UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES SECURITIES AND EXCHANGE COMMISSION,	)	
PLAINTIFF,	)	**CASE NO. 1:26-cv-11825**
v.	)	
JACOB GARFINKEL, 5G FUNDING LLC, AND FIVE G FUNDING LLC,	)	**JURY TRIAL DEMANDED**
DEFENDANTS.	)	

COMPLAINT

Plaintiff United States Securities and Exchange Commission ("SEC"), for its complaint against Jacob Garfinkel ("Garfinkel"), 5G Funding LLC, and Five G Funding LLC (together, "5G Funding") (together with Garfinkel, "Defendants"), alleges as follows:

SUMMARY OF THE ACTION

1. Garfinkel exploited the trust of the Orthodox Jewish religious community to operate an investment fraud through 5G Funding, which Garfinkel owned and controlled. From approximately November 2021 through at least January 2023 (the "Relevant Period"), Garfinkel solicited at least 23 investors located in Illinois, New York, and New Jersey to invest approximately $4.5 million in 5G Funding's merchant cash advance business, in which 5G Funding would, according to Garfinkel, make short-term, high-interest loans to small businesses secured by a portion of the businesses' future receivables. Garfinkel claimed that 5G Funding's business was highly profitable, and that he and the investors would split the net profits that 5G Funding generated from merchant cash advances that the investors funded. Garfinkel claimed that 5G Funding's compensation, in the form of a 6% management fee plus 50% of any profits, would be collected only from merchant repayments.

2. While Garfinkel did use some investor funds to engage in an unprofitable merchant cash advance business, he misled investors about the nature and amount of his compensation and collected $1.1 million in “origination fees” out of 5G Funding’s merchant cash advances. He also diverted another approximately $1 million in merchant repayments and other funds that he represented would be used to benefit 5G Funding investors, and not himself. Garfinkel diverted these funds for his personal spending and for transfers to related parties.

3. Defendants also made multiple other misrepresentations to investors. For example, Garfinkel claimed that he had a track record of generating returns in the merchant cash advance industry. But he actually had no prior experience, let alone a track record of success, in the business before forming 5G Funding.

4. Defendants similarly misrepresented the merchant cash advance portfolio’s performance. 5G Funding’s portfolio was never profitable and it collected less than 60% of the total amount owed. Garfinkel hid those losses from the investors by issuing reports and other communications that indicated merchants were repaying on time and the merchant cash advances were generating substantial returns.

5. Defendants also entered into refinancing transactions that further concealed 5G Funding’s financial distress by making it appear that the initial merchant cash advances had been paid off prior to any renewals. Defendants entered into these transactions to generate fees for themselves and not for any legitimate business purpose.

6. Based on Defendants’ misconduct, Defendants were able to entice new investors to invest in 5G Funding and persuade existing investors to keep their money invested with 5G Funding. Defendants’ misconduct allowed 5G Funding to continue making unprofitable merchant cash advances and generating fees for themselves.

7. Based on the conduct described herein, Defendants violated the federal securities laws, namely, Section 17(a) of the Securities Act of 1933 ("Securities Act") and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 thereunder.

8. There is a reasonable likelihood that, unless restrained and enjoined, Defendants will continue to violate these federal securities laws.

9. Accordingly, the SEC seeks a judgment against Defendants that: (a) imposes permanent injunctive relief, including prohibiting Garfinkel from again offering or selling securities; (b) orders disgorgement of ill-gotten gains plus prejudgment interest; and (c) imposes civil monetary penalties.

JURISDICTION AND VENUE

10. The SEC brings this action under Securities Act Section 20(b) [15 U.S.C. § 77t(b)] and Exchange Act Sections 21(d) and 21(e) [15 U.S.C. §§ 78u(d) and 78u(e)].

11. This Court has jurisdiction over this action pursuant to Section 22 of the Securities Act [15 U.S.C. § 77v] and Section 27 of the Exchange Act. [15 U.S.C. § 78aa].

