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CENTRAL DIST. OF CALIF.
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BY _____

1 KAREN MATTESON, Cal. Bar No. 102103
MattesonK@sec.gov
2 KELLY BOWERS, Cal. Bar No. 164007
BowersK@sec.gov
3 J. CINDY ESON, Cal. Bar. No. 219782
EsonJC@sec.gov
4 ROBERTO A. TERCERO, Cal. Bar. No. 143760
TerceroR@sec.gov

5 Attorneys for Plaintiff
6 Securities and Exchange Commission
7 Rosalind R. Tyson, Acting Regional Director
Andrew Petillon, Associate Regional Director
5670 Wilshire Boulevard, 11th Floor
8 Los Angeles, California 90036
Telephone: (323) 965-3998
9 Facsimile: (323) 965-3908

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11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

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15 SECURITIES AND EXCHANGE
COMMISSION,

16 Plaintiff,

17 vs.

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19 JUSTIN M. PAPERNY,
20 Defendant.

Case No.: CV08-00213 CAS

VBKX

COMPLAINT FOR VIOLATIONS OF THE
FEDERAL SECURITIES LAWS

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1 Plaintiff Securities and Exchange Commission ("Commission") alleges as
2 follows:

3 **JURISDICTION AND VENUE**

4 1. This Court has jurisdiction over this action pursuant to Sections 20(b),
5 20(d)(1) and 22(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C.
6 §§ 77t(b), 77t(d)(1) & 77v(a), Sections 21(d)(1), 21(d)(1)(3)(A), 21(e) and 27 of
7 the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. §§ 78u(d)(1),
8 78u(d)(3)(A), 78u(e) & 78aa, and Sections 209(d), 209(e)(1) and 214 of the
9 Investment Advisers Act of 1940 ("Investment Advisers Act"), 15 U.S.C.
10 §§ 80b-9(d), 80b-9(e)(1) & 80b-14. Defendant has, directly or indirectly, made
11 use of the means or instrumentalities of interstate commerce, of the mails, or of the
12 facilities of a national securities exchange, in connection with the transactions,
13 acts, practices, and courses of business alleged in this Complaint.

14 2. Venue is proper in this district pursuant to Section 22(a) of the
15 Securities Act, 15 U.S.C. § 77v(a), and Section 27 of the Exchange Act, 15 U.S.C.
16 § 78aa, and Section 214 of the Investment Advisers Act, 15 U.S.C. § 80b-14,
17 because certain of the transactions, acts, practices, and courses of conduct
18 constituting violations of the federal securities laws occurred within this district
19 and Defendant resides in this district.

20 **SUMMARY**

21 3. This case concerns antifraud and securities registration violations by
22 Justin M. Paperny, a former broker with UBS Financial Services, Inc., related to a
23 fraudulent hedge fund offering called The GLT Venture Fund, L.P. Paperny
24 participated in the fraudulent scheme with the fund's investment adviser, Keith G.
25 Gilabert. GLT raised approximately \$14.1 million from 42 investors from
26 September 2000 to January 2005, falsely claiming that it was highly profitable. In
27 fact, almost all of the investor funds were lost through Gilabert's unprofitable
28 trading or misappropriations.

1 4. Paperny was GLT's broker at UBS Financial and knew that Gilabert
2 was suffering large trading losses in the GLT accounts and was misusing GLT
3 funds for his own benefit and to pay purported other GLT investors (i.e., operate a
4 Ponzi-like scheme). Despite this knowledge, from 2002 through 2004 Paperny
5 participated in Gilabert's fraud in two ways. First, Paperny made false
6 representations to potential GLT investors or their agents regarding GLT's
7 securities trading and investment results. Second, Paperny arranged for new GLT
8 investors, whom Gilabert solicited, to place their funds in GLT through UBS
9 Financial and executed thousands of GLT's securities trades, using funds of GLT
10 and its investors who, Paperny knew, were being defrauded by Gilabert. In
11 exchange, Paperny received \$155,498.71 in commissions from GLT trades and
12 \$65,000 in additional payments from Gilabert, a total of \$220,498.71.

