

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

SECURITIES AND EXCHANGE
COMMISSION

Plaintiff,

v.

Case No. 6:26-cv-00778

BACKSWING VENTURES GP LLC
and KYLE JAMES ASMAN,

Defendants.

**COMPLAINT FOR PERMANENT INJUNCTIVE AND OTHER RELIEF
AND DEMAND FOR A JURY TRIAL**

Plaintiff Securities and Exchange Commission alleges:

I. INTRODUCTION

1. The Commission brings this action to permanently enjoin Defendants from violating the federal securities laws and for other relief. From no later than February 2020 through at least April 2023, Defendant Kyle James Asman (“Asman”)—acting through Defendant Backswing Ventures GP LLC (“BVGP”)—defrauded a private fund client, Backswing Ventures LP a/k/a Backswing Ventures Fund I, LP (“BVLPI”), and during that same period, repeatedly made untrue statements of material fact, or omitted to state material facts necessary to make the statements made, in the light of the circumstances under which they were made, not

misleading, to investors and prospective investors in BVLP, and otherwise engaged in acts, practices, or courses of business that were fraudulent, deceptive, or manipulative with respect to investors or prospective investors in BVLP.

2. In particular, the BVLP offering materials provided, among other things, that Defendants were entitled to management fees in accordance with specified calculations. Notwithstanding those provisions, and in contravention thereof, Defendants paid themselves in excess of \$515,000 in the first year of BVLP's operation, which represented more than 23% of the capital contributions to BVLP—or about *seven* times the amount to which Defendants otherwise would have been entitled under the offering materials.

3. As investment advisers to BVLP, Defendants owed their client a fiduciary duty, including an affirmative duty of utmost good faith, full and fair disclosure of all material facts, and an obligation to employ reasonable care to avoid misleading their client. Defendants breached that duty through payment and retention of the excessive management fees—amounts which could have been, but were not, reinvested as part of BVLP's portfolio, or at a minimum, returned to BVLP's available cash assets to earn interest until an investment became available.

4. In addition, Defendants defrauded and deceived investors and prospective investors in BVLP by (i) failing to engage an independent auditor and provide investors with required audited financial statements; (ii) failing to provide investors with unaudited financial statements of BVLP at required intervals; and (iii) misrepresenting fund subscription information, fund investments, audit status, and

Asman's credentials.

5. As a result of the conduct alleged in this Complaint, Defendants violated Sections 206(1), 206(2), 206(4), and Rule 206(4)-8 of the Investment Advisers Act of 1940 ("Advisers Act") [15 U.S.C. §§ 80b-6(1), 80b-6(2), 80b-6(4), and 17 C.F.R. § 275.206(4)-8]. Unless restrained and enjoined, Defendants are reasonably likely to continue to violate the federal securities laws.

6. The Commission therefore respectfully requests the Court enter: (i) permanent injunctions restraining and enjoining Defendants from violating the federal securities laws, and restraining and enjoining Asman from engaging in certain further conduct; (ii) an order directing Asman to pay disgorgement with prejudgment interest; and (iii) an order directing each Defendant to pay a civil money penalty.

II. DEFENDANTS

7. BVGP is a limited liability company organized in Delaware, with a principal place of business in Windermere, Florida. During the relevant period, BVGP served as an investment adviser to and general partner of BVLP, and BVLP was BVGP's client. In that capacity, and for compensation, BVGP advised BVLP as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, and was responsible for the overall management and administration of BVLP, including, among other things, all investments, asset dispositions, and day-to-day business affairs. BVGP has never been registered with the Commission as an investment adviser.

8. Asman, age 31, is a resident of Windermere, Florida. During the

relevant period, he was the principal and control person of BVGP and directed all activities of the company. Asman served as an investment adviser to BVLP, and BVLP was Asman's client. In that capacity, and for compensation, Asman advised BVLP as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, and was responsible for the overall management and administration of BVLP, including, among other things, all investments, asset dispositions, and day-to-day business affairs. By virtue of his status as principal and control person of BVGP, the actions Asman undertook as described more fully herein may be imputed to the company. Asman has never been registered with the Commission as an investment adviser.

III. RELATED ENTITIES

9. BVLP is a limited partnership organized in Delaware, with a principal place of business in Windermere, Florida. During the relevant period, BVLP was engaged primarily in the business of investing, reinvesting, or trading in securities. BVLP offered and sold limited partnership interests ("LP Interests") to investors pursuant to various subscription agreements. As of December 31, 2020, there were 33 limited partners in BVLP. As of December 31, 2021 and December 31, 2022, there were 38 and 42 limited partners, respectively. The offer and sale of the LP Interests were subject to a Confidential Private Placement Memorandum ("PPM") and an Agreement of Limited Partnership of Backswing Ventures Fund I, LP ("LPA"). In his capacity as principal and control person of BVGP, Asman directed the preparation of the PPM and LPA and approved the terms thereof.

10. Backswing Ventures Inc. (“BVINC”) was a Delaware corporation, with a principal place of business in Windermere, Florida. During the relevant period, BVINC was an affiliate of BVGP and engaged by the latter to provide back-office and administrative services to BVLP on BVGP’s behalf. Asman was the principal and control person of BVINC and directed all activities of the company. BVINC was dissolved on or about March 28, 2023.

IV. JURISDICTION AND VENUE

11. The Court has subject matter jurisdiction over this action pursuant to Sections 209 and 214 of the Advisers Act [15 U.S.C. §§ 80b-9 and 80b-14].