12. Venue is proper in this Court pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v] and Section 27 of the Exchange Act [15 U.S.C. § 78aa]. Many of the acts, practices, and courses of business constituting the violations alleged herein have occurred within this District. During the Relevant Period, Garfinkel resided in this District, 5G Funding's principal place of business was located in this District, and approximately 17 of Defendants' investor-victims resided in this District.

13. Defendants directly and indirectly made use of the means and instrumentalities of interstate commerce and of the mails in connection with the acts, practices, and courses of business alleged herein, and will continue to do so unless enjoined.

DEFENDANTS

14. **Jacob Garfinkel**, age 27, is a resident of Lincolnwood, Illinois, and resided there during the Relevant Period.

15. **5G Funding LLC** is a Florida limited liability company formed in October 2021 by Garfinkel with its principal place of business in Skokie, Illinois. During the Relevant Period, 5G Funding LLC was in the merchant cash advance business, and Garfinkel was its owner, manager, and chief executive officer.

16. **Five G Funding LLC** is a Delaware limited liability company formed in January 2022 by Garfinkel with its principal place of business in Skokie, Illinois. During the Relevant Period, Five G Funding LLC was in the merchant cash advance business, and Garfinkel was its owner, manager, and chief executive officer.

RELATED ENTITIES

17. **5G Capital LLC** ("5G Capital") is a Delaware limited liability company with its principal place of business in Skokie, Illinois. Garfinkel was the founder, sole member, and chief executive officer of 5G Capital and was the sole signatory on 5G Capital's bank account. During the Relevant Period, 5G Capital purportedly provided back-office services to 5G Funding. Garfinkel commingled funds among bank accounts in the names of 5G Funding and 5G Capital.

18. **JCG Consulting, LLC** ("JCG Consulting") is a Delaware limited liability company with its principal place of business in Lincolnwood, Illinois. Garfinkel is the founder and sole owner of JCG Consulting. JCG Consulting has no business operations, but Garfinkel used it to purchase a home, to buy automobiles, and to pay gambling debts.

ALLEGATIONS OF FACT

I. GARFINKEL SOLICITED INVESTMENTS IN 5G FUNDING

19. Garfinkel conducted merchant cash advance activities through each of 5G Funding LLC, formed in October 2021, and Five G Funding LLC, formed in January 2022, and used the names interchangeably. Investors understood that 5G Funding LLC and Five G Funding LLC constituted a single business enterprise, referred to in this Complaint as "5G Funding."

20. Garfinkel had no experience in the merchant cash advance industry when he started 5G Funding.

21. During the Relevant Period, Garfinkel solicited investments in 5G Funding from friends, neighbors, and word-of-mouth referrals from existing investors, almost exclusively within Orthodox Jewish communities in Illinois, New York, and New Jersey.

22. Investors trusted Garfinkel due to their social or community connections with him. Some investors based their decision to invest on their oral and written communications with Garfinkel about the investment, recommendations from existing 5G Funding investors, and their trust in Garfinkel.

23. Garfinkel, as the owner, member, and manager of 5G Funding, communicated with prospective investors, negotiated the terms of each investor's investment in 5G Funding, signed investment agreements on behalf of 5G Funding, controlled where investor funds were deposited, and provided investors with written and oral updates on the status of their investments.

24. Garfinkel orally told investors that 5G Funding would pool their money with the contributions of other investors and fund merchant cash advances from that pool.

25. Garfinkel told investors that 5G Funding would divide each investor's capital to fund participation interests—or "syndications"—in multiple merchant cash advance deals. Garfinkel said this diversification would reduce each investor's risk of loss.

26. Garfinkel and 5G Funding were solely responsible for identifying and entering into merchant cash advances, as well as determining which group of investors would participate in each merchant cash advance and the amount of each investor's participation in any particular merchant cash advance.

27. During the Relevant Period, Garfinkel and 5G Funding made representations about the application of investor money in both a written participation agreement and in separate oral and written communications with investors.

