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16 **UNITED STATES DISTRICT COURT**
17 **CENTRAL DISTRICT OF CALIFORNIA**
18 **Western Division**

19 **SECURITIES AND EXCHANGE**
20 **COMMISSION,**

21 **Plaintiff,**

22 **vs.**

23 **ANTHONY JOSEPH CATALDO,**

24 **Defendant.**

Case No.

COMPLAINT

DEMAND FOR JURY TRIAL

27 Plaintiff Securities and Exchange Commission (“Commission” or “SEC”), for
28

1 its Complaint against Defendant Anthony Joseph Cataldo (“Cataldo”) hereby alleges
2 as follows:

3 **JURISDICTION AND VENUE**

4 1. The Court has jurisdiction over this action pursuant to Sections 20(b),
5 20(d), and 22(a) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. §§ 77t(b),
6 77t(d), and 77v(a)] and Sections 21(d), 21(e), and 27 of the Securities Exchange Act
7 of 1934 (“Exchange Act”) [15 U.S.C. §§ 78u(d), 78u(e), and 78aa].

8 2. Defendant has, directly or indirectly, made use of the means or
9 instrumentalities of interstate commerce and of the mails in connection with the acts,
10 practices, and courses of business alleged in this Complaint.

11 3. Venue is proper in this district pursuant to Section 22(a) of the Securities
12 Act [15 U.S.C. § 77v(a)] and Section 27 of the Exchange Act [15 U.S.C. § 78aa]
13 because certain of the acts, practices, and courses of conduct constituting violations
14 of the federal securities laws alleged in this Complaint occurred within this district.
15 In addition, Defendant worked and resided in Beverly Hills, California, in the
16 Western Division of this District at all times relevant to this Complaint.

17 **SUMMARY**

18 4. From approximately November 2020 through October 2021 (the
19 “Relevant Period”), Defendant Cataldo, the Chief Executive Officer (“CEO”) and
20 Chairman of the Board of Directors of a clinical-stage biopharmaceutical company
21 (the “Company”), engaged in a fraudulent scheme to enrich himself at the expense of
22 the Company and its investors by misappropriating a total of approximately \$3.2
23 million from the Company’s bank accounts and engaging in deceptive acts to conceal
24 his misconduct from others, including the Company’s auditors.

25 5. Specifically, over the Relevant Period, Defendant made repeated
26 unauthorized transfers totaling approximately \$644,500 in corporate funds from a
27 bank account belonging to the Company (the “Company Bank Account”) to his own
28 personal bank account.

1 to Section 12(b) [15 U.S.C. § 78I] of the Exchange Act, and the Company filed
2 reports with the Commission pursuant to Section 13(b) of the Exchange Act [15
3 U.S.C. § 78m]. The Company’s common stock has been trading on the Nasdaq
4 Capital Market since on or about February 11, 2021.

5 **FACTUAL ALLEGATIONS**

6 **A. Defendant Raised Funds from Investors, Promising They Would Be Used**
7 **for Legitimate Business Purposes.**

8 11. During the Relevant Period, the Company conducted early-stage clinical
9 trials and had no products or other business that generated any revenues for the
10 Company. In its Form 10-K for 2020, which was filed on April 16, 2021, the
11 Company disclosed that it did “not have any product candidates approved for sale and
12 has not generated any revenue from product sales.” The Company made an identical
13 disclosure in its Form 10-K for 2021, which was filed on March 28, 2022, and
14 reported no revenues for each of the years 2020 and 2021.

15 12. Accordingly, the Company relied exclusively on invested capital to fund
16 its operations, including investments obtained through the sale of its securities in a
17 public offering conducted from on or about February 11, 2021 through on or about
18 February 16, 2021 (the “February 2021 Offering”).

19 13. The February 2021 Offering resulted in investor proceeds of
20 approximately \$24.7 million from the sale of stock and \$16.4 million from the
21 exercise of warrants, which were deposited into financial accounts held by the
22 Company.

