IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SECURITIES AND EXCHANGE COMMISSION,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	
	§	
ASH NARAYAN,	§	**Civil Action No.:3:16-cv-1417-M**
THE TICKET RESERVE INC.	§	
a/k/a FORWARD MARKET MEDIA, INC.,	§	
RICHARD M. HARMON, and	§	
JOHN A. KAPTROSKY,	§	
	§	
Defendants.	§	
	§	

FIRST AMENDED COMPLAINT

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

SUMMARY

1. The SEC is bringing this case to stop a multi-million dollar fraud scheme. The scheme was carried out by Defendants Ash Narayan, Richard Harmon and John Kaptrosky through Defendant The Ticket Reserve Inc. ("TTR"). TTR was controlled by Harmon—who was its Chief Executive Officer ("CEO"), Board Chair, and controlling stockholder. Kaptrosky was TTR's Chief Operating Officer ("COO"). Narayan was on its Board.

2. Almost always without their knowledge or consent, Narayan directed his clients into high-risk investments in TTR. In exchange, he received almost $2 million in undisclosed finder's fees. Harmon also received $544,800 in funds misappropriated from TTR's investors.

3. The Defendants obscured the misappropriation of investor funds by

mischaracterizing Narayan's finder's fees as either "director's fees" or "loans." They also entered into "lease" agreements through which funds were diverted to Harmon. Finally, they prolonged the scheme by creating fraudulent documents—sometimes backdated—and by making Ponzi-like payments in order to keep the scheme from collapsing.

4. The Defendants also misled investors while carrying out the scheme. They told investors that TTR was strong financially and a good investment. They did not disclose the truth—that TTR was in very poor financial shape and could barely survive from month to month. They also told investors that their investments would be used to build TTR's business—when the truth was that a substantial portion of their funds would be diverted to Narayan and Harmon. Finally, Narayan held himself out as a Certified Public Accountant ("CPA") even though he is not and never has been a CPA.

5. Acting at Harmon's and Narayan's direction, Kaptrosky aided and abetted the fraud. Kaptrosky carried out their instructions that TTR engage in the improper conduct described above and detailed below—including misappropriating investor funds to make payments to Narayan and Harmon and distributing misleading documents to investors.

6. By engaging in the conduct alleged in this Complaint, the Defendants committed and/or aided and abetted violations of the antifraud provisions of the federal securities laws. Thus, in the interest of protecting the public from further illegal activity, the SEC brings this action seeking all available relief—including temporary, preliminary, and permanent injunctions; disgorgement of all ill-gotten gains plus prejudgment interest; and civil money penalties.

JURISDICTION AND VENUE

7. The Court has jurisdiction over this action under Sections 20(b), 20(d) and 22(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77t(b), 77t(d) and 77v(a)];

Sections 21(d), 21(e), and 27 of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78u(d), 78u(e), and 78aa]; and Section 209(d) of the Investment Advisers Act of 1940 ("Advisers Act") [15 U.S.C. § 80b-9(d)]. Venue is proper because a substantial part of the events and omissions giving rise to the claims occurred in the Northern District of Texas.

PARTIES

8. Plaintiff SEC is an agency of the United States government.

9. Defendant Narayan is a natural person residing in Newport Coast, California. Between 1997 and his termination in February 2016, Narayan was employed as an investment adviser representative and Managing Director at RGT Capital Management, Ltd., an SEC-registered investment adviser.

10. Defendant TTR is an Illinois corporation that formerly operated out of Lake Forest, Illinois.[1] TTR also operates under the name Forward Market Media, Inc.

11. Defendant Harmon is a natural person residing in Austin, Texas. He was TTR's CEO from at least 2002 until May 2016.

12. Defendant Kaptrosky is a natural person residing in Lake Forest, Illinois. He was TTR's COO from at least 2008 until May 2016. He was previously TTR's Senior Vice President of Finance and Vice President of Finance/Controller.