28. The written participation agreements provided that at the outset of each merchant cash advance, investors would fund both the amount 5G Funding had agreed to pay the merchant under the contract (the "purchase price") and a sales agent commission paid to the independent sales agent that submitted the borrower to 5G Funding for consideration for a merchant cash advance.

29. The written participation agreements stated that independent sales agents "shall enter" into a separate independent representative agreement with 5G Funding setting forth the sales agent's commission and other terms and conditions relating to the independent sales agent's referral of a merchant to 5G Funding. It is common in the merchant cash advance industry for independent sales agents to identify merchants interested in obtaining additional capital via a merchant cash advance and to connect those merchants with companies that make such advances, with the lender typically paying the sales agent a commission (a "sales agent

commission") for every referral that leads to the merchant and the lender entering into a merchant cash advance agreement.

30. Garfinkel represented to investors that when merchants repaid the merchant cash advances, investors would receive their initial investment amount plus 50% of any net profits generated in each quarter.

31. As a result, the performance of each investor's account was tied to the specific merchant cash advances in which they participated, and the fortunes of all of the investors in a given merchant cash advance were linked.

32. Garfinkel told some investors that 5G Funding expected to generate a 35% to 65% return on a typical merchant cash advance. In December 2021, Garfinkel emailed several prospective investors attaching screenshots purportedly from the account of one of 5G Funding's current investors as an example. Garfinkel stated that "this individual has invested just shy of $115,000.00 which our expected payback on his money is approximately $172,000. That is an approximate 66% return which he will net 33% of in around 80-115 days [of making the advances]."

33. The participation agreement required 5G Funding to collect repayments from merchants and hold investors' share of such collections in trust for investors.

34. Garfinkel told investors that, unless instructed otherwise, 5G Funding would automatically roll each investor's share of money collected from merchants into new merchant cash advances, which would increase the returns investors could achieve.

35. For example, in an email dated December 6, 2021 sent to several investors, Garfinkel wrote, "[M]ost of the time the investor likes to keep there [*sic*] money in and roll it into other deals as they see that the returns are good and want to keep growing their account."

36. Garfinkel also told investors that they could instruct 5G Funding to stop reinvesting their funds in new merchant cash advances at any time and withdraw their share of merchant cash advance collections generated at that point in time.

37. Most investors chose to let Defendants roll their investments into new merchant cash advances based on the Defendants' written and oral representations.

38. In total, Garfinkel raised approximately $4.5 million for 5G Funding from at least 23 individuals residing in at least three states during the Relevant Period.

39. Defendants' investment offerings constitute investment contracts and are, therefore, "securities" as the term is defined in the Securities Act and the Exchange Act. For each investment agreement, there was (a) an investment of money; (b) in a common enterprise; (c) based on the expectation of profits to be derived from the efforts of Garfinkel and 5G Funding.

II. DEFENDANTS' FALSE REPRESENTATIONS AND MISUSE OF INVESTOR MONEY

A. FALSE REPRESENTATIONS ABOUT 5G FUNDING'S "SUCCESSFUL TRACK RECORD"

40. In both oral communications and written investor presentations during the Relevant Period, Defendants represented that Garfinkel had a track record of generating profits, including returns ranging from 36%-65% on merchant cash advance deals, and that investors could expect to receive returns of 25% or more.

41. At least two investors had conversations with Garfinkel in approximately February 2022 and March 2022 during which he touted his successful merchant cash advance track record and the high returns investors could expect.

42. Similarly, Garfinkel told at least one other investor in the first half of 2022 that he had substantial merchant cash advance experience and knew how to manage merchant cash advances to minimize the risk of default. Garfinkel told that investor he could expect at least a

25% return on his investment. This investor decided to invest with Defendants in June 2022 based on Garfinkel's representations.

43. Garfinkel's oral representations about his merchant cash advance experience and 5G Funding's supposed successful track record were false. Garfinkel had no experience in the merchant cash advance industry when he formed 5G Funding, and 5G Funding was never profitable.

