UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

SECURITIES AND EXCHANGE COMMISSION, **Plaintiff,** **vs.** **CORE PERFORMANCE MANAGEMENT, LLC, JAMES P. SCHERR, DEBORAH B. DORA, SHARLENE F. MESITE, JAMES O'NEIL, and ANADEL R. PINZON,** **Defendants.**	Case No. 18-cv-81081

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

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

INTRODUCTION

1. This matter involves a long-running fraudulent scheme operated by Defendant James P. Scherr ("Scherr") and his firm, Defendant Core Performance Management, LLC ("CPM"), to purchase new issue municipal bonds ("new issue bonds") and quickly re-sell or "flip" those bonds to broker-dealer customers. Scherr hired Defendants Deborah B. Dora ("Dora"), Sharlene F. Mesite ("Mesite"), James J. O'Neil ("O'Neil"), and Anadel R. Pinzon ("Pinzon") (these four individuals are referred to collectively as the "Participants") to flip new issue bonds and other securities on behalf of CPM. At all relevant times, CPM was controlled by Scherr and acted through its employees, Dora and Mesite. O'Neil and Pinzon worked on behalf of CPM as independent contractors.

2. From at least 2009 to 2016, CPM, under the control of Scherr, and the Participants purchased new issue bonds in primary offerings from underwriters on behalf of CPM, and then quickly sold or flipped those bonds to their own broker-dealer customers for a commission, usually within the same day. Between 2012 and 2016, the Participants executed over 35,000 trades of new issue bonds and other fixed income securities on behalf of CPM, generating millions of dollars in profits.

3. CPM's flipping business model exploited a unique feature of municipal underwriting – a set of issuer-approved rules known as the "priority of orders." The priority of orders dictates the priority that underwriters assign to orders submitted by various classes of investors. Municipal issuers typically require underwriters to give retail investor orders the highest priority when allocating new issue bonds. The priority of orders is important because municipal bond offerings are often oversubscribed (*i.e.*, orders for the bonds exceed the amount of bonds available for purchase). As a result, broker-dealers who want to purchase new issue bonds for their own inventory are often unable to obtain them because retail orders take priority. To circumvent the priority of orders, Defendants, operating as unregistered brokers, acted as intermediaries by taking orders for new issue bonds from broker-dealers who were typically unable to purchase those bonds directly from underwriters (because their orders were given the lowest priority), and filling those orders with bonds the Defendants obtained from underwriters in new offerings. In exchange for this service, Defendants charged their customers a fixed, pre-arranged commission, usually $1 per bond.

4. CPM, Dora, Mesite, and Pinzon obtained new issue bonds by misrepresenting themselves as asset managers for retail investors when, in fact, they operated predominantly as flippers, placing orders on behalf of other broker-dealers. Because issuers generally prioritize

retail investors (or their representatives), this deception allowed these Defendants to purchase a significantly higher volume of new issue bonds than they would have obtained but for the deceptive conduct.

5. CPM, Dora, Mesite, and Pinzon engaged in various types of fraudulent conduct to create the false appearance that they managed money on behalf of retail investors so that their orders qualified for higher priority, including:

a. *Use of fraudulent zip codes*: When placing orders for new issue bonds, CPM, Dora, Mesite, and Pinzon provided fraudulent zip codes to indicate that the orders were for a resident of the jurisdiction issuing the debt. Providing a zip code from within the issuing jurisdiction was often necessary to qualify as top priority "retail."

b. *Use of Multiple Entities and DBA names*: Instead of placing orders under CPM's or Scherr's name, the Participants held accounts and placed orders under dozens of different doing-business-as ("DBA") names. Even within a single brokerage firm, the Participants often maintained multiple customer accounts under different DBA names to get access to multiple salespeople at the firm, and thereby maximize the number of orders they could place and allotments they could receive of new issue bonds. Dora, Mesite, and Pinzon created and used these DBAs to conceal from the underwriter and/or issuer that any bonds allocated to their DBAs would go to CPM.

c. *Deceptive means to conceal flipping*: CPM, Dora, Mesite, and Pinzon knew that senior managers and issuers commonly monitor early trading to look for signs of flipping. In an effort to avoid detection of their flipping, which could lead to underwriters rejecting future retail orders from them, these Defendants adjusted prices,

quantities, and times on their sales tickets to disguise their subsequent sale or flip of the bonds to their purchasing broker-dealer customers.

6. In addition, CPM and Dora conspired with a registered representative ("Representative") at an underwriting firm ("Firm A") in a scheme to obtain new issue bonds through fraudulent retail orders. Representative was the salesperson for multiple accounts held at Firm A by Dora, in the name of CPM and various other DBA names. Between January 2012 and May 2016, Representative submitted retail orders on behalf of CPM and Dora, which Representative knew included fraudulent zip codes to obtain the highest priority. Representative knew or was reckless in not knowing that the fraudulent misrepresentations concerning the geographical location of CPM and/or Dora would be communicated to the senior manager and/or issuer, who relied upon the provided zip code to confirm whether an order qualified for priority retail treatment. Dora, acting on behalf of CPM, aided and abetted Representative's materially misleading misrepresentations by: (1) providing Representative with fraudulent zip codes to submit with her orders; and (2) complying with Representative's requests to disguise her subsequent flip of new issue bonds Representative obtained for her through fraudulent retail orders.