12. The Court has personal jurisdiction over Defendants, and venue is proper in the Middle District, pursuant to Section 214 of the Advisers Act [15 U.S.C. § 80b-14], because, among other things, Asman resides in the Middle District, and some or all of the acts and transactions in which Defendants engaged and that constitute violations of the federal securities laws occurred in the Middle District.

13. In connection with the conduct alleged in this Complaint, Defendants, directly or indirectly, singly or in concert with others, have made use of the mails or the means or instrumentalities of interstate commerce—namely, through Defendants’ use of the internet and email correspondence when engaging in the acts and transactions described herein.

V. TOLLING AGREEMENTS

14. Defendants entered into tolling agreements suspending the running of any applicable statutes of limitations from March 20, 2025, through June 18, 2025;

from July 3, 2025, through July 17, 2025; from July 17, 2025, through August 25, 2025; from August 25, 2025, through October 24, 2025; from November 18, 2025, through January 13, 2026; from January 13, 2026, through February 24, 2026; and from February 24, 2026 through May 25, 2026.

VI. FACTUAL BACKGROUND

A. Formation of BVLP

15. Asman formed BVLP in or around February 2020 as a limited partnership, and began offering and selling the LP Interests shortly thereafter. According to the PPM, BVLP's investment portfolio consisted of early-stage companies across the defense, commercial real estate, technology, data, and healthcare industries. In his capacity as principal and control person of BVGP, Asman selected these investments and others for BVLP's portfolio.

16. The minimum capital commitment for BVLP, according to the PPM, was \$250,000 from each limited partner (investor), but BVLP could elect to accept smaller commitments in its discretion. The offering sought at least \$50 million in aggregate capital contributions from all investors in exchange for the LP Interests. Profits and losses from BVLP's portfolio investments were allocated to the limited partners' capital accounts on a pro rata basis in accordance with the LPA.

17. Despite the ambitiousness of the planned offering, BVLP's financial statements as of December 31, 2020 reflected aggregate capital commitments of only \$3,823,800 and capital contributions of only \$2,233,800. Funds for the capital contributions from the limited partners were wired to financial accounts in the name

of BVLP. As principal of BVGP, Asman controlled these accounts, and authorized, or caused to be authorized, subsequent transfers of funds from these accounts to accounts in the name of BVINC, which accounts Asman also controlled in his capacity as principal of BVINC.

18. The LP Interests were offered and sold as investment contracts constituting securities. The limited partners contributed capital to BVLP, which Defendants then pooled for the purpose of investing, reinvesting, or trading in securities for BVLP's portfolio. The limited partners of BVLP shared in the risks and benefits of BVLP's business enterprise, and their fortunes were interwoven with and dependent upon the efforts and success of Defendants, from which the limited partners derived an expectation of profits or returns on their investments.

19. According to the PPM and LPA, BVGP was the general partner of BVLP. The PPM stated further that BVGP would engage BVINC to provide back-office and administrative services to BVLP on BVGP's behalf. In return, BVLP was to pay BVGP an annual management fee beginning on January 1, 2021. According to the PPM, the fee would be calculated as 2% of aggregate commitments for capital contributions of BVLP as of the last day of the preceding fiscal year. For the fiscal year ending December 31, 2020, the PPM provided the fee would be prorated daily.

20. As described above in Paragraph 17, BVLP's financial statements reflected aggregate capital commitments as of December 31, 2020 of \$3,823,800. The financial statements further reflected aggregate capital commitments of \$3,233,800 as of December 31, 2021, and \$3,065,204 as of December 31, 2022.

21. Notwithstanding the PPM, however, the LPA provided for a different calculation of the management fee—that is, 2% of the gross value of the assets of BVLP as of the last day of the preceding fiscal year. The LPA stated further the fee would be paid to BVGP on the first day of each fiscal year and would be done so in quarterly installments.

22. Asman understood the LPA’s use of the term “gross value” to mean “fair market value.” As of December 31, 2020, BVLP’s financial statements reflected the fair market value of its portfolio investments as \$1,689,999; as of December 31, 2021, as \$2,703,775; and as of December 31, 2022, as \$3,557,083.

23. The LPA also required BVLP to adhere to certain annual and periodic reporting obligations. Among other things, BVLP was to cause a Schedule K-1 on IRS Form 1065 to be prepared and delivered to the limited partners within 120 days of the close of BVLP’s fiscal year, reflecting each partner’s share of the profit or loss from the partnership. In addition, the LPA provided that BVLP “shall engage an independent auditor to conduct an audit of the books and records of the Partnership on an annual basis.” Furthermore, BVGP was required to transmit to the limited partners (i) within 120 days of the close of BVLP’s fiscal year, audited financial statements, including an income statement and balance sheet as of the year then ended; and (ii) within 45 days of the close of each of the first three quarters of the calendar year, unaudited financial statements of BVLP, including statements of operations and cash flow.

24. While BVGP was vested with the “sole, exclusive and complete discretion, power and authority” to “manage, control, administer and operate” the

business and affairs of BVLP, the LPA subjected that control “in all cases to the provisions of this Agreement and to the requirements of applicable law,” and “[u]nless otherwise expressly set forth herein.” Moreover, absent the consent of at least 2/3 of the limited partners, BVGP was prohibited from taking any action in contravention of the LPA. Nevertheless, BVGP was permitted to amend the LPA for any reason without consent of the limited partners, but any such amendment had to be in writing and signed by BVGP. To the extent any such amendment would have a material adverse effect on the limited partners, however, BVGP was required to obtain consent from 2/3 of the limited partners.