13 5. Paperny's conduct violated the securities registration and antifraud
14 provisions and aided and abetted Gilabert's antifraud violations of the federal
15 securities laws. By this action, the Commission seeks against Paperny permanent
16 injunctive relief, disgorgement with prejudgment interest of his ill-gotten gains,
17 and a civil penalty.

THE DEFENDANT

19 6. Justin M. Paperny resides in Studio City, California. Paperny was
20 licensed by the National Association of Securities Dealers, Inc. (“NASD”) as a
21 broker. Specifically, Paperny held Series 7 and 66 licenses from 1998 to 2005, a
22 Series 31 license from 2003 to 2005, and was a registered representative at UBS
23 Financial in Century City, California, from June 2001 to January 2005.

RELATED NON-PARTIES

25 7. Keith G. Gilabert was GLT's managing partner who acted as an
26 investment adviser. In Commission actions relating to the GLT fraud, Gilabert
27 was permanently enjoined from future securities fraud, adviser fraud, securities
28 registration, and broker registration violations, ordered to pay disgorgement with

1 prejudgment interest and a civil penalty, and barred from association with any
2 broker, dealer, or investment adviser. *SEC v. CMG-Capital Management Group*
3 *Holding Company, LLC, et al.*, Case No. CV-06-2595-GHK (C.D. Cal.); *In re*
4 *Gilabert*, 2007 SEC Lexis 1051 (May 18, 2007). Gilabert also pleaded guilty to
5 one count of conspiracy to commit mail, wire, and securities fraud in a related
6 criminal action. *U.S. v. Gilabert*, Case No. CR-06-0319-SVW (C.D. Cal.).

7 8. The GLT Venture Fund, L.P. was a purported hedge fund that raised
8 approximately \$14.1 million.

THE FRAUDULENT SCHEME

THE GLT OFFERING

11 9. From September 2000 to January 2005, Gilabert and GLT raised
12 approximately \$14.1 million from 42 investors through a nationwide public
13 offering of GLT limited partnership interests. The offering materials consisted of a
14 website, a mass mailing, a private placement memorandum, and a sales brochure.
15 None of the materials included financial statements, and the offering was not
16 registered with the Commission.

17 10. The offering materials stated that GLT pooled investor funds to trade
18 securities, using a “zero cost collar strategy.” In a “zero cost collar,” an investor,
19 such as GLT, owns shares of stock and protects them against decreases in price by
20 purchasing a put option and selling a call option.

21 11. The sales brochure also stated that Gilabert's trading resulted in a
22 27% average annual return for the fund. GLT purported to distribute its trading
23 profits to investors on a pro rata basis. If GLT was profitable, Gilabert also
24 received a portion of the net returns as performance-based compensation.

25 12. In fact, Gilabert did not use a zero cost collar strategy, and his trading
26 resulted in losses of \$7.8 million. Gilabert also misappropriated about \$6.3 million
27 from GLT, using \$1.7 million for his own benefit and \$4.6 million to pay
28 purported returns to GLT investors in Ponzi-like fashion.

1 **PAPERNY'S ROLE IN THE GLT FRAUD**

2 13. Paperny and Gilabert met in 1998 when they both worked at the same
3 brokerage firm. After starting GLT in 2000, Gilabert placed a few trades through
4 Paperny. In 2002, Paperny started to actively participate in and facilitate the GLT
5 fraud. As a result, Paperny received about \$220,498.71 in ill-gotten gains,
6 consisting of about \$155,498.71 in commissions and \$65,000 in additional
7 payments from Gilabert.

8 **PAPERNY PREPARED A FALSE E-MAIL TO INDUCE AN ELDERLY INVESTOR**
9 **TO INVEST IN GLT**

10 14. Paperny joined UBS Financial in June 2001 and kept in touch with
11 Gilabert. Gilabert told Paperny that Gilabert was trying to secure a multi-million
12 dollar investment from a ninety-year-old investor. Paperny offered to help him
13 solicit the investor. On or about April 11, 2002, at Gilabert's request, Paperny sent
14 Gilabert a false and misleading e-mail from his UBS Financial e-mail address
15 misrepresenting that GLT would receive 27,500 shares in a highly-anticipated
16 initial public offering ("IPO"). The e-mail also stated that Paperny would keep
17 Gilabert updated on all future IPOs. At the time he sent the e-mail to Gilabert,
18 Paperny knew that the statements in the e-mail were false and that Gilabert would
19 use the e-mail to induce the prospect to invest by giving the prospect the false
20 impression that GLT had access to hot IPOs.

