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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

JOSEPH P. WILLNER,

Defendant.

17-CV-___ ()

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff, Securities and Exchange Commission (the “Commission”), alleges as follows:

SUMMARY

1. Beginning no later than September 2014, and continuing until at least August 2016, Joseph P. Willner (“Willner” or the “Defendant”) engaged in an illegal brokerage account takeover and unauthorized trading scheme in concert with at least one other person (referred to herein as “Individual A”). In furtherance of the scheme, Individual A and/or other persons working with Individual A, directly or indirectly, secretly and without authorization, accessed at least 110 brokerage accounts of unwitting accountholders (the “Victims” or “Victims’ Accounts”), and used the Victims’ Accounts to place securities trades that artificially affected the stock price of various publicly traded companies. At or about the same time, Willner used his brokerage accounts (collectively, the “Aggressor Accounts”) to trade the same securities, generating profits by taking advantage of the artificial stock prices that resulted from the unauthorized trades placed in the Victims’ Accounts.

2. In furtherance of the scheme, Willner and Individual A often traded before or after regular market hours, which are from 9:30 a.m. ET (the “open”) to 4:00 p.m. ET (the “close”). Publicly traded stocks generally trade less frequently in pre-market and after-hours trading and may be more susceptible to price swings due to diminished supply and demand. Consequently, Willner and Individual A often targeted stocks in the pre-market or after-market hours to engage in coordinated trading at artificially high or low prices.

3. Willner generated at least \$700,000 in illicit profits through his participation in the scheme by buying or selling stock in Aggressor Accounts in his name at artificially low or high prices generated by the unauthorized trading of stock in Victims’ Accounts.

4. As a result of the conduct alleged herein, Willner violated, and unless restrained and enjoined will continue to violate, Section 17(a) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. § 77q(a)], and Sections 9(a)(2) [15 U.S.C. § 78j(i)(a)(2)] and 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 340.10b-5].

5. The Commission seeks a permanent injunction against Willner, enjoining him from engaging in the transactions, acts, practices, and courses of business alleged in this Complaint, disgorgement of all ill-gotten gains from the unlawful conduct set forth in this Complaint, together with prejudgment interest, 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)], and such other relief as the Court may deem appropriate.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Sections 21(d), 21(e), and 27 of the Exchange Act [15

U.S.C. §§ 78u(d), 78u(e), and 78aa].

7. Venue lies in this Court pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Section 27 of the Exchange Act [15 U.S.C. § 78aa]. Certain of the acts, practices, transactions and courses of business alleged in this Complaint occurred within the Eastern District of New York, and were effected, directly or indirectly, by making use of means or instrumentalities of transportation or communication in interstate commerce, or the mails. For example, at least one of the Victims whose brokerage account was taken over as part of this scheme resides in the Eastern District of New York.

DEFENDANT

8. Joseph P. Willner, (“Willner”), age 42, is a resident of Ambler, Pennsylvania. At all times material to this Complaint, Willner was a day-trader and also purported to be self-employed in the property management industry. Willner traded through accounts held in his name at Brokerage Firm 1 from at least January 2014 to December 2014; Brokerage Firm 2 from December 2014 to April 2015; and Brokerage Firm 3 from April 2015 to at least July 2016.

FACTS

9. From at least September 2014 through at least August 2016 (the “Relevant Period”), Willner engaged in a fraudulent trading and market manipulation scheme with Individual A that involved at least 110 Victims’ Accounts and many different securities.

10. Willner began communicating with Individual A in furtherance of the fraudulent trading and market manipulation scheme through online direct messaging applications no later than September 2014. For example, on or about September 22, 2014, Willner asked Individual A if he wanted to “talk in private.” Days later, Willner sent Individual A the following message: “you trading today or just waiting for after hours. I have to go somewhere but if you want to

meet on chat to do some trades I can be come on”

11. Willner and Individual A continued to communicate via messaging applications in furtherance of the fraudulent trading and market manipulation scheme through at least August 2016. For example, on or about April 29, 2016, Willner wrote the following message to Individual A: “let me know . . . if you want to make 2k instant afterhours.” Also, on or about May 3, 2016, Willner told Individual A: “I have good stock for afterhours.”