B. BVLP’s Financial Statements

25. In or around February 2021, almost a year after BVLP’s inception, Asman engaged a fund administrator to prepare BVLP’s financial statements as of December 31, 2020, and an accounting firm to prepare tax returns for BVLP, BVGP, and BVINC for the 2020 tax year. Asman also hired a bookkeeper to prepare the books for BVINC.

26. Asman provided the fund administrator with the LPA, bank account statements, subscription agreements, and investment documentation pertaining to BVLP’s positions in the investment portfolio. In connection with its preparation of BVLP’s financial statements, the fund administrator communicated frequently with Asman to reconcile cash transactions, transfers, and investments, among other things, that the administrator compiled from its review of the documentation that Asman provided. Asman responded directly to the administrator’s questions. For example,

one such question in an email from the administrator to Asman on March 8, 2021, concerned transfers of funds between accounts in the names of BVGP and BVINC.

27. Asman provided the bookkeeper with bank and credit card statements for the bookkeeper to prepare BVINC's general ledger as of December 31, 2020. Among other things, the ledger reflected transfers of funds from BVLP into BVINC's accounts as "management fees," and transfers from BVINC's accounts to Asman as "salaries and wages." The bookkeeper provided the fund administrator with his analysis for the administrator's review in preparation of BVLP's financial statements.

C. Defendants Defrauded And Deceived BVLP By Taking Excessive Management Fees

28. Based on its review of the financial information received from Asman and the bookkeeper, the fund administrator determined BVLP paid management fees to BVINC in 2020 in the amount of \$515,635. That sum represented more than 23% of the capital contributions of \$2,233,800 to BVLP.

29. Under either iteration of the management fee calculation described above in Paragraphs 19 and 21, however, the amount of \$515,635 was excessive and contrary to both the PPM and the LPA. As an initial matter, according to both documents, management fees were to be paid to BVGP, not BVINC. Moreover, under the PPM, the calculation of 2% of the \$3,823,800 in aggregate commitments for capital contributions prorated from February-December 2020 was \$70,103. Similarly, 2% of the aggregate commitments for capital contributions as of December 31, 2021 and December 31, 2022 (which under the PPM would be calculated as of the last day of

the preceding fiscal years) would have been \$76,476 and \$64,676, respectively. Under the LPA, 2% of the “gross value” (or fair market value, as Asman understood that term) of BVLP’s investment portfolio of \$1,689,999 as of December 31, 2020 was \$33,800. In that same vein, 2% of the fair market value of the portfolio in the subsequent two years of \$2,703,775 and \$3,557,083, respectively, would have yielded \$54,076 and \$71,142. At bottom, the required calculations of the management fee were far below the actual amount of \$515,635 that BVINC received.

30. For its part, the fund administrator applied the calculation method of 2% of committed capital to determine the management fees prorated from February 2020 through December 2020. In a March 30, 2021 email, the fund administrator advised Asman they would adjust BVLP’s financial statements to reflect the proper management fee of \$70,103 and would reclassify the remaining amount as prepaid management fees. The administrator cautioned Asman not to transfer any further funds in management fees to BVINC until the prepaid fees were depleted. By return email that same day, Asman did not dispute the administrator’s calculations or assessments—rather, he stated “we are working on getting the LPA amended ASAP so we can charge management fees since inception of the fund. Once I have draft language for the amendment I will provide.” But given the administrator’s already prorated calculation of the fee from February 2020—that is, from inception of the fund through the end of that year—even if there had been an amendment, the administrator’s calculation still would have been accurate.

31. The administrator prepared BVLP’s revised balance sheet as of

December 31, 2020 with the amount of \$445,532—that is, the difference between \$515,635 and \$70,103—as “prepaid management fees” under “other current assets.” In an April 28, 2021 email to the accounting firm and Asman, the administrator attached BVLP’s revised financial statements for preparation of BVLP’s tax return. By return email the following day, Asman stated, among other things, that the financials “look good to me, I just want to walk through them so I have an understanding of everything.” In a subsequent email to the accounting firm and Asman on May 3, 2021, the administrator stated, among other things, “[s]poke with Kyle [Asman] this morning and we had a small change to the financials”—notably, that change did not involve the classification of certain transactions as management fees, the calculation of the management fees, or the reclassification of the excess fees to prepaids.

32. Later, in a November 26, 2021 email with the fund administrator over BVLP’s failure to pay outstanding invoices for services rendered, Asman stated, among other things: “Sorry again for the delay in paying those invoices, the fund spent to [sic] much in management fee[s] in Year 1, so I have been coming out of pocket in Year 2 to cover all the funds['] non-legal expenses.”

33. Moreover, while the administrator reclassified \$445,532—that is, the difference between \$515,635 and \$70,103—as “prepaid management fees” under “other current assets” on BVLP’s balance sheet as of December 31, 2020, Asman instead could have elected, but failed, to direct the return of that amount to BVLP’s available cash assets so that the amount could be reinvested as part of BVLP’s portfolio, or at a minimum earn interest until an investment became available.

34. In addition, the Schedule K-1 on IRS Forms 1065 that Defendants caused to be provided to the limited partners as of December 31, 2020, reflected each partner's share of the management fee based on the adjusted amount of \$70,103, but did not reveal the excessive fee of \$515,635.