44. Defendants used at least two written investor presentations during the Relevant Period that contained false statements about 5G Funding's track record and performance.

45. In December 2021, Garfinkel emailed one of the written investor presentations to at least two people who later became investors. The presentation stated that 5G Funding "has a track record of having returns ranging from 36%-65% on any given deal." This statement was false. At the time it was made, Garfinkel had no experience in the merchant cash advance industry, 5G Funding had made its first merchant cash advance one month earlier, in November 2021, and none of 5G Funding's merchant cash advance deals had generated any profit.

46. Garfinkel also prepared a different written investor presentation in approximately July 2022 that stated, in a section referring to returns, that 5G Funding "has a track record showing our investors anywhere from 20%-25% on a quarterly basis." This statement was also false.

47. Garfinkel prepared and had authority over the participation agreement and the written investor presentations, as well as the oral and written communications he made to investors.

B. Defendants' Misrepresentations About Their Compensation

1. Defendants Told Investors That Defendants' Compensation Would Consist of a Management Fee and Profit Split

48. Defendants' oral and written representations to investors, including representations made in the written participation agreements, typically described two types of compensation for 5G Funding, both of which were payable only from collections on the merchant cash advances.

49. First, Defendants made oral and written representations during the Relevant Period that 5G Funding would receive a management fee, typically 6%, which 5G Funding would deduct from each merchant repayment before crediting the repayment to investors.

50. Second, Defendants made oral and written representations during the Relevant Period that 5G Funding would receive compensation in the form of a portion of any net profits generated on the merchant cash advances in each investor's account during a given quarter. Defendants represented that profits would be split evenly between 5G Funding and the investors, and written addendums to at least two written participation agreements set this percentage at 50%.

51. In addition to identifying the management fee and profit split, the written participation agreements also permitted 5G Funding to receive reimbursement for "direct out-of-pocket expenses" such as collection costs, but stated that it could only deduct such costs on a *pro rata* basis from merchant cash advance collections.

52. The written participation agreements and other information Defendants gave investors did not provide for 5G Funding to collect any fees, compensation, or reimbursement from the pool of investor funds at the outset of making a merchant cash advance.

53. In addition, Garfinkel orally represented to at least five investors that 5G Funding would only be compensated from merchant collections.

2. Contrary to Defendants' Representations About the Nature and Extent of Their Compensation, Defendants Took an Undisclosed "Origination Fee" for Each Merchant Cash Advance

54. The merchant cash advance contracts that 5G Funding entered into with each merchant provided that 5G Funding would deduct an origination fee—typically 10%—from the purchase price before providing the merchant with the remaining 90%. The merchant was still required to repay the full purchase price plus interest under the merchant cash advance contract.

55. At the outset of each merchant cash advance, Defendants deducted the full purchase price from participating investors' accounts, transferred around 10% of that amount to 5G Capital's account in the form of an origination fee, and then sent the remaining amount to the merchant.

56. Defendants did not disclose the origination fee arrangement to investors.

57. Defendants did not provide investors with copies of the underlying merchant cash advance contracts showing the deduction of the origination fee.

58. The written participation agreements did not state that 5G Funding would collect an origination fee or any other compensation at the outset of a merchant cash advance.

59. Although the written participation agreements stated that investors would fund the purchase price of each merchant cash advance, the agreements did not disclose that 5G Funding deducted an origination fee before providing those funds to the merchant.

60. The written investor presentation Garfinkel emailed to prospective investors in December 2021 contained illustrations that disclosed the existence of an origination fee that would be deducted from the amount the merchant would initially receive, not from the money

the investors contributed. In other words, the examples provided in the written investor presentation showed that investors would not fund the origination fee.

61. Moreover, the illustrations contained profit projections that were predicated upon the origination fee not being charged to investors.

62. Defendants collected approximately $1.1 million in origination fees from investor accounts during the Relevant Period. Garfinkel transferred those funds to an account in the name of 5G Capital over which he was the sole signatory.