12. To generate “gains” or profits, Willner, operating his own brokerage accounts as Aggressor Accounts, and Individual A, operating the Victims’ Accounts, coordinated stock trading on numerous occasions during the Relevant Period. First, Individual A accessed without authorization, directly or indirectly, a number of brokerage accounts held by Victims. Individual A then caused the Victims’ Accounts to enter unauthorized trade orders at artificially high or low prices. Often, these trade orders executed, directly or indirectly, against trade orders Willner placed in his Aggressor Accounts at the same artificially high or low prices.

13. Throughout the Relevant Period, Willner disguised his real identity when he communicated with Individual A by using a pseudonym. However, Willner accessed the direct messaging applications using his pseudonym through the same internet protocol (“IP”) addresses associated with Willner’s primary residence.

14. In exchange for perpetrating these manipulations, Individual A required that Willner pay him half of the trading profits that Willner generated from the scheme. On or about February 11, 2015, for example, Willner messaged Individual A that he hoped they could do some trading together, to which Individual A replied: “Legal trading too hard.” Willner responded that he would be a good trading partner, adding “I just want us to have enough so we can trade real . . . just use pre and after hours to keep us in the game.” To which Individual A

replied: “yeah u remember deal . . . i can do that [expletive] half half profit.”

15. Willner agreed to the profit sharing arrangement with Individual A. In order to mask his payments to Individual A, Willner transferred proceeds of profitable trades to a digital currency company that converts United States dollars to the cryptocurrency known as bitcoin, and then transmitted the bitcoins to Individual A.

16. For example, on or about April 10, 2015, Willner asked Individual A to engage in after-hours trading. During after-hours trading, Willner entered an order to sell short¹ 537 shares of First Community Corporation (“FCCO”) with a limit price of \$14.88 per share. The closing price of FCCO earlier in the day was just \$11.64 per share. At or about the same time as Willner placed a sell order, Individual A caused, without authorization, the account of Victim No. 1 to enter a buy order for 537 shares with a limit price of \$14.88. Willner’s short sale order executed, directly or indirectly, against Victim No. 1’s buy order. Minutes later, Willner covered his short position at a profit by purchasing 537 shares of FCCO at \$9.40 per share. Once again, Willner’s purchase order executed, directly or indirectly, against an unauthorized trade that Individual A caused Victim No. 1’s brokerage account to place. Willner made approximately \$2,900 by selling, directly or indirectly, FCCO to Victim No. 1’s account in the after-hours market.

17. Just a few days later, Willner communicated with Individual A about splitting the \$2,900 in illicit profits according to their prior arrangement to share profits. On or about April 13, 2015, Willner sent a direct messaging communication to Individual A that said: “I know you wanted to make sure I btc [bitcoin] you but already impatient for 1450?”

¹ A short sale is the act of selling a security that one does not own. If the price of the security declines following the short sale, a trader can profit from a short sale by purchasing the same security at a lower price. The act of purchasing a security that one has short sold is known as “covering” the short.

18. On or about July 15, 2015, and between approximately 6:25 p.m. and 6:34 p.m. ET (after the close), Individual A secretly accessed Victim No. 2's brokerage account and placed, directly or indirectly, orders to buy shares of the publicly traded stock Highway Holdings Limited ("HIHO") at prices between \$4.36 and \$4.49 per share. These prices were significantly higher than the price of \$3.99 per share at which HIHO had traded at the close of regular market hours earlier that day. At or about the same time that Individual A caused Victim No. 2's account to place the buy orders, Willner placed orders to sell short shares of HIHO at similar high prices ranging from \$4.36 to \$4.45 per share. Willner's sell orders executed, directly or indirectly, against buy orders that Individual A caused Victim No. 2's account to place, resulting in Willner selling short 5,813 shares of HIHO at prices between \$4.36 and \$4.46. Within minutes, Willner began covering his short position by placing orders to buy shares of HIHO at prices between \$3.78 and \$3.83 per share. Around the same time, Individual A caused Victim No. 2's account to place orders to sell HIHO shares at prices ranging from \$3.78 to \$3.83 per share. Willner's buy orders executed, directly or indirectly, against some of the sell orders placed in Victim No. 2's account, resulting in Willner's covering 4,500 shares of his short position in HIHO.