FACTS

I. NARAYAN WAS AN INVESTMENT ADVISER WHO BUILT A RELATIONSHIP OF TRUST WITH HIS CLIENTS.

13. As an investment adviser representative, Narayan had fiduciary duties to his clients. He had an affirmative duty of utmost good faith to them. He was required to make full and fair disclosure of all material facts—including all actual or potential conflicts of interest. He

[1] TTR is now in Receivership and is operating out of Dallas, TX.

was required to act in his clients' best interests and to place their interests above his own. And he was required to provide suitable investment advice to each client in light of that client's financial situation, investment experience, and investment objectives.

14. Many of Narayan's former advisory clients are high net worth individuals. His clients included many current and former professional athletes. Three of these former clients—Client One, a former Major League Baseball ("MLB") players; Client Two, a current MLB player; and Client Three, a current National Football League ("NFL") player—exemplify the type of clients Narayan advised.

15. Many of these clients—including Client One, Client Two, and Client Three—lacked meaningful financial or investment expertise. They therefore relied on Narayan, who owed each of them fiduciary duties, to make important financial decisions on their behalf. Perhaps most importantly, Narayan advised them on what investments their investment portfolios should include. Narayan's clients—including Client One, Client Two, and Client Three—entered into advisory agreements with RGT under which Narayan would manage their investments.

16. Narayan's clients trusted him—not only because of their fiduciary relationship, but also because of his professional qualifications and experience. Narayan knowingly or recklessly represented to these clients that he was a certified public accountant ("CPA"). For instance, both his RGT email signature block and his letterhead read "Ash Narayan, J.D., CPA." His claim that he was a CPA boosted Narayan's credibility. It served as a basis on which his clients—like Client One, Client Two, and Client Three—believed he was capable of managing their money conservatively and in accordance with the law. In reality, however, Narayan is not—and never has been—a CPA.

i. Client One Trusted Narayan to manage his investments.

17. Client One is a former MLB player who retired in 2013. He met Narayan through his agent in the 2002-03 timeframe. When they met, Client One learned that Narayan advised a number of other professional baseball players.

18. Narayan built a relationship of trust with Client One. That trust was based, in part, on their shared Christian faith and interest in charitable work. Client One's personal trust in Narayan—as well as his understanding of Narayan's competence and experience providing sound financial advice—were important to Client One when he was considering whether to hire Narayan as his investment adviser representative.

19. Before hiring Narayan, Client One told him that he wanted to pursue conservative investments that would not place his principal at risk. Narayan agreed to pursue a low-risk investment strategy aligned with Client One's goals. With this understanding, Client One engaged Narayan as his investment adviser representative in the 2002-03 timeframe.

20. At Narayan's direction, as much as 80% of Client One's MLB salary was directly deposited to a brokerage account. Narayan managed these funds on Client One's behalf. Client One understood that these funds would be managed by Narayan as they had discussed—by investing in conservative, low-risk investments.

21. When necessary, Client One signed the paperwork that Narayan sent him. He always did so with the understanding that Narayan was pursuing the conservative investment strategy they had agreed upon. He further believed that the documents he signed for Narayan were consistent with that strategy. Finally, Client One also trusted Narayan and understood him to be acting as a fiduciary—putting Client One's interests above his own and fully disclosing all material facts, including conflicts of interest.

ii. Client Two Trusted Narayan to manage his investments.

22. Client Two is a current MLB player. He met Narayan in the 2004-05 timeframe through another MLB player who was a Narayan client. When they met, Client Two understood that Narayan was also managing Client One's investments.

23. As with Client One, Narayan forged a relationship of trust with Client Two. That trust was based, in part, on their shared Christian faith and interest in charitable work. Client Two's personal trust in Narayan—as well as his understanding of Narayan's competence and experience providing sound financial advice—were important to Client Two when he was considering whether to hire Narayan as his investment adviser representative.