63. Defendants' representations about the nature and extent of their compensation were materially false and misleading. Defendants' statements to investors that Defendants would be compensated with a 6% management fee, plus a 50/50 split of any profits, were false and misleading because they omitted to state that Defendants also took a 10% origination fee for each merchant cash advance. Further, to the extent Defendants disclosed the origination fee to certain investors, those disclosures were also false and misleading because they stated that investors would not pay the origination fee, when in fact Defendants took the fee out of the amounts that investors contributed to 5G Funding.

C. False Representations About Account Performance

64. Defendants gave investors access to an online ledger and investor portal where they could view information about their individual accounts' performance and the status of the merchant cash advances in which they participated, including the payment status of each merchant cash advance.

65. Defendants also periodically sent investors reports prepared by Garfinkel with similar account performance information.

66. Defendants represented to investors in the investor portal and investor reports that their accounts were generating substantial returns, often ranging from 25% to 60%.

67. Those representations were false and misleading because the returns shown on the investor portal and investor reports were projections of what could be achieved only if all merchant cash advances were paid in full, as opposed to what merchants had paid back to date.

68. Accordingly, the investor portal and the investment reports did not accurately reflect the real-time performance of the merchant cash advance portfolio.

69. Defendants did not disclose to investors that the return percentages stated in the investor portal and the investor reports were projections and that they did not reflect actual results.

70. The investor reports also contained false information about individual merchant cash advances. For example, the reports indicated that certain merchant cash advances were, among other things, "paid in full," or "performing." However, reports issued to investors in July 2022 listed as "performing" merchant cash advances on which the merchants had repeatedly missed payments, were making reduced payments, or had stopped paying altogether.

71. Garfinkel made similar positive statements about the performance of the merchant cash advances on phone calls and in text communications with investors during the Relevant Period.

72. The false positive returns displayed in the investor portal and investor reports were important to investors in deciding whether to invest with Defendants and whether to roll over the repayments on their previous investments into new merchant cash advances.

73. At least one investor decided to invest in 5G Funding in part after seeing another investor's account information in the portal and being impressed with the displayed returns. Another investor showed his 5G Funding account portfolio to friends who later decided to invest with 5G Funding.

74. Other investors allowed 5G Funding to continue reinvesting their funds in new merchant cash advances because they believed their accounts were generating significant returns based on the false information they saw in the investor portal, investor reports, and their communications with Garfinkel.

D. Defendants Engaged in Certain Deceptive Renewal Merchant Cash Advances

75. During the Relevant Period, Defendants entered into at least five renewal merchant cash advances that created the misleading appearance of a successful transaction while generating additional fees and compensation for Defendants.

76. For example, on September 27, 2022, 5G Funding entered into a renewal merchant cash advance with a merchant located in the State of Georgia ("Merchant A"). At the time, Merchant A owed 5G Funding more than $266,000 on an existing merchant cash advance and had missed approximately 15 of its last 20 scheduled payments.

77. On paper, the September 27, 2022 renewal provided Merchant A with an advance of $300,000 and required it to pay back $449,700.

78. However, of the $300,000 face amount of the new merchant cash advance, $266,000 was applied to eliminate the balance on Merchant A's existing merchant cash advance—a transaction that appeared in investor reports and the portal but did not reflect the actual collection of funds.

79. Despite not collecting any money from Merchant A in connection with the renewal, Defendants charged investors the 6% management fee—approximately $14,000—on the balance of Merchant A's existing merchant cash advance. In addition, Defendants charged investors an origination fee of $24,000 and a sales agent commission of $39,000.

80. Between September 13, 2022 and January 6, 2023, Defendants entered into four other renewal transactions like the example above. At the time of each of those renewals, the merchant was delinquent on one or more existing merchant cash advances; yet Garfinkel, through 5G Funding, approved renewal merchant cash advances with these merchants, generating origination fees and sales agent commissions for himself while making it appear that the existing merchant cash advances were repaid in full.

