income," which is a part of "Total Revenue," as \$2,928,282.94 from January to October 2022. This included the transfers from Liquid Solutions to Drake's in June to August 2022. Without the sham transactions, Drake's "Sales of Product Income" would have totaled \$2,537,500.86 [$\$2,928,282.94 - \$390,782.08$]. Including the transfers from Liquid Solutions as purported sales resulted in an approximate 13% overstatement of Drake's "Sales of Product Income" in Drake's January-October 2022 P&L Statement.

66. Anderson knew or was severely reckless in not knowing, and should have known, that his conduct in connection with the 2022 transactions described in this section was deceptive and that it resulted in a material deception.

67. That the 2022 transactions described in this section did not constitute actual sales and were with entities controlled by Anderson would be important to a reasonable investor for, among other reasons, causing an approximate 13% overstatement of Drake's "Sales of Product Income" in Drake's January-October 2022 P&L Statement.

C. The Board Investigated Anderson's Fraud; Further Demonstrating That He Knew That the Sham Transactions Were Deceptive, Anderson Attempted to Conceal his Fraud; Drake's Ceased Operations.

68. In March 2023, the Board and certain investors requested that Anderson resign with the intention of bringing in more experienced management. On April 1, 2023, Anderson resigned as CEO but remained a member of the Board.

69. After Anderson resigned as CEO, Drake's Chairman of the Board and Drake's new Chief Financial Officer began to probe the company's finances. They discovered the company was in worse financial condition than they anticipated.

70. In the process of reviewing Drake's books and records with new potential management, the Chairman discovered information in the company's records indicating that bank accounts and payments involved in the December 2021 bulk alcohol sales were associated with Anderson (rather than a third-party) and became concerned that the December 2021 bulk alcohol sales had been fabricated.

71. Anderson attempted to conceal from the Board that he engaged in sham transactions between Drake's and his entities to artificially inflate sales. In early April 2023, the Chairman of the Board asked Anderson to explain the December 2021 transactions with Liquid Solutions. Anderson told him that Liquid Solutions was a company owned by an individual, who was Anderson's good friend, rather than telling the Chairman that Liquid Solutions was his d/b/a entity.

72. On April 11, 2023, Anderson's attorney sent a letter to Drake's Board referencing a California-based company owned by a friend of Anderson, called Liquid Solutions, that was not involved in the transactions.

73. The California-based company called Liquid Solutions LLC did a few transactions with Drake's in 2019 but went out of business that same year. Anderson did not tell the Chairman of the Board that the December 2021 purported sales were to *Mark Anderson, d/b/a Liquid Solutions*, not the entity *Liquid Solutions, LLC*.

74. On April 14, 2023, the Chairman of the Board confronted Anderson during a Zoom call with other members of the Board on the call. During the call, Anderson stated that he purchased product from Drake's under the name Liquid Solutions and claimed that he did so to prevent the company from running out of money.

75. Anderson did not disclose to the Board his ownership of BBFY and Liquid Solutions at the time of the 2021 and 2022 transactions; he did not disclose this to the Board until the Board's investigation in April 2023.

76. On July 27, 2023, Drake's shareholders were informed that the company had failed to find a buyer and its few remaining assets would be liquidated. All of Drake's assets were liquidated. Drake's is a defunct shell entity, it is not operational, and it has no known assets.

IV. ANDERSON MADE MATERIALLY FALSE AND MISLEADING STATEMENTS.

77. Anderson made false and misleading statements to Drake's investors in connection with the 2021/2022 Convertible Debt Offering and the 2023 Rights Offering. Specifically, Anderson made false and misleading statements in the February 2022 PPM, The May 2022 Drake Report, the August 2022 PPM, and the 2023 Rights Offering documents.

Anderson, as Drake's CEO, had ultimate authority over the false and misleading statements in each of these documents and he reviewed and authorized their content and whether and how to communicate them.

A. Anderson Made Materially False and Misleading Statements in Connection with Drake's 2021/2022 Convertible Debt Offering.

i. The February 2022 PPM and August 2022 PPM Contained Materially False and Misleading Statements.