24. Before retaining Narayan, Client Two explained to him that he wanted to pursue an investment strategy with minimal risk. This was true for at least two reasons. First, Client Two was still working under his first MLB contract. Second, Client Two knew that as an MLB player his earning potential might be realized within a very limited time window. Client Two therefore told Narayan that his goal was to achieve financial security through conservative investments while he was still playing. Narayan agreed to pursue a low-risk strategy. With this understanding, Client Two engaged Narayan as his investment adviser representative in the 2004-05 timeframe.

25. Once Narayan became Client Two's investment adviser representative, a significant portion of Client Two's MLB salary was transmitted to Narayan. Client Two understood that those funds would to be invested pursuant to the low-risk strategy that Narayan had agreed to follow.

iii. Client Three Trusted Narayan to manage his investments.

26. Client Three is a current NFL player. He met Narayan in 2009—the same year he

left college to pursue an NFL career. At that time, he was looking for someone to help him invest his NFL earnings. Client Three learned by talking to Narayan that he was advising many other professional athletes, including a number of NFL players.

27. As with Client One and Client Two, Narayan forged a relationship of trust with Client Three. That trust was based, in part, on their shared Christian faith and interest in charitable work. Client Three also learned that they had attended the same church in California. Client Three's trust in Narayan personally—as well as his understanding of Narayan's competence and experience providing sound financial advice—were important to Client Three when he was considering whether to hire Narayan as his investment adviser representative.

28. Before retaining Narayan, Client Three explained to him that he wanted to pursue safe, conservative investments that would not put his investment principal at risk. He and Narayan also discussed the fact that as a professional athlete in a sport that has a high risk of injury, his earnings might be realized within a short window. Narayan thus agreed that he would pursue a conservative strategy involving minimal risk. With this understanding, Client Three engaged Narayan as his investment adviser representative in 2009.

29. Narayan, working with Client Three's NFL employers, arranged for the direct deposit of his NFL paychecks. His weekly paychecks were deposited into accounts that were setup by Narayan and RGT. Narayan was responsible for allocating and managing Client Three's earnings in an investment account as they had discussed—by investing in conservative, low-risk investments.

II. THROUGH TTR, THE DEFENDANTS CARRIED OUT A SCHEME TO DEFRAUD INVESTORS.

30. The Defendants were part of a scheme to defraud investors. The essence of the scheme was to continually raise funds through TTR and then misappropriate substantial portions

of these funds for the benefit of Narayan and Harmon. Between May 26, 2011 and May 26, 2015, TTR raised approximately 7 million from its investors. Approximately $2.4 million of this money was misappropriated by Narayan and Harmon.

31. Even though the Defendants knew that TTR was a failing business that could not stay afloat on its own, they continued to raise funds in order to keep TTR—and thereby the scheme—afloat. They obscured the misappropriation of investor funds by mischaracterizing finder's fees paid to Narayan as either "director's fees" or "loans." They also orchestrated "lease" agreements through which funds were diverted to Harmon. Finally, they prolonged the scheme by creating fraudulent documents—sometimes backdated—and by making Ponzi-like payments in order to keep the scheme from collapsing.

i. The Defendants owned and/or controlled TTR.

32. TTR was founded in 2002. TTR licenses intellectual property that that lets fans reserve face-value tickets to high-demand sporting events whose teams are yet to be determined—college football bowl games, for example. Fans pay a fee for the right to reserve these tickets. Harmon has described TTR's business model as "monetizing anticipation" in a world in which "people spend a lot more time anticipating stuff than actually doing stuff."[2]

33. As TTR's CEO, Board Chairman, and controlling stockholder, Harmon directed all of its activities. Harmon was also a signer on all TTR bank accounts and had complete control over how TTR money was spent.

34. As detailed above, Narayan was on TTR's Board, owned over three million shares of TTR stock, and was TTR's primary fundraiser. As a result, Narayan exerted significant influence over TTR. He and Harmon regularly coordinated and directed TTR's activities.