7. CPM, acting through Scherr, engaged in a separate fraudulent scheme in which it paid kickbacks to Charles Kerry Morris, a former employee of NW Capital Markets Inc. ("NW Capital"), an underwriting firm. CPM paid these kickbacks in exchange for Morris's purchase of recently issued municipal bonds from CPM. To disguise the kickbacks, Scherr issued the payments in the form of checks from CPM to an individual associated with Morris ("Associate"). Scherr made further efforts to disguise the kickbacks as payments to an employee by reporting

them on 1099 Forms CPM issued to Associate, even though Associate never worked for CPM or Scherr.

8. As a result of the conduct alleged in this Complaint:

a. CPM, Dora, Mesite, Pinzon, and Scherr violated the antifraud provisions of Section 10(b) of the Securities and Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78j(b), and Rules 10b-5(a), (b), and/or (c) thereunder, 17 C.F.R. §§ 240.10b-5(a)-(c);

b. Scherr is liable for CPM's violation of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder as a control person under Section 20(a) of the Exchange Act, 15 U.S.C. § 77t(a);

c. CPM and Dora aided and abetted Representative's violations of Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5(b) thereunder, 17 C.F.R. § 240.10b-5(b);

d. CPM and Scherr violated the antifraud provisions of Sections 17(a)(1) and (3) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. §§ 77q(a)(1) and (3);

e. CPM, Dora, Mesite, Pinzon, and Scherr violated Municipal Securities Rulemaking Board ("MSRB") Rule G-17; and

f. All Defendants violated Section 15(a)(1) of the Exchange Act, 15 U.S.C. § 78o(a)(1), by acting as unregistered brokers.

9. Based on the aforementioned violations, the Commission brings this action to request that the Court enter a final judgment that, *inter alia*: permanently enjoins Defendants from future violations of the relevant provisions of the Exchange Act, the Securities Act, and MSRB Rule G-17; enjoins Defendants from opening or maintaining any brokerage account

without providing the brokerage firm a copy of this Complaint and a copy of any final judgment entered against them in this action; and orders Defendants to disgorge ill-gotten gains from their illegal conduct, together with prejudgment interest thereon, as well as pay civil penalties based on their violations of the Exchange Act, Securities Act, and MSRB Rule G-17**.**

JURISDICTION AND VENUE

10. The Court has jurisdiction over this action pursuant to Sections 20(b), 20(d)(1), and 22(a) of the Securities Act, 15 U.S.C. §§ 77t(b), 77t(d)(1), 77v(a), and Sections 21(d)(1), 21(d)(3)(A), 21(e), and 27(a) of the Exchange Act, 15 U.S.C. §§ 78u(d)(1), 78u(d)(3)(A), 78u(e), and 78aa(a).

11. Defendants have, directly or indirectly, made use of the means or instrumentalities of interstate commerce or of the mails, in connection with the transactions, acts, practices, and courses of business alleged in this Complaint.

12. Venue is proper in this district pursuant to Section 22(a) of the Securities Act, 15 U.S.C. § 77v(a), and Section 27(a) of the Exchange Act, 15 U.S.C. § 78aa(a), because certain of the transactions, acts, practices, and courses of conduct constituting violations of the federal securities laws occurred within this district. For example, between at least 2012 and 2016, Scherr operated CPM out of his home, which is located within this district. In addition, Scherr, Dora, Mesite, and O'Neil, and currently reside, and at all relevant times resided, within this district, while Pinzon regularly received compensation from CPM, which was located within this district.

THE DEFENDANTS

13. **CPM** was a Florida LLC with its principal place of business in Boca Raton, Florida. It was dissolved as of July 27, 2016. CPM's primary activity was to buy and quickly re-sell or flip new issue bonds and other securities. CPM was owned by Scherr and a third-party, who was not involved in the business. CPM was never registered with the Commission as a broker-dealer.

14. **Scherr** resides in Boca Raton, Florida. Scherr was CPM's majority owner and managing director. Scherr previously held Series 3, 6, 7, 63 and 65 securities licenses and had at least five years of municipal industry experience before he began trading municipal securities using his own capital in 1995. Scherr formed CPM in 2008.

15. **Dora** resides in Lighthouse Point, Florida. Dora previously held Series 7, 52, and 63 securities licenses and had approximately 17 years of industry experience before she began flipping bonds for Scherr and CPM. Dora worked as an employee of Scherr and CPM (after it was formed) from 2003 to 2016.

16. **Mesite** resides in Port St. Lucie, Florida. Mesite previously held Series 7, 52, and 63 securities licenses and had approximately 14 years of industry experience before she began flipping bonds for CPM. Mesite worked as an employee of CPM from 2008 to 2016.

17. **O'Neil** resides in Jupiter, Florida. O'Neil previously held a Series 7 securities license and had approximately 40 years of industry experience before he began flipping bonds for CPM. O'Neil worked for CPM as an independent contractor from 2009 to 2016.

18. **Pinzon** resides in Los Angeles, California. Pinzon previously held a Series 7 securities license and had approximately 10 years of industry experience before she began

flipping bonds for CPM. Pinzon worked for CPM as an independent contractor from 2010 to 2014.

BACKGROUND ON NEGOTIATED OFFERINGS OF MUNICIPAL BONDS

19. Municipalities often raise money by issuing bonds that are sold to the public through an underwriting process. As part of this process, one broker-dealer or a syndicate of broker-dealers – also known as underwriters – purchase new issue bonds from the issuer and sell the securities to investors.