21 15. Indeed, Gilabert did forward Paperny's false e-mail to the elderly
22 prospect. The elderly prospect invested about \$4 million in GLT on or about April
23 15, 2002. Notwithstanding this \$4 million investment, by May 2004, GLT's
24 portfolio was only worth about \$230,000 because of Gilabert's trading losses and
25 misappropriations. These trading losses and misappropriations were not disclosed
26 to investors.

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1 **PAPERNY FACILITATED NEW INVESTMENTS IN GLT AND EXECUTED**

2 **TRADES DESPITE KNOWING OF GILABERT'S FRAUD**

3 16. In July 2002, just three months after the elderly prospect invested in
4 GLT, Gilabert moved GLT's portfolio to UBS Financial. Paperny was the broker
5 for GLT's accounts. At the time Paperny became GLT's broker, he knew from his
6 discussions with Gilabert in 2000 that Gilabert represented that GLT would use
7 investor funds to trade securities. In May 2004, Paperny learned that Gilabert
8 represented that GLT generated a high average annual return and used zero cost
9 collars.

10 17. As GLT's broker, Paperny closely followed GLT's accounts, and he
11 therefore saw GLT's large trading losses and failure to use zero cost collars. He
12 also received numerous e-mails from the UBS operational staff regarding one of
13 GLT's UBS Financial accounts that alerted him to frequent and large margin calls
14 resulting from GLT's trading losses.

15 18. Beginning in 2003, Paperny also saw that Gilabert periodically wired
16 client funds from GLT to a bank account Gilabert controlled. In April 2004,
17 Gilabert told Paperny that he repaid existing investors with new investor funds. In
18 August 2004, Paperny noticed that Gilabert used newly obtained investor funds to
19 send a \$635,000 wire to the bank account Gilabert controlled. When Paperny
20 confronted Gilabert about the wire, Gilabert explained that it was a payment to an
21 early investor who had threatened to report Gilabert's fraud to the authorities.

22 19. Despite Paperny's knowledge of Gilabert's fraud against GLT and its
23 investors, from July 2002 through December 2004, Paperny helped perpetuate
24 Gilabert's fraud through two means. First, Paperny facilitated new investments in
25 GLT from investors solicited by Gilabert. Typically, Paperny opened a UBS
26 Financial account for a new GLT investor and transferred in the new investor's
27 funds and securities. Paperny then transferred the cash and securities from the new
28 investor's account to GLT's accounts at UBS Financial where GLT's funds were

available to be misappropriated by Gilabert. In total, Paperny facilitated investments by 30 new investors of a total of about \$3.5 million in GLT.

3 20. Second, Paperny executed thousands of GLT trades using funds of
4 GLT and its investors whom, Paperny knew, Gilabert was defrauding. As a result
5 of this trading, GLT was by far Paperny's largest client and accounted for the vast
6 majority of his total commissions.

PAPERNY GAVE GILABERT UBS FINANCIAL LETTERHEAD TO SEEK ADDITIONAL FUNDS FROM THE NINETY-YEAR-OLD INVESTOR

9 21. In May 2004, Gilabert asked Paperny for some blank UBS Financial
10 letterhead, explaining that he needed to reassure the elderly investor who had
11 invested \$4 million in GLT, and his representatives, of the value of the investor's
12 portfolio. As alleged, by May 2004, Gilabert had lost or misappropriated most of
13 the elderly investor's money, and GLT had only about \$230,000 in its UBS
14 Financial accounts. In addition, Gilabert had frequently told Paperny about his
15 continuing efforts to raise money. Despite knowing these facts and his concerns
16 that Gilabert would misrepresent the value of the investor's portfolio, Paperny
17 gave Gilabert the letterhead.