78. Drake's February 2022 PPM and August 2022 PPM for the 2021/2022 Convertible Debt Offering, which Anderson, and others acting at Anderson's direction, sent to Drake's investors, contained financial statements, including Drake's 2021 P&L Statement, listing \$9,622,442 in "Sales of Product Income (Net)" revenue for the year ended December 31, 2021.

79. This Sales of Product Income figure was false and misleading because it included \$2,618,250 in sham sales from the 2021 round-trip bank transfers with Liquid Solutions, BBFY, and Captain Drake. Without the sham transactions, Drake's "Sales of Product Income (Net)" revenue for 2021 would have totaled \$7,004,192.

80. Anderson's statement regarding Drake's "Sales of Product Income (Net)" revenue in Drake's 2021 P&L Statement, which was incorporated in the February 2022 PPM and August 2022 PPM, was false and misleading when made and Anderson knew or was severely reckless in not knowing that the statement in the February 2022 PPM and August 2022 PPM was false and misleading.

81. Anderson was the CEO of Drake's, had control over his entities (Liquid Solutions, BBFY, and Captain Drake), directed the transfers of money to occur, and directed the Bookkeeper to record these transfers as "sales" or "purchases." As a result, Anderson knew or

was severely reckless in not knowing that Drake's 2021 P&L Statement was false and misleading. Moreover, as detailed above, when the Board began to inquire about these transactions, Anderson attempted to hide the fact that Liquid Solutions was an entity controlled by him, suggesting that it was owned by a third party who had transacted business with Drake's in the past. This further demonstrates that Anderson knew or was severely reckless in not knowing that these transactions were fraudulent.

82. The false and misleading statement regarding Drake's Sales of Product Income revenue in the February 2022 PPM and August 2022 PPM was material to investors because, among other things, a reasonable investor would want to know if the company they were considering investing in had overstated its prior year sales by over \$2.6 million, or approximately 37%.

83. The February 2022 PPM and August 2022 PPM also contained the following disclosure:

Related Party Transaction

Captain Drake Nevada was the first to achieve NGP (The NON-GMO Project) certification for products produced at the organic cane mill in South America that the mill did not hold. Drake's sources the NGP certified organic cane alcohol from Captain Drake NGP, LLC (a limited liability company controlled by our Chief Executive Officer, Mark D. Anderson) ("Captain Drake NGP") and as a result, Drake's become [sic] the first NGP verified vodka and rum before any of its competitors. Our Board of Directors approved a waiver of the conflict of interest presented by the related party relationship and believes it may be in the best interests of our company to transact with Captain Drake NGP in the future to ensure our products satisfy the requirements for the claims made on their labels.

84. A reasonable investor would have understood from this statement that the only related-party transactions Drake's had entered into at that time were purchases of product from Anderson's entity Captain Drake.

85. This statement is misleading because Anderson omitted to state material facts that were necessary to render this statement not misleading. In this statement, Anderson disclosed

potential purchases from Anderson's entity Captain Drake, but omitted to state that Drake's engaged in additional related party transactions with Anderson's other entities, Liquid Solutions and BBFY, and the fact that over \$2.6 million, or approximately 37%, of Drake's revenue for 2021 was from purported sales transactions with related parties Liquid Solutions and BBFY.

86. Anderson's statements concerning related party transactions in the February 2022 PPM and August 2022 PPM were misleading when made and Anderson knew or was severely reckless in not knowing that the statements were misleading. Anderson, as the CEO of Drake's and the owner of Liquid Solutions and BBFY, knew about the transactions with Liquid Solutions and BBFY.

87. The false and misleading statements regarding related party transactions in the February 2022 PPM and August 2022 PPM were material to investors because, among other things, a reasonable investor would want to know if Drake's was deriving a significant portion of its revenue from purported sales to its principal or another related party, as opposed to third parties whose purchases evidenced consumer demand for the product.

ii. The May 2022 Drake Report Contained A Materially False and Misleading Statement.