23 14. In connection with the February 2021 Offering, the Company filed with
24 the SEC a Form S-1 registration statement on December 11, 2020. This filing
25 included a draft prospectus that would be used to provide information to investors.
26 The Company subsequently filed three amendments to this registration statement and
27 drafts of the accompanying prospectus on February 2, 2021, February 8, 2021, and
28 February 9, 2021. The February 2021 Offering was made effective on or about

1 February 10, 2021 and a final prospectus was filed with the SEC on February 11,
2 2021.

3 15. Each filed version of the prospectus, including the final prospectus, was
4 signed by Cataldo, among others, and contained the following materially false
5 statement: “We intend to use the net proceeds of this offering for general corporate
6 purposes, which includes, among other purposes, the funding and expansion of our
7 ongoing clinical trials and the continued development of our pipeline of candidate
8 products.”

9 16. Defendant knew or was reckless in not knowing that this statement was
10 false when it was made because he was already engaged in a scheme to use corporate
11 funds to make unauthorized payments to himself. In addition, Defendant caused
12 himself to be wired an additional \$100,000 in unauthorized payments within two days
13 after the February 2021 Offering closed.

14 17. Defendant continued to take unauthorized funds from the Company until
15 he was terminated in November 2021.

16 **B. Defendant Schemed to Enrich Himself at the Expense of the Company and**
17 **its Investors.**

18 **1. Cataldo Signed Employment Agreements that Specified His**
19 **Authorized Compensation.**

20 18. During the Relevant Period, the Company had employment agreements
21 with Cataldo, which specified the compensation and benefits he was entitled to
22 receive as a Company executive.

23 19. At the start of the Relevant Period, Cataldo was being compensated
24 pursuant to an August 11, 2020 employment agreement, which provided that he
25 would “be paid a monthly Base Salary of \$360,000.00 per year,” (\$30,000 per
26 month).

27 20. That employment agreement remained in effect until on or about April
28 23, 2021, when Cataldo entered into a new agreement that increased his base salary to

1 \$500,000 per year (approximately \$41,666.67 per month). This April 2021
2 agreement remained in effect until Cataldo's termination in November 2021.

3 21. In addition to salary, each employment agreement provided for other
4 standard benefits, including the right to participate in employee benefit plans, medical
5 insurance, annual leave, reimbursement of reasonable business expenses, and certain
6 compensation to be paid upon termination of employment.

7 22. In addition, each agreement also provided that Cataldo would "have the
8 opportunity to earn" a discretionary or performance-based bonus. The April 2021
9 agreement provided for a possible performance bonus of 50% of his base salary.

10 23. These bonuses could only be paid under two scenarios. First, the
11 agreements provided that bonuses could be paid pursuant to a Company "Bonus
12 Plan," but only "if in effect." During the Relevant Period, no "Bonus Plan" was in
13 effect. Second, the agreements expressly provided that only the Company's
14 Compensation Committee or Board of Directors could authorize bonuses, stating that
15 "the Compensation Committee or Board of Directors *shall have discretion* as to
16 determining bonus compensation" (emphasis added).

17 24. No other compensation was authorized in any of these agreements.

18 **2. Cataldo Received \$644,500 in Unauthorized Compensation.**

19 25. Despite the requirements for bonus compensation, Cataldo caused
20 himself to be paid approximately \$644,500 in excess compensation that he knew, or
21 was reckless in not knowing, were not authorized to be paid under his employment
22 agreements.

23 26. Cataldo received his authorized compensation on a monthly basis by
24 wire transfer from a Company Bank Account. During the Relevant Period, Cataldo
25 was one of only two individuals with access and signatory control over this Company
26 Bank Account.

27 27. In addition to his authorized compensation, Cataldo received repeated
28 large round-dollar wire transfers that exceeded his authorized compensation.

1 Sometimes these transfers were accompanied by a notation identifying the transfer as
 2 “bonuses,” or “expense advance” and/or “expense reimbursements” and sometimes
 3 these transfers were not accompanied by any notation at all.

4 28. Specifically, between November 12, 2020 and October 25, 2021,
 5 Cataldo received 11 separate wire transfers from the Company Bank Account to his
 6 personal bank account. These transfers exceeded his salary and were not otherwise
 7 authorized by any employment agreement.