35. Furthermore, Asman ignored the fund administrator's instruction not to transfer any further funds in management fees to BVINC until the prepaid management fees were depleted. According to its financial statements as of December 31, 2021, (i) BVLP recorded \$68,005.29 in management fees in 2021; and (ii) prepaid management fees actually increased to \$448,861. Had the fund administrator's instruction been followed, prepaid management fees in 2021 should have decreased—*not* increased. Moreover, in a May 25, 2021 email with the fund administrator, Asman responded to the administrator's questions about certain transactions in BVLP's bank statements, with Asman himself labeling the transactions "management fees." By recording additional management fees and increasing prepaid management fees, Asman perpetuated Defendants' fraud on BVLP.

36. While BVLP did not subsequently record additional management fees in 2022, its financial statements as of December 31, 2022 reveal a drawdown on the prepaid management fees of \$71,304, leaving a prepaid balance of \$377,557. Under the PPM, capital commitments as of the last day of the preceding fiscal year (December 31, 2021) were \$3,233,800, 2% of which would have yielded a management fee of \$64,676. And under the LPA, 2% of the "gross value" (or fair market value, as Asman understood that term) of BVLP's investment portfolio as of

the last day of the preceding fiscal year (December 31, 2021) of \$2,703,775 would have yielded a management fee of \$54,076. Under either iteration of the management fee calculation for 2022, the drawdown amount of \$71,304 was still excessive and contrary both to the PPM and the LPA. By drawing down prepaid management fees in excess of the amounts permitted under the PPM and LPA, Asman perpetuated Defendants' fraud on BVLP.

37. Having directed the preparation of the PPM and LPA and approved the terms thereof, and in his capacity as principal of BVGP and BVINC with control over the financial accounts of BVLP and BVINC from which and into which funds were transferred, and further in light of his communications with the fund administrator, as described above in Paragraphs 30-36, Asman knew, was reckless in not knowing, or, at a minimum, should have known, the management fees paid to BVINC were excessive and in contravention of both the PPM and LPA.

38. By virtue of the excessive management fees, Asman, and by imputation BVGP, defrauded and deceived BVLP, and breached the fiduciary duties owed to their client.

D. Defendants Defrauded and Deceived The Limited Partners By Failing To Conduct The Required Audit And To Provide The Required Financial Statements

39. Despite the requirement under the LPA to engage an independent auditor to conduct an annual audit of BVLP's books and records and to provide the limited partners audited financial statements within 120 days of the close of BVLP's fiscal year, as described above in Paragraph 23, Defendants failed to do so at any point

during the relevant period. The independent audit of the books and records would have revealed to the limited partners, among other things, the payment of excessive management fees as of December 31, 2020, December 31, 2021, and December 31, 2022, in contravention of the PPM and LPA. Instead, at least some of the limited partners believed that Defendants had taken *less* than they were entitled to take.

40. Asman was aware of the independent audit requirement and that an audit had not been conducted. Furthermore, having directed the preparation of the LPA and approved the terms thereof, Asman knew, was reckless in not knowing, or, at a minimum, should have known that the general powers of BVGP conferred in the LPA to “manage, control, administer and operate” the business and affairs of BVLP were subject to “the provisions of this Agreement and to the requirements of applicable law,” and “[u]nless otherwise expressly set forth herein.” No provision of the LPA “expressly set forth” BVGP’s power to waive the audit requirement—to the contrary, based on the express language of the LPA, the audit was mandatory.

41. Asman also claimed to have discussed waiver of the audit requirement with what he described as his “Limited Partnership Advisory Committee,” which consisted of only three limited partners of BVLP. Those members characterized the committee as “informal” with discussions occurring over the telephone. Having directed the preparation of the LPA and approved the terms thereof, however, Asman knew, was reckless in not knowing, or, at a minimum, should have known, that any material action in contravention of the LPA—such as waiver of the audit requirement—required consent of at least 2/3 of the total limited partners.

42. Moreover, in the course of an email exchange on September 22, 2021, the fund administrator quoted the LPA and told Asman that BVLP needed to be audited. The administrator noted, however, that Asman could discuss an amendment to the LPA with his counsel and the limited partners to remove the requirement. Asman responded that he was “aware of the old language in the LPA,” and would provide the administrator “an amended version [of the LPA] from the spring.” Despite that, however, Asman acknowledged the LPA was not amended at any point during the relevant period to remove the audit requirement, and he therefore knew, was reckless in not knowing, or, at a minimum, should have known, that the audit requirement remained in place.

43. In addition, despite the obligation under the LPA, as described above in Paragraph 23, Defendants failed to provide the limited partners with unaudited financial statements of BVLP at all the required intervals throughout the relevant period—that is, within 45 days of the close of each of the first three quarters of each calendar year.

44. While Defendants did cause a Schedule K-1 on IRS Forms 1065 to be provided to the limited partners as required under the LPA, the K-1 itself did not include BVLP’s income statement, balance sheet, statement of operations, or statement of cash flows—each of which would have been part of the required audited and unaudited financial statements, as described above in Paragraph 23.

45. The audited and unaudited financial information was material because a reasonable investor would expect his or her funds to be used in accordance with the

LPA, would also expect Defendants to charge only management fees that were authorized, and would further expect any excess management fee amounts to be returned to BVLP's available cash assets so that the amounts could be reinvested as part of BVLP's portfolio, or at a minimum earn interest until an investment became available.