[2] *See, e.g.*, http://www.chicagobusiness.com/article/20140830/ISSUE01/308309961/this-company-lets-you-reserve-a-seat-for-the-big-game

35. As TTR's COO, Kaptrosky was responsible for running its day-to-day operations. He reported to Harmon—who had the final say on all TTR business decisions. He also regularly conferred with Narayan on these decisions—including how investor money would be spent.

ii. The Defendants raised—and then misappropriated—funds from investors.

36. From 2011-16, Narayan continuously raised money for TTR. Harmon also raised money in mid to late 2011 as part of an offering of TTR's common stock ("the 2011 offering"). The fundraising was crucial, because without it TTR could not have survived.

37. As detailed below, these funds were supposed to be used to help grow TTR's business. Instead, funds were systematically misappropriated. Approximately $1.8 million was diverted to Narayan as finder's fees. Another $544,800.00 was diverted to Harmon as follows: (1) $204,500.00 to pay for Harmon's condo in Palm Springs; (2) $170,800.00 to pay for his residence at the Four Seasons in Austin; and (3) $169,500.00 paid directly to Harmon out of the 2011 offering.

38. Between May 26, 2011 and the end of that year, TTR raised at least $446,000 in the 2011 offering. This money was supposed to be invested in TTR's business. Instead, at Harmon's direction, virtually all of it was misappropriated. Harmon received $169,500.00 in misappropriated funds. Narayan received $30,000.00. Other large expenditures included roughly $64,000 for delinquent payroll taxes and $119,000 for payroll.

39. Harmon also misappropriated investor funds through two "lease" agreements. The first was a lease on a vacation condo in Palm Springs, California (the "Palm Springs condo"). The second was a lease on a condo at the Four Seasons Residences in Austin, Texas (the "Four Seasons condo").

40. In January 2012, Harmon arranged to lease the Palm Springs condo—which he

owns—to TTR. He directed Kaptrosky to sign the lease on behalf of TTR, which Kaptrosky did. The lease provided that TTR would pay Harmon $2,500 per month. In January 2013, Harmon amended the lease to increase TTR's rent to $5,000. Between July 2011 and February 2016, TTR paid Harmon at least $204,500.00 under this lease. Kaptrosky made these payments at Harmon's direction.

41. This arrangement had no legitimate business purpose. Harmon, who controlled TTR, was essentially leasing a home from himself. Therefore, the lease was merely a vehicle to allow Harmon to divert money from TTR's investors to himself.

42. At Harmon's direction, TTR entered into a similar fraudulent lease involving the Four Seasons condo. Harmon set up this lease in January 2012. It was between the owner of the condo as lessor and TTR[3] c/o Rick Harmon as lessee. The lease was extended twice—through amendments in June 2014 and March 2014. Harmon executed the lease and amendments as TTR's CEO. Between March 2012 and October 2013, TTR paid $170,800.00 under the lease. Kaptrosky made these payments at Harmon's direction.

43. Again, this lease was merely a vehicle for Harmon to enrich himself at the expense of TTR's investors. Harmon used the Four Seasons condo as his personal residence while at the same time maintaining an office at TTR's Lake Forest, IL headquarters.

44. From June 2011 through the end of 2016, Narayan received at least $1.5 million in misappropriated investor funds. Harmon directed TTR to pay these finder's fees to Narayan in exchange for Narayan directing his clients' funds to TTR. Ultimately, TTR redirected to Narayan over 5% of the funds Narayan's advisory clients invested in TTR.

45. In Harmon's words, these funds were "turned around" from Narayan's clients. In

[3] Technically, the lease named Forward Markets Media—an affiliate of TTR—as tenant.

an October 2014 e-mail from Harmon to Narayan and Kaptrosky, he cautioned that in order to make these payments appear "kosher," the men needed to be careful that they were not "'turning around' more than 10%" of the client funds. Later, in a November 2014 email from Harmon to Kaptrosky, Harmon describes payments to Narayan as "Ash money in/money out." And in January 2015, Harmon reiterated in an email to Narayan and Kaptrosky that "[w]e have addressed the matter of % amount of net funds wired back to [Narayan] before, and that number is 10%."

iii. The Defendants engaged in other deceptive conduct at part of the scheme.