19. Willner covered the rest of his short position by buying another 300 shares of HIHO at \$4.25 per share in after-hours trading, and an additional 1,013 shares of HIHO during pre-market trading the next morning at \$4.02 per share. In total, Willner short sold and covered 5,813 shares of HIHO and secured a profit of approximately \$3,000 in less than a day.

20. Similarly, on or about May 12, 2016, at or about 8:12 a.m. ET, Willner entered an order to sell short 9,000 shares of Auris Medical Holding AG ("EARS") at \$3.89 per share through an Aggressor Account held in his name. The price of EARS at the close of regular

market trading on the previous day was just \$3.53 per share.

21. At or about the same time, Individual A, directly or indirectly, secretly accessed and caused Victim No. 3's brokerage account to enter orders to buy approximately 49,000 shares of EARS at artificially high prices ranging from \$3.89 to \$3.99 per share. 9,000 of the EARS shares that Victim No. 3 purchased at these inflated prices were obtained, directly or indirectly, from executions against sell orders that Willner had placed in the Aggressor Account in his name.

22. Just minutes later, Willner and Individual A used Victim No. 3's brokerage account to generate illicit profits. Specifically, at approximately 8:12 a.m. ET, Willner placed an order to cover his short by purchasing 9,000 shares of EARS at \$3.20 per share, and Individual A caused Victim No. 3's account to place an order to sell 9,000 shares of EARS at the same price. Both orders were priced at 33 cents below the closing price on the prior trading day. Willner's buy order executed, directly or indirectly, against Victim No. 3's sell order. In total, Willner realized profits of \$6,201 from the EARS trading described above.

23. Willner and Individual A also coordinated trades during regular market hours and manipulated stock prices therein by, among other things, creating the appearance of trading interest in such publicly traded stock, or raising or depressing the price of such publicly traded stock, for the purpose of inducing the purchase or sale of the publicly traded stock by others.

24. For example, on or about May 17, 2016, Individual A caused Victim No. 4's brokerage account to purchase shares of Lawson Products, Inc. ("LAWS") during regular market hours at prices that increased during the course of the purchases and raised the price of LAWS in a manner that did not reflect true market supply and demand. After Individual A caused Victim No. 4's account to purchase LAWS stock, Willner short sold LAWS at the artificially higher

prices generated by Individual A's unauthorized trading. Then, Individual A caused Victim No. 4's account to sell LAWS stock until the stock price decreased. At or around that time, Willner began purchasing LAWS stock at the lower prices to cover his open short position. Willner made a profit from the difference between the manipulated price at which he sold LAWS short and the price at which he subsequently purchased LAWS shares.

25. Specifically, at approximately 1:33 p.m. ET to 1:34 p.m. ET, Individual A caused Victim No. 4's account to purchase LAWS shares at prices that increased from as low as \$18.99 per share to a high of \$19.49 per share. At approximately 1:35 pm ET, Willner sold short 7,400 shares of LAWS at prices between \$19.41 and \$19.50 per share in his own account. Within minutes, Individual A caused Victim No. 4's account to sell LAWS stock, which caused the price to decline to as low as approximately \$18.71 per share. Then, about one minute later, Willner began covering his short position by purchasing shares of LAWS in his own account at prices ranging from \$18.72 to \$19.15 per share. By purchasing 7,400 shares of LAWS at a lower price per share than the artificially inflated price at which he had shorted the stock, Willner profited by approximately \$3,233.

26. Willner's and Individual A's trading in LAWS on May 17 was, among other things, designed to manipulate the market for LAWS by artificially raising (and then depressing) the price of LAWS shares, and by generating more trading activity in LAWS than usual, for the purpose of inducing purchases and sales by others. The trading volume in LAWS on May 17 increased dramatically from an average daily trading volume that month of approximately 14,000 shares per day to more than 170,000 shares on this day, and the vast majority of the 170,000 shares traded between approximately 1:00 p.m. and 2:00 p.m. ET. During this period of time, investors other than Willner and Individual A who purchased LAWS shares paid artificially

inflated prices for those securities.