20. New issue bonds in negotiated offerings are made available to the public during designated "order periods," which are windows of time during which the underwriters solicit orders from their customers. Underwriters announce and market offerings by widely distributing electronic pricing wires to broker-dealers, who may be interested in purchasing bonds for their inventory and/or marketing the bonds to their customers. The pricing wires detail the bonds that will be offered for sale as well as rules and restrictions that apply to the offering.

21. An issuer may specify separate order periods for different categories of customers. Often, there is an initial order period reserved exclusively for retail customers, known as a "retail order period." The pricing wires distributed by the underwriters to other broker-dealers frequently announce retail order periods and may also contain definitions, which the issuer has either written or agreed to, to establish who is and is not eligible to participate in a retail order period. For example, in some cases "retail" orders can only be placed by residents of the issuer's jurisdiction. Asset managers transacting on behalf of individual clients generally meet the definition of "retail." In addition, issuers often require the submission of zip codes with retail orders as a way to verify that the customer is a resident of the issuer's jurisdiction. Such a requirement would be stated on the pricing wire.

22. Orders for bonds in a primary offering often exceed the amount of bonds available. The senior manager and issuer decide which orders will be filled. Priority provisions, which are usually set by issuers, are specified on the pricing wire and establish the sequence in which bonds will be allocated to specific order types. Where the issuer includes a retail order period, retail orders are generally afforded the highest priority. The priority afforded to retail customers means that, where an offering is oversubscribed, retail customers have the best chance of getting their orders filled.

FACTUAL ALLEGATIONS

23. Between 2003 and 2010, Scherr hired the Participants to increase the number of orders that could be placed on his behalf and, after Scherr formed CPM in 2008, on behalf of CPM. Increasing the number of orders CPM could place increased the volume of new issue bonds CPM could purchase and flip to broker-dealer customers, which ultimately increased Defendants' profits. The Participants opened and maintained numerous accounts at many underwriting firms so that they could place orders for new issue bonds underwritten by different broker-dealers.

24. To disguise that the Participants' accounts were connected to CPM, Scherr directed the Participants to open their accounts under DBA names. Scherr knew that the Participants would be allocated more new issue bonds if the Participants were perceived to be independent entities rather than flippers working on behalf of CPM.

25. Each Participant operated under multiple DBA names, as shown in the chart below. The Participants commonly opened multiple accounts at the same firm under different DBA names, with each account assigned a different sales representative, to increase the pool of sales representatives to whom they could submit orders. As shown below, the Participants

frequently selected DBA names that they knew, or were reckless in not knowing, created the misleading perception that they were asset managers.

Participant	DBA Names Used	
Dora	Dockside Asset Management Chapel Bay Asset Management Earthstone Asset Management Intrepid Asset Management Kayak Asset Management Ocean Key Asset Management	Sierra Nova Asset Management Streamline Asset Management Target Asset Management Trek Asset Management Trend Active Management Waterside Development Company
Mesite	Black Horse Asset Management Boro Hills Asset Management East PGA Asset Management Koncept Asset Management Madison Green Asset Management	Point Jupiter Asset Management Rockbridge Opportunity Fund Sandy View Asset Management Ziaja Strategic Fund
O'Neil	Block Growth Fund Dockside Asset Management Fort Tryon Asset Management	Inwood Opportunity Fund Lindell Growth Fund
Pinzon	Casimir Pacific Capital LLC	King Finch Investments

26. Scherr also instructed and arranged for the Participants to use delivery-versus-payment ("DVP") accounts rather than cash accounts. This furthered the scheme because a DVP account, unlike a traditional brokerage account, does not require the account to maintain cash sufficient to cover all securities purchased. Rather, the Participants could "match" trades between DVP accounts at the underwriter from whom they were purchasing the bonds and the customer firm to whom they were selling the bonds, so that they did not have to pay cash for the securities they traded. The use of DVP accounts therefore increased the volume of new issue bonds the Participants could purchase on behalf of CPM.

A. Defendants Acted as Unregistered Brokers.

27. All Participants traded new issue bonds on behalf of CPM using CPM's capital, which was provided by Scherr. Scherr, who supervised the trading activity of the Participants and had the power to hire or terminate them, also directed the Participants on occasion to place orders for and purchase particular new issue bonds being offered. The Participants had notice of most major municipal offerings coming to market because they received electronic pricing wires from their account representatives at broker-dealer firms, which served as underwriters for those offerings.

28. In addition to purchasing bonds at Scherr's direction, CPM, Dora, Mesite, and Pinzon solicited orders and traded bonds with their own broker-dealer customers. Between 2012 and 2016, these Defendants regularly solicited orders by, among other means, forwarding thousands of electronic pricing wires for upcoming offerings to large distribution lists of municipal bond salespersons and traders at various broker-dealer firms (collectively, "CPM Customers"). After receiving these pricing wires, CPM Customers frequently responded to these Defendants' solicitations with an "indication of interest," conveying a desire to purchase a specific quantity of a particular maturity and coupon of new issue bonds.

29. CPM, Dora, Mesite, and Pinzon understood that indications of interest they received from CPM Customers were commitments to purchase the bonds in the event that they obtained the bonds from the underwriting syndicate. Scherr likewise understood that indications of interest were commitments to purchase the bonds if the Participants obtained them, and recorded calls from CPM Customers as a way to enforce these commitments if any aspect of a trade was subsequently disputed.