46. Aside from misappropriating over $2 million from investors as part of the scheme, the Defendants also engaged in other deceptive conduct. For instance, the Defendants tried to obscure the undisclosed finder's fees through the use of sham promissory notes or by mischaracterizing them as "director fees." They also backdated documents in order to allow TTR to survive annual audits. And they made Ponzi-like payments—in which older investors were paid off using funds from newer investors—to keep TTR from failing and thereby prolong the scheme. Finally, the Defendants entered into an agreement under which Narayan redirected fraud proceeds back to TTR to keep it afloat.

47. As noted above, Narayan was regularly paid finder's fees—often using client funds. At least in part because Narayan never disclosed the finder's fees to his clients, he, Harmon, and Kaptrosky knowingly or recklessly took affirmative steps to conceal the payments.

48. The TTR Board—which consisted of Narayan, Harmon, and one other person—voted to pay Narayan $1 million as a "director's fee." During the SEC's investigation of this matter, Harmon testified that Narayan was the only one who received director's fees, and that the fact that Narayan was the source of as much as 90% of TTR's capital was "certainly" a factor in

him receiving fees. Thus, the "director's fees" were nothing more than thinly-veiled finder's fees.

49. At other times, however, the TTR payments to Narayan were no longer finder's fees or director's fees, but "loans." This characterization had the additional effect of obscuring the finder's fees. The "loans" began at least at early as 2011.

50. At Narayan's and Harmon's direction and with their knowledge, Kaptrosky drafted promissory notes to memorialize the sham loans. They did this, at least in part, to survive TTR's annual audits. Each year, when Narayan had received additional undisclosed fees—even after they exceed the $1 million "director's fee"—Narayan, Harmon, and Kaptrosky simply drafted a new promissory note reflecting the fees paid to date. These notes were sometimes backdated. All of the finder's fee payments were ultimately characterized as $1,848,000 in loans to Narayan.

51. In reality, these loans were a sham. As Narayan, Harmon, and Kaptrosky knew or were reckless in not knowing, the loan documents were designed to: (1) allow TTR to survive its annual audits; (2) conceal the true nature of the payments to Narayan; and (3) help Narayan avoid taxes. At the very least, it was unreasonable for the Defendants to participate in this arrangement.

52. Narayan never made a single payment on the "loans" until early 2016—when he had been dismissed by RGT and had become aware that he was being investigated by the SEC. At that time, TTR and Narayan entered into an agreement purportedly requiring him to finally repay the sham loans. The agreement included a $1,000,000 setoff for the "director's fees." This agreement was nothing more than an after-the-fact attempt to cover up the fraudulent conduct and to keep TTR afloat once the Narayan funding had dried up.

53. Narayan paid $350,000 under this agreement. These funds were used to pay for TTR's ongoing expenses—including expenses and/or salaries for Harmon and Kaptrosky.

54. Harmon and Narayan directed TTR to make fraudulent Ponzi-like payments, in which older investments were paid off with funds from new investments. Examples include:

- on August 7-8, 2014, a payment was made in which over $2.6 million in funds from Client Two and another Narayan client were sent to Client One's wife;
- on January 9-12, 2015, a payment was made in which $350,000 in funds from Client Two were sent to Client Three;[4] and
- On January 26-27, 2016, a payment was made in which $2 million in funds from Client Three were sent to Client One.

55. These fraudulent payments were made in order to prolong the scheme—both because existing investors may have demanded their principal back if they had known TTR's true financial condition and because new investors would not have invested. This would have cut off TTR's lifeblood, the flow of new funds. For example, the August 2014 payment was made when Client One was demanding the proceeds of his TTR investments. As Harmon and Narayan knew, TTR did not have sufficient funds. Thus, they arranged to pay off Client One with funds from Client Two. Had they not done this, the scheme would have likely collapsed—which would have meant that they would have no longer been able to misappropriate money from TTR.