18 22. Gilabert then prepared letters purportedly from Paperny to Gilabert,
19 forged Paperny's signature, and sent them to the elderly investor. A May 3, 2004
20 letter falsely stated that the investor's portfolio was worth about \$4 million. GLT's
21 accounts subsequently grew from about \$230,000 to about \$1.2 million because of
22 new investments in the fund. However, a July 12, 2004 letter again falsely stated
23 that the portfolio was worth \$4 million. An October 1, 2004 letter falsely stated
24 that Gilabert managed the investor's accounts and that the accounts were fully
25 insured. Shortly after receiving the July and October letters, the elderly investor
26 invested, respectively, an additional \$150,000 and \$14,000 in GLT.

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1 **PAPERNY'S MISREPRESENTATIONS TO AN INVESTMENT ADVISER**

2 23. In early 2004, Gilabert told Paperny that he was in discussions with an
3 investment adviser who was retiring and wanted to sell his book of business, which
4 consisted of sixteen clients with about \$3 million under management. In May
5 2004, Gilabert asked Paperny to help him obtain the book. Later that month, they
6 met with the adviser. Paperny falsely told the adviser that Gilabert used a zero cost
7 collar strategy and that UBS Financial had done its due diligence and had vetted
8 Gilabert as a fund manager. Paperny also falsely confirmed Gilabert's claim that
9 GLT had high average yearly returns. Based upon Gilabert's and Paperny's false
10 statements, the adviser repeated the false claims about GLT to his clients, and from
11 May through December 2004, fifteen clients invested a total of \$2.1 million in
12 GLT. Gilabert then lost the money through his poor trading and
13 misappropriations.

14 24. Paperny knew these representations were false. Paperny knew that
15 GLT had actually lost money and did not use zero cost collars. In addition,
16 Paperny did not know whether or not UBS Financial had conducted any review of
17 Gilabert.

18 **PAPERNY'S ILL-GOTTEN RELATING TO GLT**

19 25. Paperny received \$220,498.71 in ill-gotten gains as a result of his
20 participation in the fraudulent scheme, consisting of \$155,498.71 in commissions
21 from trading in the GLT accounts, and additional payments totaling \$65,000 from
22 Gilabert.

23 **FIRST CLAIM FOR RELIEF**

24 **UNREGISTERED OFFER AND SALE OF SECURITIES**

25 **Violations of Sections 5(a) and 5(c) of the Securities Act**

26 26. The Commission realleges and incorporates by reference paragraphs 1
27 through 25 above.

28 *

1 27. Defendant Paperny, by engaging in the conduct described above,
2 directly or indirectly, made use of means or instruments of transportation or
3 communication in interstate commerce or of the mails, to offer to sell or to sell
4 securities, or to carry or cause such securities to be carried through the mails or in
5 interstate commerce for the purpose of sale or for delivery after sale.

6 28. No registration statement has been filed with the Commission or has
7 been in effect with respect to the offerings alleged herein.

8 29. By engaging in the conduct described above, Defendant Paperny
9 violated, and unless restrained and enjoined will continue to violate, Sections 5(a)
10 and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) & 77e(c).

SECOND CLAIM FOR RELIEF

FRAUD IN THE OFFER OR SALE OF SECURITIES

Violations of Section 17(a) of the Securities Act

14 30. The Commission realleges and incorporates by reference paragraphs 1
15 through 25 above.

16 31. Defendant Paperny, by engaging in the conduct described above,
17 directly or indirectly, in the offer or sale of securities by the use of means or
18 instruments of transportation or communication in interstate commerce or by use
19 of the mails:

- a. with scienter, employed devices, schemes, or artifices to defraud;
 - b. obtained money or property by means of untrue statements of a material fact or by omitting to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
 - c. engaged in transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon the purchaser.

32. By engaging in the conduct described above, Defendant Paperny violated, and unless restrained and enjoined will continue to violate, Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

THIRD CLAIM FOR RELIEF

FRAUD IN CONNECTION WITH THE PURCHASE OR SALE OF SECURITIES

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

33. The Commission realleges and incorporates by reference paragraphs 1 through 25 above.

34. Defendant Paperny, by engaging in the conduct described above, directly or indirectly, in connection with the purchase or sale of a security, by the use of means or instrumentalities of interstate commerce, of the mails, or of the facilities of a national securities exchange, with scienter:

- 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 light of the circumstances under which they were made, not misleading; or
 - c. engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon other persons.