46. By virtue of the failure to provide the required audited and unaudited financial information, Asman, and by imputation BVGP, defrauded and deceived the limited partners of BVLP.

E. Defendants Provided False and Misleading Information To BVLP's Limited Partners and Prospective Limited Partners

1. Subscription Information

47. At various points during the relevant period, Defendants misrepresented subscription information of BVLP. For example:

(a) In emails on June 7 and 17, 2020, July 15, 2020, and September 21, 2020, Asman told prospective limited partners, among other things, that (i) BVLP had "raised 48 out of the 50 million" in increments from \$25,000 to \$5 million; (ii) BVLP was "so close to closing it all out a few million left to go" and BVLP had taken "a range of check sizes from \$25K-\$5 million as investments"; (iii) BVLP was "currently [] through \$45M of our \$50M capital raise"; and (iv) "[w]e are just about fully subscribed to this fund."

(b) In an email on November 24, 2020, Asman provided a limited partner with an "investor list" that reflected four purported large investments from

limited partners of \$5 million each, with two of those investments described as “Subscription on Drive.” This “investor list” also reflected total capital commitments of nearly \$25 million.

(c) In an email on March 9, 2021, in furtherance of an application on behalf of BVLP for a line of credit, Asman provided a capitalization table to a bank that reflected, among other things, three purported large investments from limited partners of \$5 million and \$3 million, total committed capital of \$18,013,800, and total uncalled capital of \$12,670,000.

(d) In an email on March 11, 2021, Asman told the fund administrator to add two family offices to the list of limited partners for investments of \$5 million each.

(e) On or about March 22, 2021, BVLP filed a Form D with the Commission and signed by Asman stating, among other things, that BVLP had raised \$13 million of the \$50 million in aggregate contributions sought in the offering.

(f) In an email on January 12, 2023, Asman told the limited partners that BVLP had capital commitments of \$15 million, and that he intended to raise capital for a second fund.

48. The information described above in Paragraph 47 was false and misleading, and in his capacity as principal of BVGP with control over the financial accounts of BVLP into which funds were transferred, Asman knew, was reckless in not knowing, or, at a minimum, should have known, the information was false and misleading because (i) BVLP’s financial statements as of December 31, 2020 reflected

capital commitments of only \$3,823,800 and capital contributions of only \$2,233,800; (ii) BVLP's financial statements as of December 31, 2021 reflected capital commitments of only \$3,233,800 and capital contributions of only \$2,704,963; (iii) BVLP's financial statements as of December 31, 2022 reflected capital commitments and contributions of only \$3,065,204; and (iv) there was no commitment or contribution of \$5 million or \$3 million from any limited partner.

49. This subscription information was material because a reasonable investor would find representations about the size of capital commitments, contributions, and large investments, to be important in making an investment decision.

50. By virtue of misrepresenting the subscription information, Asman, and by imputation BVGP, made untrue statements of material fact or omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading, to the limited partners and prospective limited partners of BVLP.

2. Fund Investments

51. At various points during the relevant period, Defendants made false or misleading statements to BVLP's limited partners about the investments in BVLP's portfolio, including, among others, an artificial intelligence ("AI") company, and a firearm detection company. For example, with respect to the AI company:

(a) In an "Investment Update" emailed to BVLP's limited partners on May 15, 2020, Asman identified the holdings in BVLP's investment portfolio, as well

as other potential investments that BVLP was exploring. Some of the holdings, including the AI company, were labeled as “Status: Invested” while others were labeled as “Status: Committed.” The Investment Update reflected a purported investment in the AI company of \$250,000, with “up to \$250,000 follow on.”

(b) In an “Investment Portfolio” emailed to BVLP’s limited partners on July 2, 2020, Asman again identified the holdings in BVLP’s investment portfolio, as well as other potential investments that BVLP was exploring. Some of the holdings, including the AI company, again were labeled as “Status: Invested” while others were labeled as “Status: Committed.” The Investment Portfolio repeated the purported investment in the AI company of \$250,000, with “up to \$250,000 follow on,” but included a purported valuation of \$10 million for the company.

(c) In “Investment Portfolios” emailed to BVLP’s limited partners on August 3, 2020, September 1, 2020, and October 13, 2020, Asman, among other things, again labeled the purported investment in the AI company as “Status: Invested,” and repeated the purported valuation of \$10 million for the company, but this time listed the amount of the purported investment as \$500,000.

(d) In an “Investment Portfolio” emailed to BVLP’s limited partners on November 20, 2020 (the “November 2020 Investment Portfolio”), Asman, among other things, again labeled the purported investment in the AI company as “Status: Invested,” but listed the amount of the investment as \$50,000—a decrease of \$450,000. The November 2020 Investment Portfolio also repeated the purported valuation of \$10 million for the company.

(e) In an “Investment Portfolio” emailed to BVLP’s limited partners on February 8, 2021 (the “February 2021 Investment Portfolio”), Asman, among other things, again labeled the purported investment in the AI company as “Status: Invested,” and repeated the \$50,000 amount of the investment. The February 2021 Investment Portfolio also made the following representations regarding the AI company, among others: (i) “We Currently Own 380,000 Shares of the Stock with a basis of .13 per share. [] As of close of trading on February 4, 2021, the stock is trading at .5275 per share, making our investment worth \$200,450.”; (ii) “Since we purchase[d] [AI company] shares in 2020, the stock is up over 300%. . . . In 2021 the firm is projecting \$3.6M in revenues in 2021, which is over 170% revenue growth year over year.”; and (iii) “We look forward to [AI company] working to reach their 2021 projections and continuing to build new partnerships.”