56. Harmon knowingly, recklessly, negligently, or unreasonably directed these fraudulent payments. TTR internal documents—including contemporaneous emails—show that he directed Kaptrosky to make them, which Kaptrosky did.

57. As part of the same transaction in which Client One was paid off with funds from Client Two, the Defendants created and executed backdated documents to prolong the scheme. In July 2014, with Client One demanding payment, Narayan directed Harmon and Kaptrosky to

[4] Narayan also received $92,500 of these funds.

create a promissory note—backdated to January 1, 2014—covering Client One's TTR investment. Among other things, the amended note extended the due date on the note—since Client One had not been repaid the millions TTR owed him. Kaptrosky complied—creating the backdated note, executing it on TTR's behalf, and sending it to Narayan for execution.

58. Narayan ultimately transferred approximately $27 million in client funds to TTR from June 2011 through December 2016. In many instances, he did this without his clients' knowledge or consent. By doing this, Narayan abused his clients' trust and the discretion they gave him to manage their investments. For example, he repeatedly did this with investments he managed for Client One, Client Two, and Client Three.

59. In the instances where the investments were authorized, the client agreed only to make a small investment. In Client One's case, he agreed in 2010 only to make a small investment in TTR of no more than $300,000. After that, Narayan directed over $7 million to TTR without Client One's consent.

60. Client Three agreed to invest only $100,000. Instead, Narayan directed over $7 million of Client Two's funds to TTR. Since learning about the unauthorized investments, Client Three has confirmed that Narayan made the investments using signatures that were forged, faked, obtained without his knowledge, or copied from other documents without his consent.

61. Client Two never authorized a single TTR investment—and had never even heard of TTR until February 2016. It was at that time that Client One called Client Two to tell him that Narayan had been fired and that he had been making unauthorized investments in TTR. Client Two has since confirmed that Narayan made unauthorized investments in TTR using signatures that were forged, faked, or copied from other documents without Client Two's consent.

III. THE DEFENDANTS MADE MATERIAL MISREPRESENTATIONS TO INVESTORS DURING THE COURSE OF CARRYING OUT THE SCHEME.

i. The Defendants misled investors regarding the true state of TTR's business and how investor funds would be spent.

62. The Defendants portrayed TTR as a successful and profitable business. But as they knew or were reckless in not knowing, TTR had been in severe financial distress for years. TTR's financial statements for 2012-15 showed:[5]

Year	Operating Loss	Operating Cash Flow	Cumulative Net Equity
2012	-$3,434,438	-$4,446,197	-$27,211,469
2013	-$3,725,808	-$3,258,049	-$33,296,152
2014	-$4,275,064	Not available	-$40,562,593
2015	-$3,252,336	Not available	-$47,129,702

63. As the Defendants also knew or were reckless in not knowing, in both 2012 and 2013, the company's external auditor issued an adverse opinion regarding TTR's ability to continue as a going concern. This reflected the auditor's substantial doubt that TTR would be able to meet its current and future financial obligations. Harmon himself may have summarized TTR's financial condition best in a May 26, 2014 email to Narayan: "To be sure our revenue sucks. Our balance sheet is a disaster."

64. Only Narayan's ability to keep injecting investor funds into TTR kept it afloat. As noted in TTR's 2012-13 financial statement notes, which Narayan, Harmon, and Kaptrosky saw:

[5] In addition, TTR's QuickBooks accounting system shows a $6,428,001 operating loss in 2010 on $36,296 in revenues and a $6,067,829 operating loss in 2011 on $440,745 in revenue.