30. When CPM, Dora, Mesite, and Pinzon were allotted bonds against their orders, they created and sent electronic sales "tickets" to sell the bonds to CPM Customers who indicated interest for such bonds. To generate these sales tickets, these Defendants had to enter the CUSIP for the bonds being sold as well as other information such as the quantity, price, and customer name. When they sold the bonds to CPM Customers, they generally did so at a price of $1 above the initial offering price, without negotiation and irrespective of market value. In turn, CPM Customers who purchased the bonds from these Defendants took them into their inventory, and typically marked them up further before selling them to customers or other broker-dealers.

31. CPM paid Scherr and the Participants transaction-based compensation for each allotment of bonds that a Participant was able to flip at a profit. Specifically, for each trade, Scherr received 65% of the net profits and the Participant who purchased the bonds on CPM's behalf received 35% of the net profits.

32. The Participants executed numerous securities transactions on behalf of CPM. Collectively, between January 1, 2012 and December 31, 2016, the Participants executed over 35,000 trades of new issue bonds and other fixed income securities, with each Participant executing approximately the following number of trades of new issue bonds and other fixed income securities over this time period:

a. Dora: 15,845

b. Mesite: 12,828

c. O'Neil: 3,150

d. Pinzon: 3,458

33. Although CPM, under the control of Scherr, and Dora, Mesite, O'Neil, and Pinzon regularly participated in securities transactions at key points in the chain of distribution,

effected securities transactions on behalf of others, received transaction-based compensation, and/or actively solicited investors to purchase securities, no Defendant, at any relevant time, was registered with the Commission as a broker-dealer or associated person of a registered broker-dealer.

B. Defendants Employed Fraudulent Means and Made Material Misrepresentations to Obtain New Issue Bonds.

34. CPM, under the control of Scherr and acting through its employees Dora and Mesite, along with Pinzon engaged in fraudulent conduct to create the false appearance that they managed money on behalf of retail investors, and that, therefore, their orders for new issue bonds qualified for retail priority treatment. This conduct included: (1) using fraudulent zip codes; (2) disguising the beneficial owner of the account by employing DBA names; and (3) concealing their flipping activity by manipulating the quantities, times, and prices of sales tickets.

i. Use of fraudulent zip codes

35. As discussed above, municipal issuers commonly require underwriters distributing new issue bonds to give the highest priority to orders from retail customers located within the issuer's jurisdiction. Such a requirement will be stated on the pricing wires underwriters distribute to other broker-dealers, along with any verification the issuer may require to be submitted with retail orders, such as a zip code. Dora, Mesite, and Pinzon received dozens of pricing wires each week from broker-dealers they had accounts with and were familiar with this zip code requirement for retail orders. These Defendants understood that, when an issuer required submission of a zip code with retail orders, they could increase their likelihood of receiving an allocation by providing a qualifying zip code within the issuer's specified jurisdiction to create the false appearance that they qualified for top-priority retail treatment. Thus, to maximize the number of bonds they were allocated, Dora, Mesite, and Pinzon

frequently submitted fraudulent zip codes, *i.e.*, zip codes in which they did not live or reside, with their bond orders to underwriters. Through this fraudulent conduct, Dora, Mesite, and Pinzon sought to boost their own trading profits while enriching CPM and Scherr, who was aware of, and approved of, their misrepresentations.

36. Based on their industry knowledge and experience, and their notice of the applicable definitions of "retail" from the pricing wires they received, CPM, Dora, Mesite, and Pinzon knew or were reckless in not knowing that the fraudulent zip codes they provided in connection with their orders for new issue bonds were material to the allocation decisions of issuers and/or underwriters. In particular, CPM, Dora, Mesite, and Pinzon knew or were reckless in not knowing that when an issuer required submission of zip codes with retail orders, the issuer was relying on the zip code as a verification of the customer's location to confirm that customer's eligibility for retail priority.

ii. Use of multiple entities and DBA names

37. Between 2012 and 2016, the Participants opened accounts at underwriting firms and submitted orders for new issue bonds under multiple DBA names, which they changed regularly.

38. The Participants' use of DBA names was deceptive because it disguised that all of their orders, which appeared to be submitted on behalf of numerous different asset management firms, were in fact all submitted on behalf of one entity, CPM, which was engaged in flipping securities to broker-dealers and not managing assets on behalf of retail investors. In many cases, the Participants furthered this deception by failing to disclose Scherr or CPM as a beneficial owner in their account opening applications.

39. For example, on or around June 6, 2013, Mesite signed and submitted documentation to a broker-dealer to open a new brokerage account under the DBA name of Sandy View Asset Management. Mesite falsely stated on these forms that she "transacts solely on behalf of [her] own investment account" and does not "transact on behalf of a third party." Mesite also failed to disclose, as required by the forms, that she was transacting on behalf of CPM using CPM's capital.

40. Similarly, on or around February 12, 2014, Pinzon signed and submitted documentation to a broker-dealer to open a new brokerage account under the DBA name of Casimir Pacific Capital LLC. Pinzon falsely stated on these forms that the source of funds in the account was "clients of IA," *i.e.*, clients of an investment advisor, when she knew that the actual source of the account's funds was CPM. Pinzon also did not disclose CPM or Scherr as a beneficial owner of the account.

41. The Participants' misleading use of DBA names furthered their scheme in multiple ways. First, having numerous accounts open under various DBA names allowed the Participants to circumvent the order size limits typically applicable to retail orders. For example, a Participant could submit duplicative retail orders at the maximum size limit using each of his or her DBA names, and thereby obtain many more bonds than would be permitted for a single retail customer order.