(f) In an “Investment Portfolio 2021 Recap” emailed to BVLP’s limited partners on January 3, 2022 (the “2021 Recap”), Asman, among other things, omitted the “Status: Invested” and “Status: Committed” labels for the holdings in BVLP’s investment portfolio, including the purported investment in the AI company. The 2021 Recap repeated that BVLP owned 380,000 shares of the AI company’s stock with a basis of \$0.13 per share, and made the following representations, among others: (i) “As of close of trading on December 30, 2021 the stock is trading at 0.91 per share, making our investment worth \$345,800.”; (ii) “[AI company] continues to grow its revenues and customer base.”; and (iii) “We will look to exit the investment when the stock price reaches \$2.00 per share, which will net a 12.5x exit for Backswing.”

52. Despite the representations to the limited partners described above in Paragraph 51, Asman acknowledged that while BVLP had been “look[ing] at” the AI company for “a long period of time,” had “extensive discussions” with the company about an investment, and had been going “back and forth, all the way almost out until 2022-ish,” BVLP ultimately never invested in the company. As a result, Asman knew, was reckless in not knowing, or, at a minimum, should have known, the representations to the limited partners described above in Paragraph 51 were false and misleading.

53. At various points during the relevant period, Defendants also made false or misleading statements to BVLP’s limited partners about BVLP’s investments in a firearm detection company.

54. As of at least November 20, 2020, BVLP had invested \$150,000 in the firearm detection company. In the November 2020 Investment Portfolio emailed to BVLP’s limited partners on that date, Asman, among other things, identified BVLP’s actual positions in the company, consisting of an initial \$50,000 investment with a \$100,000 follow-on investment, and correctly labeled those investments in the company as “Status: Invested.”

55. Beginning in or around January 2021, however, Asman began discussing a further investment with the firearm detection company, writing in a January 13, 2021 email to a company representative, among other things, “we are in for \$200K. I just received the documents and flipped them over to our fund counsel. Will let you know if I have any questions.” A week later, on or about January 20,

2021, Asman signed a stockholder agreement and a stock investment agreement on behalf of BVLP to acquire an additional 71,942 preferred shares of the firearm detection company, at \$2.78 per share, with a purchase price amount of \$200,000 due at the initial closing (the “Additional Shares”).

56. In an email that same day, the company representative questioned Asman on when funds for the purchase price would be wired. Asman responded by email that afternoon: “I don’t have a timeline on closing the line yet. Will update you once we do.” Later, on February 1, 2021, when asked again when payment would be made, Asman told the representative, among other things: “I can try and get it done by the end of the week, but no promises.” Approximately two weeks later, in a February 15, 2021 email, the representative again questioned Asman when payment would be made, noting that February 18, 2021 was the “last day the round is open.” By return email the next day, Asman told the representative: “I honestly don’t think we will be able to [make payment by February 18, 2021]. Next week is probably the earliest we could do.”

57. In the weeks that followed, Asman and the representative exchanged a series of emails, centered on the question of when BVLP would make payment for the Additional Shares. By March 25, 2021, the representative made clear to Asman that the company could not wait any longer, noting that “we will have to move on.”

58. On April 2, 2021, Asman signed a stock cancellation agreement on behalf of BVLP for the Additional Shares, effective as of January 20, 2021. The agreement recited, among other things, that BVLP had “failed to tender payment for

the Shares” and that as a result thereof, was “surrender[ing] the Shares to [the firearm detection company] for cancellation.”

59. Despite BVLP’s failure to tender payment for the Additional Shares, and further despite the cancellation, Defendants nevertheless misrepresented to BVLP’s limited partners that BVLP in fact held these shares. For example:

(a) In the February 2021 Investment Portfolio, in a section entitled “Commitments: Exciting deals we have contributed to,” Asman identified the holdings in BVLP’s investment portfolio, all of which were labeled as “Status: Invested,” including the firearm detection company. With respect to the company, the Investment Portfolio stated “Total Investment \$350,000,” which consisted of the same positions that BVLP actually held as denominated in the prior November 20, 2020 investment portfolio—that is, the initial \$50,000 investment and the first \$100,000 follow-on investment—but then also included the purported \$200,000 follow-on investment for the Additional Shares, which the Investment Portfolio described as a “\$25M” valuation.

(b) In an “Investment Portfolio” emailed to BVLP’s limited partners on April 16, 2021, again in a section entitled “Commitments: Exciting deals we have contributed to,” Asman identified the holdings in BVLP’s investment portfolio, some of which were labeled as “Status: Invested,” including the firearm detection company, while others as “Status: Committed.” With respect to the company, the Investment Portfolio repeated the same description from the February 2021 Investment Portfolio of “Total Investment \$350,000” and the same breakdown—that is, the initial \$50,000

investment, the first \$100,000 follow-on investment, and the purported \$200,000 follow-on investment for the Additional Shares, which the Investment Portfolio again labeled with a “\$25M” valuation.