8 29. Below is a chart of the monthly payments authorized under Cataldo’s
 9 employment agreements, as compared to the actual payments he received on a
 10 monthly basis. As detailed in this chart, Cataldo received excess payments totaling
 11 approximately \$644,500.

Month	Authorized Salary	Actual Payments	Excess Payments
Nov-2020	\$30,000	\$48,000	\$18,000
Dec-2020	\$30,000	\$80,000	\$50,000
Jan-2021	\$30,000	\$30,000	\$0
Feb-2021	\$30,000	\$130,000	\$100,000
Mar-2021	\$30,000	\$30,000	\$0
Apr-2021	\$41,666.67	\$341,666.67	\$300,000
May-2021	\$41,666.67	\$41,666.67	\$0
Jun-2021	\$41,666.67	\$41,666.67	\$0
Jul-2021	\$41,666.67	\$184,166.67	\$142,500
Aug-2021	\$41,666.66	\$41,666.66	\$0
Sept-2021	\$41,666.67	\$53,666.67	\$12,000
Oct-2021	\$41,666.67	\$63,666.67	\$22,000
TOTAL	\$441,666.68	\$1,086,166.68	\$644,500

1 **3. Cataldo Knew, Or Was Reckless in Not Knowing, the Excess**
2 **Compensation Was Not Authorized.**

3 30. Cataldo knew, or was reckless in not knowing, that he was not entitled to
4 these excess payments because they exceeded the authorized compensation amounts
5 expressly provided for in the employment agreements that he signed.

6 31. Moreover, Cataldo's employment agreements provided that he could
7 only be paid bonuses under a bonus plan or upon approval by the Compensation
8 Committee and/or Board of Directors.

9 32. And Cataldo, being CEO and Chairman of the Board, knew, or was
10 reckless in not knowing, that the Company had no bonus plan.

11 33. Defendant Cataldo also knew, or was reckless in not knowing, that
12 bonuses had not been approved because he was Chairman of the Board of Directors
13 during the Relevant Period. Thus, he would have been present at any meeting and/or
14 participated in any action at which the Board of Directors might have approved such
15 bonuses. Because he did not participate in any such action, he knew, or was reckless
16 in not knowing, that there was no such action and that the Board never approved the
17 bonuses.

18 **4. Cataldo Took Nearly \$2.6 Million in Company Funds to Buy a**
19 **House.**

20 34. In July 2021, in addition to causing himself to be paid unauthorized
21 compensation, Defendant Cataldo took an additional nearly \$2.6 million from the
22 Company Bank Account to make a downpayment on a multi-million-dollar house.

23 35. On or about April 13, 2021, Cataldo entered into a contract to purchase a
24 \$9.15 million mansion in Beverly Hills, California as his personal residence.
25 Although the closing of the purchase was initially scheduled to occur within thirty
26 days after the contract was entered into, Cataldo did not have available the cash to
27 pay the required down payment, and it was delayed repeatedly.
28

1 36. On or about July 20, 2021, Cataldo caused the Company Bank Account
2 to send a wire transfer of \$2,575,855.30 to the escrow services company associated
3 with Cataldo’s home purchase. The closing on Cataldo’s new house took place on or
4 about July 22, 2021.

5 37. As of July 19, 2021 – the day before Cataldo took the money – the
6 Company had bank and brokerage account assets totaling approximately \$39.4
7 million. Thus, the nearly \$2.6 million that Cataldo took the next day constituted
8 more than 6.5% of the Company’s total cash and cash equivalents at the time.

9 **5. Cataldo Undertook Efforts to Conceal His Misappropriation.**

10 38. After he took the nearly \$2.6 million, Cataldo engaged in deceptive
11 efforts to conceal his misconduct by, among other things, misleading the Company’s
12 auditors, such that the Company’s public filings did not disclose Cataldo’s actions.

13 39. Specifically, during this time, the Company’s auditors were conducting a
14 review of the Company’s financial statements in connection with a Form 10-Q for the
15 second fiscal quarter, which ended June 30, 2021. Yet, during the course of this
16 review, Cataldo never disclosed to them that he had taken nearly \$2.6 million in
17 Company funds in July.