42. In addition, DBA names helped the Participants avoid being flagged by underwriters as flippers rather than asset managers or investment advisors acting on behalf of retail investors. This benefited the Participants because, as the Participants knew, underwriters often avoid allocating bonds to flippers on a retail basis based on an issuer's preferences. If an underwriter became aware that a Participant was a flipper, it would be less likely to allocate

bonds on a retail basis to that Participant in the future, at least for deals in which the issuer had expressed a preference to avoid selling bonds to flippers. This is because issuers typically reserve the right to audit retail orders to verify that they represent legitimate retail buyers, and, if such an order cannot be verified, may take action against the underwriter that submitted the unverified order, including exclusion from that issuer's future underwriting syndicates.

iii. Steps to disguise flipping of new issue bonds

43. CPM, Dora, Mesite, and Pinzon knew that senior managers and issuers often review early trading to look for flipping activity. Issuers, in particular, may attempt to identify flipping to determine compliance with the issuer's retail priority requirements. Because real retail investors are typically "buy and hold" investors, immediate trading in bonds allocated on a retail basis may suggest that the bonds were sold to a customer who does not meet the issuer's definition of retail, and who has instead flipped the bonds to a pre-arranged buyer.

44. Senior managers and issuers may detect flipping activity in several ways. One hallmark of flipping is if, shortly after trading begins, bonds trade at a price $1 or $0.50 above the initial offering price (IOP), a typical flipper commission. Senior managers and issuers may also identify flipping based on the quantity of bonds being traded. For example, if $315,000 of bonds (at par value) are allocated to a purportedly "retail" customer and that exact amount is not allocated to any other customer, a trade of $315,000 bonds immediately after trading begins may indicate the bonds had been sold to a flipper and not a retail customer.

45. To avoid detection of their flipping, CPM, Dora, Mesite, and Pinzon engaged in one or more of the following deceptive practices:

a. altering the quantity or price of bonds they re-sold;

b. delaying issuance of sales tickets for their re-sale transactions until there was an established pattern of trading, even though a CPM Customer had agreed to purchase the bonds hours or days earlier; and/or

c. enlisting CPM Customers to help disguise their flipping, especially if a Defendant had obtained bonds on a retail priority basis. Dora, Mesite, and Pinzon would do this by warning CPM Customers to "be careful" or "disguise" their trading of the bonds, meaning the customers should break up quantities, adjust prices, or delay trading as described above.

46. CPM, Dora, Mesite, and Pinzon engaged in these deceptive tactics to hide their flipping of new issue bonds because they knew that they were not qualified to obtain bonds on a retail priority basis, and if an underwriter discovered that they had flipped bonds obtained on a retail priority basis, they would be less likely to get bonds from that underwriter in the future. These deceptive tactics also defrauded issuers who had set rules for their offerings to prioritize sales of their bonds to retail investors.

iv. Additional Examples of Defendants' fraudulent conduct

a. Dora

47. Dora repeatedly misrepresented her zip code when placing orders for new issue bonds during retail order periods.

48. For example, on February 12, 2013, a North Carolina issuer held a retail order period for new issue bonds. The pricing wire defined retail orders as those submitted by "an individual, bank trust department, or registered investment advisor acting on behalf of an individual." During the retail order period, Dora placed a retail order even though she knew she would sell the bonds to a broker-dealer CPM Customer and that her order was not for or on

behalf of an individual investor. Dora also fraudulently provided three different North Carolina zip codes with her retail order to increase the likelihood that she would receive an allocation, even though Dora knew she did not live or reside in North Carolina.

49. In addition to placing retail orders using fraudulent zip codes, Dora took affirmative steps to mislead issuers and underwriters by hiding her flipping of new issue bonds, including by asking her customers to disguise their trading of bonds Dora obtained for them. For example, on or about February 14, 2013, Dora notified one of her customers that Dora had obtained new issue bonds for the customer, but that the customer needed to "be very careful" with any re-sale of the bonds because Dora had obtained them on a retail priority basis.

b. Mesite

50. Mesite repeatedly misrepresented her zip code when placing orders for new issue bonds during retail order periods.

51. For example, on December 8, 2015, a New York issuer held a retail order period for new issue bonds. The pricing wire for the offering specified that "[a]ll retail orders, including individual, bank trust and registered investment advisors, must provide zip codes." During the retail order period, Mesite placed a retail order even though she knew she would sell the bonds to a broker-dealer CPM Customer, and the order was not for or on behalf of an individual investor. Mesite also fraudulently provided a New York zip code with her order to increase the likelihood that she would receive an allocation, even though she knew she did not live or reside in New York.

52. In addition to placing retail orders using fraudulent zip codes, Mesite took affirmative steps to mislead issuers and underwriters by hiding her flipping of new issue bonds, including by breaking up quantities of allotments she received and altering prices of bonds she

sold so that none would be sold at exactly $1 above the IOP. For example, on or about January 13, 2015, Mesite notified one of her customers that Mesite had obtained new issue bonds for the customer, but that they needed to be "creative" in writing sales tickets. To disguise the flip, Mesite broke up the five single allotments of bonds she received from the underwriter into ten separate sale tickets to the customer, so that no ticket was for the same quantity of bonds Mesite received from the underwriter. In addition, Mesite wrote the sales tickets at varying prices, some at and some above the IOP. This deceptive conduct concealed the fact that Mesite ultimately received the equivalent of $1 per bond above the IOP for all bonds sold to the customer, although none of the sales tickets was written at a price $1 above the IOP.

c. Pinzon

53. Pinzon repeatedly misrepresented her zip code when placing orders for new issue bonds during retail order periods.

54. For example, on March 25, 2015, a New York issuer held a retail order period for new issue bonds. The pricing wire for the offering defined "retail" as "an order placed for the account of an individual … [or] on behalf of individuals from bank trust departments, investment advisors or money managers …." The pricing wire further specified that orders from New York retail customers would receive the highest priority and that zip codes must be included with all retail orders. During the retail order period, Pinzon placed a retail order even though she knew she would sell the bonds to a broker-dealer CPM Customer, and the order was not for or on behalf of an individual investor. Pinzon also fraudulently provided a New York state zip code with her order to increase the likelihood that she would receive an allocation, even though she knew she did not live or reside in New York.