88. On May 1, 2022, during the course of the 2021/2022 Convertible Debt Offering, Anderson authorized the dissemination of The May 2022 Drake Report, an investor update he had prepared. This document contained a false and misleading statement.

89. The May 2022 Drake Report stated, "Drake's achieved double-digit growth for the 4th year in a row with approx. \$10mm revenue & 70,000 cases in 2021."

90. This statement regarding Drake's revenue was false and misleading because, without the sham transactions, Drake's revenue would have totaled approximately \$7,004,192 for 2021, not approximately \$10 million.

91. Anderson's statement to investors in The May 2022 Drake Report was false and misleading when made and Anderson knew or was severely reckless in not knowing that the statement was false and misleading because the description of Drake's having approximately \$10 million of revenue in 2021 included the sham round-trip bank transfers with his related companies. As detailed above, Anderson knew or was severely reckless in not knowing that those transactions were fraudulent.

92. The false and misleading statement in The May 2022 Drake Report regarding Drake's earning approximately \$10 million of revenue in 2021 was material to investors because, among other things, a reasonable investor would consider the amount of revenue a company generated in the previous year important when making an investment decision.

B. Anderson Made A Materially False and Misleading Statement in Connection with Drake's 2023 Rights Offering.

93. Drake's 2023 Rights Offering documents were disseminated to then current shareholders on approximately February 8, 2023, in connection with the 2023 Rights Offering. Those documents contained Drake's January-October 2022 P&L Statement, which stated that Drake's Sales of Product Income revenue from January to October 2022 was \$2,928,282.

94. This Sales of Product Income revenue figure was false and misleading because it included \$390,782 of transfers from Liquid Solutions to Drake's. Without the sham transactions, Drake's Sales of Product Income would have totaled \$2,537,500.

95. Anderson's statement regarding Drake's Sales of Product Income revenue in Drake's January-October 2022 P&L Statement, which was incorporated in the 2023 Rights Offering documents, was false and misleading when made and Anderson knew or was severely reckless in not knowing that the statement was false and misleading.

96. Anderson was the CEO of Drake’s, had control over his entity Liquid Solutions, directed the transfers of money to occur, and directed the Bookkeeper to record these transfers as “sales.” As a result, Anderson knew or was severely reckless in not knowing that Drake’s January-October 2022 P&L Statement was false and misleading.

97. The false and misleading statement regarding Drake’s Sales of Product Income revenue in the 2023 Rights Offering documents was material because, among other things, a reasonable investor would want to know if the company they were considering investing in had overstated its prior period sales revenue by approximately 13%.

V. ANDERSON’S MISREPRESENTATIONS WERE MADE AND DEFENDANTS’ SCHEME CONDUCTED “IN THE OFFER OR SALE OF” AND “IN CONNECTION WITH THE PURCHASE OR SALE” OF SECURITIES.

98. Through the offering documents in the 2021/2022 Convertible Debt Offering and the 2023 Rights Offering, Defendants offered and sold securities in the form of promissory notes convertible into stock and Drake’s Class A preferred stock to approximately 84 investors.

99. As such, Anderson made material misstatements and conducted their scheme in the offer or sale of securities as defined in Section 2(a)(1) of the Securities Act [15 U.S.C. § 77b(a)(1)] and in connection with the purchase or sale of securities as defined in Section 3(a)(10) of the Exchange Act [15 U.S.C. § 78c(a)(10)].

CLAIMS FOR RELIEF

First Claim for Relief

**Fraud – Violation of Exchange Act Section 10(b) and Rules 10b-5(a) and (c)
(Against All Defendants)**

1. The SEC realleges and incorporates by reference in this claim for relief paragraphs 1 through 99, as though fully set forth herein.

2. By engaging in the conduct described above, Anderson, BBFY, and Captain Drake, directly or indirectly, knowingly or severely recklessly, in connection with the purchase

or sale of securities, by use of the means or instrumentalities of interstate commerce, or the mails, or the facilities of a national securities exchange, employed devices, schemes or artifices to defraud and engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any person in connection with the purchase or sale of any security.