27. During the Relevant Period, Willner coordinated trades at artificially high (or low) prices with Individual A on a number of other occasions as well.

28. During the Relevant Period, Willner knew, or was reckless in not knowing, that Individual A accessed, without authorization, the brokerage accounts of at least 110 Victims, including Victim Nos. 1 – 4 referenced herein.

29. As a result of the conduct described herein, Willner defrauded a number of Victims through the fraudulent trading and market manipulation scheme. Willner generated at least \$700,000 in profits from the scheme.

FIRST CLAIM FOR RELIEF
FRAUD IN THE OFFER OR SALE OF SECURITIES
(Violations of Section 17(a)(1) and (3) of the Securities Act)

30. Paragraphs 1 through 29 above are re-alleged and incorporated by reference as if fully set forth herein.

31. By reason of the conduct described above, Willner, in connection with the offer or sale of securities, by the use of the means or instrumentalities of interstate commerce or of the mails, directly or indirectly, acting with the requisite degree of knowledge or state of mind (i) employed devices, schemes, or artifices to defraud; and (ii) engaged in transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon any persons, including purchasers or sellers of the securities.

32. By reason of the conduct described above, Willner violated Securities Act Section 17(a)(1) and (3) [15 U.S.C. § 77q(a)(1) and (3)].

SECOND CLAIM FOR RELIEF
FRAUD IN CONNECTION WITH THE PURCHASE OR SALE OF SECURITIES
(Violations of Section 10(b) of the Exchange Act and Rules 10b-5(a) and (c) thereunder)

33. Paragraphs 1 through 29 above are re-alleged and incorporated by reference as if fully set forth herein.

34. By reason of the conduct described above, Willner, 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, intentionally, knowingly or recklessly, (i) employed devices, schemes, or artifices to defraud; and (ii) engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any persons, including purchasers or sellers of the securities.

35. By reason of the conduct described above, Willner violated Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and Rules 10b-5(a) and (c) [17 C.F.R. § 240.10b-5(a) and (c)] thereunder.

THIRD CLAIM FOR RELIEF
MARKET MANIPULATION
(Violations of Section 9(a)(2) of the Exchange Act)

36. Paragraphs 1 through 29 above are re-alleged and incorporated by reference as if fully set forth herein.

37. By reason of the foregoing, Willner directly or indirectly, acting intentionally, knowingly or recklessly, in connection with the purchase or sale of securities, by use of the means or instrumentalities of interstate commerce or the facilities of a national securities exchange or the mail, effected, alone or with one or more persons, a series of transactions in securities registered on a national exchange, creating actual or apparent active trading in such securities, or raising or depressing the price of such securities, for the purpose of inducing the

purchase or sale of such securities by others.

38. By engaging in the conduct described above, Willner violated Section 9(a)(2) of the Exchange Act [15 U.S.C. § 78i(a)(2)].

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

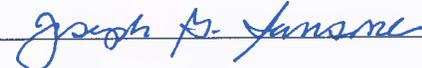
- A. Permanently restrain and enjoin Willner, his officers, agents, servants, employees and attorneys, and those persons in active concert or participation with him who receive actual notice of the injunction by personal service or otherwise, and each of them, from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Sections 9(a)(2) [15 U.S.C. 78i(a)(2)] and 10(b) of the Exchange Act [15 U.S.C. 78j(b)], and Rule 10b-5 thereunder [17 C.F.R. 240.10b-5].
- B. Order Willner to disgorge, with prejudgment interest, all ill-gotten gains obtained by reason of the unlawful conduct alleged in this Complaint;
- C. Order Willner to pay civil monetary penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]; and
- D. Grant such other and further relief as this Court may deem appropriate.

JURY DEMAND

The Commission demands a jury in this matter for all claims so triable.

DATED: October 30, 2017

Respectfully submitted,

By:  _____

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*Not admitted in EDNY (to be admitted *pro hac vice*)