55. In addition to placing retail orders using fraudulent zip codes, Pinzon took affirmative steps to mislead issuers and underwriters by hiding her flipping of new issue bonds, including by asking her customers to disguise their trading of bonds Pinzon obtained for them. For example, on July 29, 2015, Pinzon notified one of her customers that the customer would receive $1,600,000 bonds and that they could exchange sales tickets, but warned the customer to be "careful" with the bonds. Pinzon further explained that the underwriter was "keeping an eye on the trades" and that she did not want to "get in trouble" for "flipping bonds." The customer responded that he understood and would "lay low."

C. CPM and Dora Aided and Abetted Representative in Placing Fraudulent Orders.

56. In addition to the fraudulent conduct described above, CPM and Dora worked in tandem with Representative from Firm A to increase Defendants' allotments of new issue bonds through fraudulent retail orders submitted by Firm A.

57. Representative knowingly placed fraudulent retail orders for CPM and Dora by submitting fraudulent zip codes with the orders, which he obtained from Dora or on his own by looking up zip codes for the relevant jurisdiction.

58. Representative placed these retail orders even though he knew CPM and Dora did not qualify for retail priority. Representative knew or was reckless in not knowing that the misrepresentations, *i.e.*, the fraudulent zip codes he submitted along with his misrepresentations that CPM and/or Dora were eligible for retail priority treatment, would be communicated to the senior manager and/or issuer for use in deciding whether to allocate bonds to these Defendants.

59. By providing Representative with orders during the retail order period that contained fraudulent zip codes and by submitting orders during the retail order period despite

knowing that they did not qualify as retail, CPM and Dora knowingly or recklessly provided substantial assistance to Representative's fraudulent conduct.

60. Additionally, when Dora received an allotment against a retail order Representative had placed for her using a fraudulent zip code, Representative often asked her to disguise her and/or CPM's subsequent flipping of the allotted bonds to deceive the senior manager or issuer. Dora complied with these requests by altering quantities, prices, or times of sales tickets in the manner described in a preceding section.

61. CPM and Dora knowingly and/or recklessly assisted Representative's deceptive efforts to hide his fraudulent conduct from senior managers and issuers to protect Representative's ability to submit future fraudulent retail orders on behalf of these Defendants. They did so because they financially benefitted from Representative's fraudulent misrepresentations, because they were more likely to receive allocations of new issue bonds they could flip at a profit if their orders were submitted as retail.

62. For example, on or about July 16, 2015, Representative notified Dora that she would receive $500,000 of new issue bonds, but warned her that Firm A had obtained the bonds on a retail priority basis so it must appear that they are "going away,"[1] "never to pop up again." Representative further admonished Dora to "be stealthy" when flipping the bonds. Dora responded by "assur[ing]" Representative she would do so. Dora also disguised her flipping by: (1) breaking up the $500,000 of bonds into three separate lots of $100,000, $100,000, and

[1] "Going away" refers to orders for new issue bonds placed by investors, who typically buy and hold new issue bonds, rather than brokers or dealers, who are purchasing bonds for their inventory in order to trade them. *See* MSRB Glossary, "Going Away Order," available at http://www.msrb.org/glossary/definition/going-away-order.

$300,000; and (2) placing her $1 per bond commission for all $500,000 bonds on one of the $100,000 allotments, so no allotment would appear to have been sold $1 above the IOP.

D. Defendants' Conduct Harmed Municipal Issuers and Investors.

63. The fraudulent conduct of CPM, Scherr, Dora, Mesite, and Pinzon harmed municipal issuers by, *inter alia*, violating their established rules and restrictions concerning retail orders for particular offerings.

64. These Defendants' conduct also harmed retail and other investors who legitimately qualified for higher priority treatment, but were unable to purchase new issue bonds in oversubscribed offerings because bonds that could otherwise have been used to fill their orders were instead allocated to these Defendants as a result of their fraudulent conduct and misrepresentations. In addition, because Defendants charged a pre-arranged commission when they flipped bonds irrespective of the bonds' market value, their activity sometimes artificially inflated prices such that retail and other investors purchasing these bonds in the secondary market would have to pay a higher price than they otherwise would have if the bonds had not been flipped.

E. CPM and Scherr Engaged in a Fraudulent Scheme to Pay Kickbacks to Morris.

65. From at least February 2009 to June 2012, CPM and Scherr engaged in a separate fraudulent scheme in which CPM paid kickbacks to Morris in exchange for Morris's purchase of recently issued municipal bonds from CPM. Scherr knew that Morris was purchasing bonds from CPM on behalf of Morris' employer, NW Capital. Under the kickback agreement that Scherr entered into with Morris, when Morris purchased bonds from CPM on behalf of NW Capital, CPM paid a kickback to Morris equal to 20-35% of its profits on the sale.