81. Each of the five merchants subsequently defaulted on the renewal merchant cash advances. In total, Defendants charged investors almost $190,000 in origination fees and sales agent commissions payable to Garfinkel on the five merchant cash advance renewals.

82. Defendants entered into these deceptive transactions to generate fees for themselves and not to engage in the type of legitimate merchant cash advances that Defendants had described to investors.

83. After each such renewal, Defendants listed the earlier merchant cash advance as "paid in full" on investor reports and in the investor portal. These statements were materially false and misleading because they misrepresented the health of 5G Funding's merchant cash advance portfolio.

E. DEFENDANTS' MISUSE OF FUNDS VIA DIVERTED COLLECTIONS AND COMMISSION CLAWBACKS

84. The participation agreement required 5G Funding to collect repayments from merchants and hold investors' share of such collections in trust for investors.

85. During the Relevant Period, Garfinkel diverted approximately $400,000 from 5G Funding's bank account and used it for personal spending, such as for jewelry and cash payments, for transfers to other bank accounts Garfinkel controlled, and for transfers to accounts of two individuals who worked for 5G Funding.

86. Those funds were proceeds from 5G Funding's merchant cash advance business that should have been held for investors.

87. Furthermore, those funds exceeded what 5G Funding and Garfinkel were permitted to collect as a management fee, and the transfers were not related to any compensation or expense authorized by the participation agreement.

88. Garfinkel also diverted approximately $320,000 in additional merchant cash advance repayments that should have been paid to 5G Funding investors to an account he controlled in the name of JCG Consulting.

89. Those merchant repayments were transferred directly into JCG Consulting's account instead of a 5G Funding account.

90. In addition, if a merchant defaulted on a merchant cash advance within 30 days, the independent sales agent who had referred the deal to 5G Funding was required by the agreement between the independent sales agent and 5G Funding to refund their sales agent commission to 5G Funding, a transaction referred to as a "clawback."

91. Garfinkel instructed independent sales agents to send certain clawbacks to JCG Consulting rather than 5G Funding, even though the written participation agreement and the investor presentation provided that investors would recoup their pro rata share of the sales agent commissions as part of merchant cash advance collections.

92. Further, those clawbacks should have been paid to investors, not to 5G Funding or Garfinkel, since investors' money had been used to pay the sales agent commissions.

93. During the Relevant Period, independent sales agents sent approximately $282,000 in sales agent commission clawbacks to JCG Consulting's bank account pursuant to Garfinkel's instructions.

94. Garfinkel was the sole signatory on JCG Consulting's bank account and used it for his personal expenses, including using it to pay a down payment on a home, to pay his personal gambling expenses, and to purchase cars and watches.

III. THE COLLAPSE OF 5G FUNDING

95. During the Relevant Period, 5G Funding entered into approximately 184 merchant cash advances with 110 merchants (the "Portfolio").

96. The Portfolio was never profitable. 5G Funding collected the full amount due on only about 30 of the 184 merchant cash advances.

97. 5G Funding's customer relationship management system listed 61 merchant cash advances as paid in full. However, at least 30 of those appear to be renewals, under which a merchant paid only a portion of the amount due and then rolled the existing balance into a new merchant cash advance with a larger payoff amount.

98. In January 2023, 5G Funding stopped entering into new merchant cash advances.

99. Around the same time, Garfinkel stopped returning investor calls and investors were unable to obtain information about the status of their accounts.

100. In July 2023, investors were contacted by an attorney representing Defendants who informed the investors that 5G Funding was insolvent. The attorney said he had been retained to assist in collecting delinquent amounts from merchants and planned to distribute any funds he collected to investors.

101. To date, 5G Funding has returned less than $1.7 million to investors.

102. Included in this amount was approximately $170,000 that was provided to Garfinkel by another investor, who did not invest in 5G Funding. Garfinkel used this other investor's money to partially repay certain 5G Funding investors.

103. Only one of the at least 23 investors in 5G Funding has received more money from or on behalf of 5G Funding than that investor initially contributed.