> Management has also provided correspondence from a shareholder/board member [Narayan] who has a highly successful record of raising additional capital to fund operations, that he will again raise the capital necessary to meet the Companies' obligations. However, without a firm commitment for additional capital and firm commitments from the debt holders of their intentions to forego payment within the next twelve months, there is substantial doubt if the Companies will be able to meet their current and future obligations.

65. Given its precarious financial position throughout the relevant period, investments in TTR posed considerable risk to investors. Yet the Defendants knowingly, recklessly, negligently, or unreasonably failed to inform them about this risk. In fact, they did just the opposite—falsely portraying TTR as a profitable company and a good investment.

66. For example, the Defendants misled investors during the 2011 offering. That offering utilized documents, including a Private Placement Memorandum ("PPM") and a Confidential Information Memorandum ("CIM"). Harmon drafted these documents and had the final say on all information in them. Narayan also had input on them.

67. Among other things, the PPM stated:

- "For more than seven years, the Company has successfully deployed its technology with prestigious Rights Holders, including the NCAA, the Bowl Championship Series, Major League Baseball, The Kentucky Derby, the National Basketball Association and others to achieve significant profit streams – tens of millions of dollars for its clients."
- "In the Company's initial growth phase, successful marketplaces were driven by the proven FORWARD MARKET transactional capabilities of TTR."
- "***Today, the Company's business and its value proposition are rooted on two fundamental cornerstones. The first is its traditional strength: its extraordinary ability to monetize contingency-based rights and options on Forward Market***

content for Rights Holders. The second is its ability to support the content imperative. These two Company strengths enable large value with minimal investment for its licensees." (emphasis in original)

- "Successful Transition to High-Margin SaaS Model – In its early proof-of-concept stages, the Company was required to deliver its capabilities to Rights Holders by hosting FORWARD MARKETS on TTR's own consumer-facing website. Today, the Company licenses its software in a SaaS model to enable licensees to host FORWARD MARKETS on their own branded high-traffic sites. This model is a high-margin, highly scalable business that leverages the Company's intellectual property and its business partners' brands, audiences, Web traffic, and other digital media initiatives."
- "[...T]he Company's licensing royalty fee has been established at 25 percent of FORWARD MARKET revenues (net of credit card processing fees) and is therefore a revenue pricing model portends rapidly growing revenue, free cash flow and EBITDA."

68. The PPM also stated under the heading "Use of Proceeds" that proceeds of the offering would be invested in TTR's business to: (1) retire debt; (2) expand TTR's base of licensees; (3) redeem former retail user accounts; and (4) expand and litigate TTR's intellectual property.

69. In addition, the PPM contained a chart with the following information:

TTR Financial Forecast Summary			
	2011 (In Thousands)	2012 (In Thousands)	Forward 12 Months (In Thousands)
Gross Revenue	5,880	16,963	9,611
Operating Expenses	3,000	4,220	3,309
EBITDA	2,879	12,743	6,302

TTR "Implied" Enterprise Value		
TTR EV Based on Summary Statistics	**EV/Forward 12 Months Revenue (In Thousands)**	**EV/Forward 12 Months EBIDTA (In Thousands)**
High	$ 128,799	$ 270,997
Low	35,563	164,488
Median	78,176	223,520

70. The CIM contained similarly positive information about TTR, including:

- "Here is a snapshot of the historical data from the actual financial results generated by the BCS National Championship FORWARD MARKET (2008, The Sugar Bowl). The numbers captured below[6] represent the Company's early phase "retail" D2C [direct-to-consumer] proof-of-concept stage. The Company believes, and clear evidence is emerging, that today's B2B [business-to-business] models as more fully described in this Memorandum, these numbers should increase[.]"
- "The Company has achieved the following key milestones: [. . .] Demonstrated the Platform's functionality and economics to the most respected Rights Holders in sports and entertainment, including Major League Baseball[.]"

[6] See chart in following paragraph.