66. For example, between December 15 and December 29, 2011, Morris purchased multiple allotments of recently issued municipal bonds from CPM, resulting in a net profit to CPM of approximately $80,121. On January 20, 2012, CPM wrote a $27,930.13 check to Associate representing approximately 35% of the $80,121 in profits CPM had earned from Morris's purchases between December 15 and December 29, 2011.

67. CPM issued its next payment to Morris through a check dated March 16, 2012, made out to Associate in the amount of $23,705.06. This payment represented approximately 20% of the $113,140 in profits CPM earned from Morris's purchases made since CPM issued the prior check on January 20, 2012.

68. The kickback payments that CPM made to Morris were material to NW Capital's purchase of municipal bonds from CPM because Morris was sharing CPM's profits on every sale and, therefore, was incentivized to pay CPM a higher price than Morris would otherwise have been willing to pay for the bonds in an arm's length transaction. For example, CPM typically charged CPM customers who had placed indications of interest for new issue bonds a price of $1 above the IOP, without negotiation and irrespective of market value. However, because of the kickbacks Morris received from CPM, Morris sometimes paid CPM more than the $1 per bond commission CPM typically charged its customers. In this way, Morris' gain (in the form of a kickback) came at the expense of his employer (in the form of a higher markup paid to acquire bonds from CPM and Scherr).

69. Additionally, given his years of industry experience, Scherr knew, or was reckless in not knowing, that it was improper to pay Morris in exchange for Morris's purchase of bonds from CPM, and that Morris was obligated to disclose any such payments to his employer, NW Capital. Yet, Scherr did not disclose the kickbacks to anyone at NW Capital, and instead took

affirmative steps to disguise the kickbacks by providing them in the form of checks from CPM made out to Associate. CPM, acting through and controlled by Scherr, furthered this deception by cloaking the kickbacks as legitimate payments to Associate, which were reported on 1099 Forms, even though Associate never worked for CPM or Scherr.

TOLLING AGREEMENTS

70. CPM, Scherr, Dora, and Mesite, on or before March 16, 2017, and Pinzon, on March 12, 2018, signed tolling agreements with the Commission that specified a period of time (a "tolling period") in which "the running of any statute of limitations applicable to any action or proceeding against [Defendants] authorized, instituted, or brought by…the Commission…arising out of the [Commission's investigation of Defendants' conduct], including any sanctions or relief that may be imposed therein, is tolled and suspended…." Each tolling agreement further provides that these Defendants and any of their agents or attorneys "shall not include the tolling period in the calculation of the running of any statute of limitations or for any other time-related defense applicable to any proceeding, including any sanctions or relief that may be imposed therein, in asserting or relying upon any such time-related defenses." CPM, Scherr, Dora, Mesite, and Pinzon subsequently signed additional tolling agreements to extend the tolling period.

71. Collectively, these agreements tolled the running of any limitations period or any other time-related defenses for CPM, Scherr, Dora, and Mesite from March 10, 2012 to September 30, 2018, and for Pinzon from March 8, 2013 to September 30, 2018.

FIRST CLAIM FOR RELIEF
Fraud in Connection With the Purchase of Securities
Violations of Section 10(b) of the Exchange Act and Rules 10b-5(a) and (c)
(Against Defendants CPM, Scherr, Dora, Mesite, and Pinzon)

72. The Commission realleges and incorporates by reference paragraphs 1 through 71 above.

73. CPM, Scherr, Dora, Mesite, and Pinzon, by engaging in the conduct described above in paragraphs 34 through 55 and paragraphs 65 through 69 (with respect to Defendants CPM and Scherr), directly or indirectly, in connection with the purchase or sale of a security, by the use of the 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; and

(b) engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon other persons.

74. By engaging in the conduct described above, CPM, Scherr, Dora, Mesite, and Pinzon violated, and unless restrained and enjoined will continue to violate, Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rules 10b-5(a) and (c) thereunder, 17 C.F.R. §§ 240.10b-5(a) and (c).

SECOND CLAIM FOR RELIEF
Fraud in Connection With the Purchase of Securities
Violations of Section 10(b) of the Exchange Act and Rule 10b-5(b)
(Against Defendants CPM, Dora, Mesite, and Pinzon)

75. The Commission realleges and incorporates by reference paragraphs 1 through 74 above.

76. CPM, Dora, Mesite, and Pinzon, by engaging in the conduct described above in paragraphs 34 through 55, directly or indirectly, in connection with the purchase or sale of a

security, by the use of the means or instrumentalities of interstate commerce, of the mails, or of the facilities of a national securities exchange, with scienter, made untrue statements of 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.

77. By engaging in the conduct described above, CPM, Dora, Mesite, and Pinzon 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) thereunder, 17 C.F.R. § 240.10b-5(b).

THIRD CLAIM FOR RELIEF
Fraud in Connection With the Purchase of Securities
Aiding and Abetting Violations of Section 10(b)
of the Exchange Act and Rule 10b-5(b)
(Against Defendants CPM and Dora)

78. The Commission realleges and incorporates by reference paragraphs 1 through 77 above.

79. By engaging in the conduct described above in paragraphs 56 through 62, Representative, directly or indirectly, in connection with the purchase or sale of a security, and by the use of the means or instrumentalities of interstate commerce, of the mails, or of the facilities of a national securities exchange, with scienter, made untrue statements of a material fact or omitted to state a fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

80. As alleged above in paragraphs 56 through 62, CPM and Dora knowingly or recklessly provided substantial assistance to Representative's violations of Section 10(b) of the Exchange Act and Rule 10b-5(b) thereunder in connection with fraudulent retail orders that Representative submitted on their behalf.