35. By engaging in the conduct described above, Defendant Paperny 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 thereunder, 17 C.F.R. § 240.10b-5.

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FOURTH CLAIM FOR RELIEF

AIDING AND ABETTING A FRAUDULENT SCHEME

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

36. The Commission realleges and incorporates by reference paragraphs 1 through 25 above.

7 37. Gilabert, by engaging in the conduct described above, in violation of
8 Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder,
9 17 C.F.R. § 240.10b-5, directly or indirectly, in connection with the purchase or
10 sale of a security, by the use of means or instrumentalities of interstate commerce,
11 of the mails, or of the facilities of a national securities exchange, with scienter:

- 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 light of the circumstances under which they were made, not misleading; or
 - c. engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon other persons.

20 38. Defendant Paperny, by engaging in the conduct described above,
21 knowingly provided substantial assistance to Gilabert in his perpetration of the
22 fraudulent scheme.

23 39. By engaging in the conduct described above, pursuant to Section
24 20(e) of the Exchange Act, 15 U.S.C. § 78t(e), Defendant Paperny violated, and
25 unless restrained and enjoined will continue to violate, Section 10(b) of the
26 Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R.
27 § 240.10b-5.

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FIFTH CLAIM FOR RELIEF

AIDING AND ABETTING FRAUD BY AN INVESTMENT ADVISER

Aiding and Abetting Violations of Section 206(1) and 206(2) of the Investment Advisers Act

40. The Commission realleges and incorporates by reference paragraphs 1 through 25 above.

41. Gilabert, by engaging in the conduct described above, in violation of Sections 206(1) and 206(2) of the Investment Advisers Act, 15 U.S.C. §§ 80b-6(1) & 80b-6(2), by the use of the mails or means or instrumentalities of interstate commerce, directly or indirectly:

- a. with scienter, employed devices, schemes, or artifices to defraud clients or prospective clients; or
 - b. engaged in transactions, practices, or courses of business which operated as a fraud or deceit upon clients or prospective clients.

42. Defendant Paperny, by engaging in the conduct described above, knowingly provided substantial assistance to Gilabert in his perpetration of the fraudulent scheme.

43. By engaging in the conduct described above, pursuant to Section 209(d) of the Investment Advisers Act, 15 U.S.C. § 80b-9(d), Defendant Paperny violated, and unless restrained and enjoined will continue to violate, Sections 206(1) and 206(2) of the Investment Advisers Act, 15 U.S.C. §§ 80b-6(1) & 80b-6(2).

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that the Court:

I.

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

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III.

Issue a judgment, in a form consistent with Fed. R. Civ. P. 65(d), permanently enjoining Defendant Paperny, and his agents, servants, employees, and attorneys, and those persons in active concert or participation with any of them, who receive actual notice of the judgment by personal service or otherwise, and each of them, from violating Sections 5(a), 5(c) and 17(a) of the Securities Act, 15 U.S.C. §§ 77e(a), 77e(c) & 77q(a), 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, and Sections 206(1) and 206(2) of the Investment Advisers Act, 15 U.S.C. §§ 80b-6(1) & 80b-6(2).

III.

12 Order Defendant Paperny to disgorge all ill-gotten gains from his illegal
13 conduct, together with prejudgment interest thereon.

IV.

15 Order Defendant Paperny to pay a civil penalty pursuant to Section 20(d) of
16 the Securities Act, 15 U.S.C. § 77t(d), Section 21(d)(3) of the Exchange Act, 15
17 U.S.C. § 78u(d)(3), and Section 209(e)(1) of the Investment Advisers Act, 15
18 U.S.C. § 80b-9(e)(1).

V.

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

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VI.

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

DATED: January 14, 2008


ROBERTO A. TERCERO
Attorney for Plaintiff
Securities and Exchange Commission