(c) In an “Investment Portfolio Q2 2021” emailed to BVLP’s limited partners on August 4, 2021, Asman identified the holdings in BVLP’s investment portfolio, some of which were labeled as “Status: Invested,” including the firearm detection company, while others as “Status: Committed.” With respect to the company, the Investment Portfolio removed the breakdown from the prior investment portfolios, simply describing the investment as “\$350,000,” and changing the valuation to “\$8M [] Average Price of all Shares.” The Investment Portfolio went on to state, among other things: “[The firearm detection company] recently announced they have raised a \$20M Series A financing at a valuation in excess of \$100M. That represents approximately a 10x increase on investment for Backswing Ventures.”

(d) In the 2021 Recap, Asman repeated the “\$350,000 (\$8M Valuation, Average Price of all Shares)” description from the prior August 4, 2021 investment portfolio, but added “Raised Series A Financing at \$100M (A 12.5x Markup for Backswing Ventures)” to the description. The 2021 Recap further stated, among other things: “We expect to see continued revenue and profit growth from [the firearm detection company] in 2022, and likely another financing round or potential exit.”

60. In light of BVLP’s failure to tender payment for the Additional Shares, and further in light of the subsequent cancellation of the shares, Asman knew, was

reckless in not knowing, or, at a minimum, should have known, the representations to the limited partners described above in Paragraph 59 were false and misleading.

61. Information about investments in the AI company and the firearm detection company was material because a reasonable investor would find representations about BVLP's investment portfolio—particularly high valuation investments described as “Status: Invested” as opposed to “Status: Committed” with “10x increase[s]” on investment and anticipated “12.5x” buyouts upon exiting the investments—to be important in making an investment decision.

62. By virtue of misrepresenting the investments in the AI company and the firearm detection company, Asman, and by imputation BVGP, made untrue statements of material fact or omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading, to the limited partners of BVLP.

3. Audit Status

63. Defendants further misrepresented the status of an independent audit of BVLP to the limited partners, notwithstanding Asman's acknowledgment that the audit had not been conducted, and his improper determination that the audit requirement could be waived, as described above in Paragraph 40.

64. In the February 2021 Investment Portfolio, Asman represented, among other things, that “[w]e are currently completing our annual financial audit with [the accounting firm], they have signed off on the financials, and we are currently awaiting their audit opinion which we will have in time for the March update.”

65. This representation was false and misleading, and in his capacity as principal and control person of BVGP, Asman knew, was reckless in not knowing, or, at a minimum, should have known, the information was false and misleading because at best, at that point in February 2021, the accounting firm had merely quoted a fee to conduct an audit. But the firm had not been engaged to perform the work, and in fact had never been engaged to do it, and thus had not completed—much less even started—an audit or prepared an audit opinion.

66. This information was material because a reasonable investor would find an independent audit—particularly one undertaken in compliance with the LPA which would have revealed the payment of excessive management fees—to be important in making an investment decision.

67. By virtue of misrepresenting the audit information, Asman, and by imputation BVGP, made untrue statements of material fact or omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading, to the limited partners of BVLP.

4. Asman's Credentials

68. The PPM stated, among other things, that BVLP would leverage its “diversity of backgrounds and networks to source and evaluate opportunities” in the various industries in its investment portfolio. As a further enticement to prospective limited partners, the PPM identified Asman as the sole “[k]ey personnel” associated with BVGP and provided the following description:

Kyle has extensive experience helping clients raise capital and developing go-to-market strategies. He has held investment banking roles at [Investment Firm 1 and Investment Firm 2]. In 2018, he cofounded BX3 Capital, a boutique investment bank which focused on raising capital and financial planning for early stage companies. Kyle is passionate about Backswing because he believes in helping solve the funding gap amongst early stage companies.

69. Beginning on or around February 25, 2020, and at various points during the relevant period, Defendants provided marketing materials to the limited partners and prospective limited partners of BVLP that contained a similar description of Asman’s background as set forth in the PPM. But these marketing materials amplified Asman’s purported credentials by representing, among other things, that he had a “tenure as a banker with [Investment Firm 1 and Investment Firm 2].”

70. These representations about Asman’s prior banking experience were misleading—he worked only as a summer intern at Investment Firm 1 when he was a junior in college and was not offered a full-time position, and he only worked at Investment Firm 2 during his senior year of college. Asman therefore knew, was reckless in not knowing, or, at a minimum, should have known, that he did not, in fact, hold either an “investment banking role” or a “tenure as a banker” with Investment Firm 1 or Investment Firm 2.

71. This credential information was material because a reasonable investor would find representations from the sole “[k]ey personnel” about his background and pedigree in directing BVLP’s affairs and managing the investor’s investment funds to be important in making an investment decision.

72. By virtue of misrepresenting his credentials, Asman, and by imputation BVGP, made untrue statements of material fact or omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading, to the limited partners and prospective limited partners of BVLP.

COUNT I

Fraud in Violation of Section 206(1) of the Advisers Act

(Against all Defendants)

73. The Commission repeats and realleges Paragraphs 1-3 and 5-38 of its Complaint.

74. Defendants acted as investment advisers to their client, BVLP, within the meaning of Section 202(a)(11) of the Advisers Act [15 U.S.C. § 80b-2(a)(11)].

75. By engaging in the conduct described in this Complaint, Defendants, by use of the mails or the means or instrumentalities of interstate commerce, directly or indirectly, knowingly or recklessly employed a device, scheme, or artifice to defraud a client or prospective client.