81. By engaging in the conduct described above, CPM and Dora aided and abetted, and unless enjoined will continue to aid and abet, violations of Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5(b) thereunder, 17 C.F.R. § 240.10b-5(b).

FOURTH CLAIM FOR RELIEF
Fraud in Connection With the Offer or Sale of Securities
Violations of Sections 17(a)(1) and (3) of the Securities Act
(Against Defendants CPM and Scherr)

82. The Commission realleges and incorporates by reference paragraphs 1 through 81 above.

83. By engaging in the conduct described above in paragraphs 65 through 69, CPM and Scherr, directly or indirectly, in the offer or sale of securities, by the use of the means or instruments of transportation or communication in interstate commerce or by use of the mails, with scienter:

(a) employed devices, schemes, or artifices to defraud; and

(b) engaged in transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon purchasers of securities.

84. By engaging in the conduct described above, CPM and Scherr violated, and unless restrained and enjoined will continue to violate, Sections 17(a)(1) and (3) of the Securities Act, 15 U.S.C. §§ 77q(a)(1) and (3).

FIFTH CLAIM FOR RELIEF
Control Person Liability under Section 20(a) of the Exchange Act for Violations of Section 10(b) of the Exchange Act and Rules 10b-5(a), (b), and (c) Thereunder
(Against Scherr)

85. The Commission realleges and incorporates by reference paragraphs 1 through 84 above.

86. Scherr was, directly or indirectly, a control person of CPM for purposes of Section 20(a) of the Exchange Act, 15 U.S.C. § 78t(a).

87. As a control person of CPM, Scherr is jointly and severally liable with and to the same extent as the controlled entity CPM for its violations of Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rules 10b-5(a), (b), and (c) thereunder, 17 C.F.R. §§ 240.10b-5(a)-(c).

SIXTH CLAIM FOR RELIEF
Violations of MSRB Rule G-17
(Against Defendants CPM, Dora, Mesite, Pinzon, and Scherr)

88. The Commission realleges and incorporates by reference paragraphs 1 through 87 above.

89. MSRB Rule G-17 provides in relevant part that, in the conduct of its municipal securities business, every broker, dealer, and municipal securities dealer shall deal fairly with all persons and shall not engage in any deceptive, dishonest, or unfair practice.

90. As alleged above in paragraphs 27 through 69, CPM, Scherr, Dora, Mesite, and Pinzon, acting as brokers, unreasonably (1) failed to deal fairly with persons and entities, and/or (2) engaged in deceptive, dishonest, or unfair practices in violation of MSRB Rule G-17.

91. By engaging in the conduct described above, CPM, Scherr, Dora, Mesite, and Pinzon violated, and unless restrained and enjoined will continue to violate, MSRB Rule G-17.

SEVENTH CLAIM FOR RELIEF
Failure to Register as a Broker-Dealer
Violations of Section 15(a)(1) of the Exchange Act
(Against All Defendants)

92. The Commission realleges and incorporates by reference paragraphs 1 through 91 above.

93. Defendants, by engaging in the conduct described above, made use of the mails or means or instrumentalities of interstate commerce to effect transactions in, or to induce or attempt to induce the purchase or sale of securities, without being registered as brokers in accordance with Section 15(a)(1) of the Exchange Act, 15 U.S.C. § 78o(a)(1).

94. By engaging in the conduct described above, Defendants violated, and unless restrained and enjoined will continue to violate, Section 15(a)(1) of the Exchange Act, 15 U.S.C. § 78o(a)(1).

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that the Court:

I.

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

II.

Issue judgments permanently enjoining:

(a) Defendants CPM, Scherr, Dora, Mesite, and Pinzon, and their 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 Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rules 10b-5(a) and (c) thereunder, 17 C.F.R. §§ 240.10b-5(a) and (c);

(b) Defendants CPM, Dora, Mesite, and Pinzon, and their 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 Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5(b) thereunder, 17 C.F.R. § 240.10b-5(b);

(c) Defendants CPM and Dora, and their 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 aiding and abetting violations of Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5(b) thereunder, 17 C.F.R. § 240.10b-5(b);

(d) Defendants CPM and Scherr, and their 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 17(a)(1) and (3) of the Securities Act, 15 U.S.C. §§ 77q(a)(1) and (3);

(e) Defendant Scherr, as CPM's control person, and his agents, servants, employees, and attorneys, and those persons in active concert or participation with him, who receive actual notice of the judgment by personal service or otherwise, and each of them, from violating 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;

(f) Defendants CPM, Scherr, Dora, Mesite, and Pinzon, and their 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 MSRB Rule G-17; and

(g) all Defendants, and their 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 Section 15(a) of the Exchange Act, 15 U.S.C. § 78o(a).

III.

Issue judgments permanently enjoining Defendants CPM and Scherr, and enjoining Defendants Dora, Mesite, O'Neil, and Pinzon for a period of five years from the date of such judgments, from, directly or indirectly, opening or maintaining any brokerage account(s) without

providing the relevant brokerage firm(s) a copy of this Complaint and a copy of any final judgment entered against them in this action.

IV.

Order Defendants to disgorge ill-gotten gains from their illegal conduct, together with prejudgment interest thereon.

V.

Order Defendants to pay civil penalties under 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 this Court.

VII.

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

Dated: August 14, 2018

/s/ Nicholas A. Pilgrim

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