3. Accordingly, Anderson, BBFY, and Captain Drake, directly and indirectly, violated and unless enjoined will again violate, Exchange Act Section 10(b) [15 U.S.C § 78j(b)] and Rules 10b-5(a) and (c) thereunder [17 C.F.R. § 240.10b-5(a) and (c)].

Second Claim for Relief
Fraud – Violation of Exchange Act Section 10(b) and Rule 10b-5(b) Thereunder
(Against Anderson)

4. The SEC realleges and incorporates by reference in this claim for relief paragraphs 1 through 99, as though fully set forth herein.

5. By engaging in the conduct described above, Anderson, directly or indirectly, knowingly or severely recklessly, in connection with the purchase or sale of securities, directly or indirectly, by use of the means or instrumentalities of interstate commerce, or the mails, or the facilities of a national securities exchange, made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

6. Accordingly, Anderson, directly and indirectly, violated and unless enjoined will again violate, Exchange Act Section 10(b) [15 U.S.C § 78j(b)] and Rule 10b-5(b) thereunder [17 C.F.R. § 240.10b-5(b)].

Third Claim for Relief
Fraud in the Offer or Sale of Securities – Violations of Securities Act
Sections 17(a)(1) and (3)
(Against All Defendants)

7. The SEC realleges and incorporates by reference in this claim for relief paragraphs 1 through 99, as though fully set forth herein.

8. Anderson, BBFY, and Captain Drake, directly or indirectly, in the offer or sale of securities, by use of the means or instruments of transportation or communication in interstate commerce or by use of the mails, acting with the requisite state of mind, employed a device, scheme, or artifice to defraud and engaged in transactions, practices, or a course of business which operated or would operate as a fraud or deceit upon purchasers.

9. By virtue of the foregoing, Anderson, BBFY, and Captain Drake, directly or indirectly, violated and, unless restrained and enjoined, will again violate Sections 17(a)(1) and (3) of the Securities Act [15 U.S.C. § 77q(a)(1) and (3)].

PRAYER FOR RELIEF

WHEREFORE, the SEC seeks the following relief:

1. Find that the Defendants committed the violations alleged in this Complaint;
2. Enter an injunction, in a form consistent with Rule 65 of the Federal Rules of Civil Procedure, permanently restraining and enjoining Anderson and his agents, servants, employees, attorneys, and accountants, and those persons in active concert or participation with them, who receive actual notice of the Final Judgment by personal service or otherwise, and each of them, from engaging in transactions, acts, practices, and courses of business described herein, and from engaging in conduct of similar purport and object in violation of Sections 17(a)(1) and (3) of the Securities Act [15 U.S.C. § 77q(a)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder.

3. Enter an injunction, in a form consistent with Rule 65 of the Federal Rules of Civil Procedure, permanently restraining and enjoining BBFY and Captain Drake and their agents, servants, employees, attorneys, and accountants, and those persons in active concert or participation with them, who receive actual notice of the Final Judgment by personal service or otherwise, and each of them, from engaging in transactions, acts, practices, and courses of business described herein, and from engaging in conduct of similar purport and object in violation of Sections 17(a)(1) and (3) of the Securities Act [15 U.S.C. § 77q(a)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Exchange Act Rules 10b-5(a) and (c) [17 C.F.R. § 240.10b-5(a), (c)] thereunder.

4. Enter an injunction, in a form consistent with Rule 65 of the Federal Rules of Civil Procedure, permanently restraining and enjoining Anderson and his agents, servants, attorneys, and accountants, and those persons in active concert or participation with him, who receive actual notice of the Final Judgment by personal service or otherwise, from directly or indirectly, including, but not limited to, through any entity owned or controlled by Anderson, participating in the issuance, purchase, offer, or sale of any security, provided, however, that such injunction shall not prevent Anderson from purchasing or selling securities for his own personal account.

5. Order Defendants to pay civil money penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]; and

6. Grant such other and further relief as this Court may deem just and proper.

JURY DEMAND

The SEC demands a trial by jury on all claims so triable.

Dated: April 7, 2026

Respectfully submitted,

By: s/ Zachary T. Carlyle

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