76. By reason of the foregoing, Defendants violated, and, unless enjoined, are reasonably likely to continue to violate, Section 206(1) of the Advisers Act [15 U.S.C. § 80b-6(1)].

COUNT II

Fraud in Violation of Section 206(2) of the Advisers Act

(Against all Defendants)

77. The Commission repeats and realleges Paragraphs 1-3 and 5-38 of its Complaint.

78. Defendants acted as investment advisers to their client, BVLP, within the meaning of Section 202(a)(11) of the Advisers Act [15 U.S.C. § 80b-2(a)(11)].

79. By engaging in the conduct described in this Complaint, Defendants, by use of the mails or the means or instrumentalities of interstate commerce, directly or indirectly, knowingly, recklessly, or negligently engaged in a transaction, practice, or course of business which operated as a fraud or deceit upon a client or prospective client.

80. By reason of the foregoing, Defendants violated, and, unless enjoined, are reasonably likely to continue to violate, Section 206(2) of the Advisers Act [15 U.S.C. § 80b-6(2)].

COUNT III

Fraud in Violation of Section 206(4) and Rule 206(4)-8(a)(1) of the Advisers Act

(Against all Defendants)

81. The Commission repeats and realleges Paragraphs 1, 4-27, and 47-72 of its Complaint.

82. Defendants acted as investment advisers to their client, BVLP, within the meaning of Section 202(a)(11) of the Advisers Act [15 U.S.C. § 80b-2(a)(11)].

83. BVLP was a “pooled investment vehicle” within the meaning of Rule 206(4)-8(b) of the Advisers Act [17 C.F.R. § 275.206(4)-8(b)].

84. By engaging in the conduct described in this Complaint, Defendants, by use of the mails or the means or instrumentalities of interstate commerce, directly or indirectly, knowingly, recklessly, or negligently made an untrue statement of a material fact or omitted to state a material fact necessary to make the statements made, in the light of the circumstances under which they were made, not misleading, to an investor or prospective investor in BVLP.

85. By reason of the foregoing, Defendants violated, and, unless enjoined, are reasonably likely to continue to violate, Section 206(4) and Rule 206(4)-8(a)(1) of the Advisers Act [15 U.S.C. § 80b-6(4) and 17 C.F.R. § 275.206(4)-8(a)(1)].

COUNT IV

Fraud in Violation of Section 206(4) and Rule 206(4)-8(a)(2) of the Advisers Act

(Against all Defendants)

86. The Commission repeats and realleges Paragraphs 1, 4-27, and 39-46 of its Complaint.

87. Defendants acted as investment advisers to their client, BVLP, within the meaning of Section 202(a)(11) of the Advisers Act [15 U.S.C. § 80b-2(a)(11)].

88. BVLP was a “pooled investment vehicle” within the meaning of Rule 206(4)-8(b) of the Advisers Act [17 C.F.R. § 275.206(4)-8(b)].

89. By engaging in the conduct described in this Complaint, Defendants, by use of the mails or the means or instrumentalities of interstate commerce, directly or indirectly, knowingly, recklessly, or negligently engaged in an act, practice, or a course of business that was fraudulent, deceptive, or manipulative with respect to investors or prospective investors in BVL P.

90. By reason of the foregoing, Defendants violated, and, unless enjoined, are reasonably likely to continue to violate, Section 206(4) and Rule 206(4)-8(a)(2) of the Advisers Act [15 U.S.C. § 80b-6(4) and 17 C.F.R. § 275.206(4)-8(a)(2)].

RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests the Court find that Defendants committed the violations charged and that, as a result of these violations, Asman received ill-gotten gains; and enter final judgments:

I.

Permanent Injunctions

Permanently restraining and enjoining Defendants, their officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them, and each of them, pursuant to Section 209(d) of the Advisers Act [15 U.S.C. § 80b-9(d)], from directly or indirectly violating Sections 206(1), 206(2), 206(4), and Rule 206(4)-8 of the Advisers Act [15 U.S.C. §§ 80b-6(1), 80b-6(2), 80b-6(4), and 17 C.F.R. § 275.206(4)-8], by committing or engaging in specified actions or activities relevant to such violations.

II.

Conduct-Based Injunction

Permanently restraining and enjoining Asman from, directly or indirectly, acting as or being associated with any investment adviser, pursuant to Section 21(d)(5) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78u(d)(5)] and Section 209(d) of the Advisers Act [15 U.S.C. § 80b-9(d)]. For purposes of this paragraph, a person is associated with an investment adviser if such person is a partner, officer, or director of such investment adviser (or performs similar functions), or directly or indirectly controls or is controlled by such investment adviser, including any employee of such investment adviser.

III.

Disgorgement

Ordering Asman to disgorge his ill-gotten gains, plus prejudgment interest, pursuant to Sections 21(d)(5) and 21(d)(7) of the Exchange Act [15 U.S.C. §§ 78u(d)(5), (7)].

IV.

Penalties

Ordering each Defendant to pay a civil money penalty pursuant to Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)].

V.

Further Relief

Granting any other and further relief the Court may deem just or necessary.

VI.

Retention of Jurisdiction

Further, the Commission respectfully requests the Court retain jurisdiction over this action and over Defendants in order to implement and carry out the terms of all orders and decrees that may hereby be entered, or to entertain any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court.

JURY DEMAND

The Commission demands a trial by jury as to all claims so triable.

DATED: April 9, 2026

Respectfully submitted,

By: /s/ Patrick R. Costello

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