104. The remaining investors have each lost amounts ranging from approximately $15,000 to $670,000 of their initial investment.

COUNT I
Violations of Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5
(Against All Defendants)

105. The SEC realleges and reincorporates by reference paragraphs 1 through 104 above as through fully set forth herein.

106. Defendants, in connection with the purchase and sale of securities, by the use of the means and instrumentalities of interstate commerce and by the use of the mails, directly and indirectly used and employed devices, schemes and artifices to defraud; made untrue statements of material fact and 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; and engaged in acts, practices and courses of business which operated or would have operated as a fraud and deceit upon purchasers and prospective purchasers of securities.

107. Defendants each acted with scienter in that they knowingly or recklessly made the material misrepresentations and omissions and engaged in the fraudulent scheme identified above.

108. By reason of the foregoing, Defendants violated, and unless restrained and enjoined, are reasonably likely to continue to violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

COUNT II
Violations of Section 17(a) of the Securities Act
(Against All Defendants)

109. The SEC realleges and reincorporates by reference paragraphs 1 through 104 above as through fully set forth herein.

110. By engaging in the conduct described above, Defendants, in the offer and sale of securities, by the use of the means and instruments of interstate commerce, directly or indirectly employed devices, schemes and artifices to defraud; obtained money or property by means of untrue statements of material fact or by omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and engaged in transactions, practices, or courses of business that operated or would operate as a fraud or deceit upon the purchasers of such securities.

111. As described above, Defendants each acted with scienter in that they knowingly or recklessly made the material misrepresentations and omissions and engaged in the fraudulent scheme identified above.

112. Defendants each also acted negligently in making the material misrepresentations and omissions and engaging in the fraudulent scheme identified above.

113. By reason of the foregoing, Defendants violated, and unless restrained and enjoined, are reasonably likely to continue to violate, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

RELIEF REQUESTED

WHEREFORE, the SEC respectfully requests that this Court:

I.

Issue findings of fact and conclusions of law that Defendants committed the violations charged and alleged herein.

II.

Enter an Order of Permanent Injunction restraining and enjoining Defendants, their officers, agents, servants, employees, attorneys and those persons in active concert or participation with Defendants who receive actual notice of the Order, by personal service or otherwise, and each of them from violating, directly or indirectly, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)] and Section 10(b) of the Exchange Act [15 U.S.C. § 78j] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

III.

Enter an Order of Permanent Injunction, pursuant to Sections 21(d)(1) and 21(d)(5) of the Exchange Act [15 U.S.C. §§ 78u(d)(1), (d)(5)] and Section 20(b) of the Securities Act [15 U.S.C. § 77t(b)], permanently prohibiting Garfinkel from, directly or indirectly—including, but not limited to, through any entity owned or controlled by him—participating in the issuance, purchase, offer, or sale of any security, provided, however, that such injunction shall not prevent him from purchasing or selling securities for his own personal accounts.

IV.

Issue an Order requiring Defendants pursuant to Sections 21(d)(3), (d)(5) and 21(d)(7) of the Exchange Act [15 U.S.C. §§ 78u(d)(3), (d)(5), (d)(7)] to disgorge, jointly and severally, ill-gotten gains received as a result of the violations alleged in this Complaint, including prejudgment interest.

V.

With regard to the Defendants' violative acts, practices and courses of business set forth herein, issue an order imposing upon Defendants appropriate civil 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)].

VI.

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

VII.

Grant such other relief as this Court deems appropriate.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the SEC hereby requests a trial by jury on all claims so triable.

Dated: September 28, 2026

Respectfully submitted,

s/BeLinda I. Mathie

BeLinda Mathie (mathieb@sec.gov)
Peter Senechalle (senechallep@sec.gov)
U.S. Securities and Exchange Commission
175 W. Jackson Blvd., Suite 1450
Chicago, IL 60604
Phone: (312) 353-7390
Facsimile: (312) 353-7398
Attorneys for Plaintiff