18 40. Yet, on or about August 23, 2021, Cataldo signed a management
19 representation letter to auditors stating, among other things, that he: 1) had “no
20 knowledge of any fraud or suspected fraud affecting the Company involving: a)
21 Management; b) Employees who have significant roles in internal control over
22 financial reporting; or c) Others where the fraud could have a material effect on the
23 interim financial information”; and 2) “to the best of [his] knowledge and belief, no
24 other events have occurred subsequent to the balance sheet date and through the date
25 of this letter that would require adjustment to or disclosure in the aforementioned
26 interim financial statements.”
27
28

1 41. Both representations were false and Cataldo knew it because he knew
2 that he had taken nearly \$2.6 million in Company funds that he was not entitled to
3 and that he had not disclosed this transaction to the auditors.

4 42. Following the Company's third fiscal quarter, which ended on
5 September 30, 2021, the Company began work on its third quarter Form 10-Q. In
6 connection with this filing, the Company's auditors initiated another review of the
7 financials.

8 43. To further deceive the Company's auditors, Cataldo undertook efforts to
9 ensure the quarter-end bank records did not reflect the missing funds. Specifically,
10 on September 29, 2021, Cataldo deposited to the Company Bank Account a personal
11 check for \$2,575,855.30 – the precise amount he took in July. Upon being deposited,
12 there was an immediate credit to the Company Bank Account. Thus, as of September
13 30, 2021 – the end of the Company's third fiscal quarter – the Company's bank
14 account reflected a cash balance of \$5,746,545.56, which included the nearly \$2.6
15 million check from Cataldo.

16 44. However, at the time Cataldo wrote and deposited this \$2,575,855.30
17 check, his bank account had a balance of only \$101.65. As a result, the next day –
18 October 1, 2021 – Cataldo's check failed to clear due to insufficient funds, causing a
19 reversal of that nearly \$2.6 million credit to the Company Bank Account and bringing
20 the balance down to \$3,170,690.26 (excluding other bank activity in the account that
21 day). October 1, 2021 was the first day of the Company's fourth fiscal quarter.

22 45. Throughout this time period, Cataldo never disclosed his misconduct to
23 the auditors. In fact, the Company's auditors report that they did not learn of
24 Cataldo's taking of the nearly \$2.6 million until December 2021, after he had been
25 terminated.

26 46. Thus, when the Company filed its third quarter Form 10-Q with SEC on
27 November 10, 2021, it did not disclose that Cataldo had taken nearly \$2.6 million in
28 funds belonging to the Company.

FIRST CLAIM FOR RELIEF

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

53. Paragraphs 1 through 52 are realleged and incorporated by reference.

54. As set forth above, Defendant engaged in a scheme to enrich himself at the expense of the Company and its investors by misappropriating a total of approximately \$3.2 million from the Company's bank accounts and engaging in deceptive acts to conceal his misconduct from others, including the Company's auditors. The Defendant also made materially false and misleading statements to the Company's auditors and to investors in public filings, representing, among other things, that investor funds would be used for business expenses of the Company when he knew, or was reckless in not knowing, that he was using corporate funds to make payments to himself that he was not entitled to.

55. By engaging in the acts and conduct alleged in this Complaint, Defendant Cataldo, directly or indirectly, in connection with the purchase or sale of securities, by the use of the means or instrumentalities of interstate commerce or of the mails, or of any facility of any national securities exchange, knowingly or recklessly: (a) employed devices, schemes, or artifices to defraud; (b) made untrue statements of a material fact or omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and (c) engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any persons, including purchasers of the securities.

56. By engaging in the conduct described above, Defendant directly or indirectly violated and unless restrained and enjoined will continue to violate Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5(b) [17 C.F.R. § 240.10b-5] thereunder.

1 **SECOND CLAIM FOR RELIEF**

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

3 57. Paragraphs 1 through 52 are realleged and incorporated by reference.

4 58. As set forth above, Defendant engaged in a scheme to enrich himself at
5 the expense of the Company and its investors by misappropriating a total of
6 approximately \$3.2 million from the Company's bank accounts and engaging in
7 deceptive acts to conceal his misconduct from others, including the Company's
8 auditors. The Defendant also made materially false and misleading statements to the
9 Company's auditors and to investors in public filings, representing, among other
10 things, that investor funds would be used for business expenses of the Company when
11 he knew, or was reckless in not knowing, that he was using corporate funds to make
12 payments to himself that he was not entitled to.

13 59. By engaging in the acts and conduct alleged in this Complaint,
14 Defendant Cataldo, in the offer or sale of securities, by the use of means or
15 instrumentalities of transportation or communication in interstate commerce or by use
16 of the mails, directly or indirectly: (a) knowingly or recklessly employed devices,
17 schemes, or artifices to defraud; (b) knowingly, recklessly, or negligently obtained
18 money or property by means of untrue statements of material fact or by omitting to
19 state material facts necessary in order to make the statements made, in light of the
20 circumstances under which they were made, not misleading; and (b) knowingly,
21 recklessly, or negligently engaged in transactions, practices, or courses of business
22 which operated or would operate as a fraud or deceit upon the purchaser.

23 60. By engaging in the conduct described above, Defendant directly or
24 indirectly violated and unless restrained and enjoined will continue to violate Section
25 17(a) of the Securities Act [15 U.S.C. § 77q(a)].
26
27
28

1 **THIRD CLAIM FOR RELIEF**

2 **Violations of Exchange Act Rule 13b2-2**

3 61. Paragraphs 1 through 52 are realleged and incorporated herein by
4 reference.

5 62. As set forth above, Defendant Cataldo attempted to conceal his
6 misappropriation from the Company’s auditors, by, among other things, signing a
7 management representation letter attesting to the fact that he had no knowledge of
8 any fraud by Company management and that he had disclosed any other significant
9 events when, in fact, he had never disclosed to the auditors that he had been taking
10 Company funds without authorization. As a result of these misrepresentations, the
11 Company’s public filings did not disclose Cataldo’s misconduct.

12 63. By engaging in the acts and conduct alleged in this Complaint,
13 Defendant Cataldo violated Exchange Act Rule 13b2-2 [17 C.F.R. §240.13b2-2] by,
14 in connection with an audit or review of the Company’s financial statements, or, to an
15 accountant in connection with an audit or review of the Company’s financial
16 statements: (a) making or causing to be made a materially false or misleading
17 statement to an accountant; or (b) omitting to state, or causing another person to omit
18 to state, any material fact necessary in order to make statements made, in light of the
19 circumstances under which such statements were made, not misleading.

20 64. By engaging in the conduct described above, Defendant directly or
21 indirectly violated and unless restrained and enjoined will continue to violate Rule
22 13b2-2 of the Exchange Act [17 C.F.R. § 240.13b2-2].

23 **PRAYER FOR RELIEF**

24 WHEREFORE, the Commission respectfully requests that this Court enter a
25 final judgment:

- 26 1. Permanently enjoining Defendant Cataldo from violating Section 10(b)
27 of the Exchange Act and Exchange Act Rules 10b-5 and 13b2-2,
28 thereunder, and Section 17(a) of the Securities Act.

- 1 2. Ordering Defendant Cataldo to pay civil penalties pursuant to Section
- 2 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d) [15
- 3 U.S.C. § 78u(d)] of the Exchange Act;
- 4 3. Barring Defendant Cataldo, pursuant to Section 20(e) of the Securities
- 5 Act [15 U.S.C. §77t(e)] and Section 21(d)(2) of the Exchange Act [15
- 6 U.S.C. §78u(d)(2)], from serving as an officer or director of any issuer
- 7 that has a class of securities registered pursuant to Section 12 of the
- 8 Exchange Act [15 U.S.C. §781] or that is required to file reports
- 9 pursuant to Section 13 of the Exchange Act [15 U.S.C. §78m].
- 10 4. Granting the Commission such other relief as is just and appropriate.

11 **DEMAND FOR JURY TRIAL**

12 Pursuant to Federal Rule of Civil Procedure 38, the Commission demands trial
13 by jury.

14
15
16 Respectfully submitted,

17
18 Dated: April 29, 2026

/s/ David A. Nasse

David A. Nasse

Devon L. Staren

Donald W. Searles

Attorneys for Plaintiff

U.S. Securities and Exchange Commission