71. The CIM also contained the following chart regarding its BCS marketplace:

2008 BCS National Championship Marketplace Summary

Revenue Summary: *	
Initial Issuance Revenue (Initial sale of Dibz Contract)	$1,985,209
Trading Fee Revenue	$343,411
Total Revenue	$2,328,620
DIBZ # of Contracts Summary:	
# of Dibz Initially Sold	27,356
# of Dibz Traded	14,012
Total DIBZ Traded	41,368
Data Highlights:	
Average Initial Issuance price *	$73
# of Unique Users Transacting in the Marketplace	4,349
Average # of Dibz per Transaction	5.65
Highest Trading Price	$906 (OSU)
Lowest Trading Price	$5 (Multiple)
Most Active Team (Total Buy #)	OSU - 5,115
# Teams Sold Out	8

*Does not include face-value ticket cost

72. And the CIM contained the following chart regarding its MLB market:

2011 MLB Playoff Market Projection

# Of Team in MLB	30
# Of Seats per team	1,000
# Of Contingent Postseason Home Games	11
# Of Forward Contracts	**330,000**
Initial Issuance Revenue	
Average Initial Issuance Price	$40.00
% Sold at Initial Issuance *	40%
Total Issuance Revenue	**$5,280,000**

**While all Yankee and Red Sox Dibz will sell immediately at market opening, certain other teams may not. As the season progresses, if underdogs do well, they may subsequently sell. For purposes of conservative forecast, the revenue from this factor is not included, thus the calculation of 40% sell through at market opening.*

Trading Revenue	
Average Secondary Trading Price	$70.00
% Traded	200%
# Of Dibz Traded	264,000
Average Seats Per Trade	2
# of Trades	**132,000**
Trades Fee *	$23.80
Total Trading Revenue	**$3,141,600**

**In a secondary trade of a Dibz contract between 2 users, the seller of the Dibz contract pays a 10% of gross trade value trading fee and the buyer pays 7%. So if a buyer at the opening paid $100 for the Yankees in game 1 of the World Series, and the market went to $500 during the course of the season, and the original buyer of the Dibz then sold it in a secondary trade, then he would pay a $50 trading fee and the buyer would pay $35.*

TOTAL REVENUE	**$8,421,600**

73. Harmon directed Kaptrosky to send the PPM to a group of investors as part of the 2011 offering. Acting at Harmon's direction, Kaptrosky did so.

74. Harmon also directly solicited investors. For example, Harmon sent the PPM and CIM to a prospective investor on May 30, 2011. The investor ultimately bought 100,000 shares of stock for $46,000. This money was largely or completely misappropriated—including for payments to various TTR employees, to law firms for activities unrelated to patent litigation, for

past-due payments to the NCAA, and for credit card payments.

75. As the Defendants knew or were reckless in not knowing, the PPM and CIM were littered with false and/or misleading information. At a minimum, the Defendants acted negligently or unreasonably in transmitting this information to prospective investors.

76. They knew that all of the positive statements regarding TTR's financial condition were false or misleading. As they knew, TTR's revenue in 2010 was approximately $36,000 against operating expenses of approximately $4.1 million. They also knew that TTR's cash situation was dire, and that the company did not have sufficient cash to make it through the month of June 2011. They knew this because it had been reported by Kaptrosky at a Board meeting on May 26, 2011—only four days before Harmon sent the documents to the investor. Yet Harmon kept this important information from the investor.

77. The Defendants also knew or were reckless in not knowing the charts shown above were false and/or misleading. TTR has no reasonable basis to forecast revenue between $5-$16 million in 2011-12—as its prior-year revenue was less than $50,000 and its markets were performing poorly. TTR also had no basis to expect the MLB market to yield $8 million in revenue in 2011; it had yielded less than $20,000 in revenue in 2010.[7] The 2008 BCS Marketplace Summary was also highly misleading—since, as the Defendants knew, those numbers were achieved under TTR's former business model. Under its new model, TTR's total 2010 revenue was only $50,000.

78. Finally, as the Defendants knew, the "Use of Proceeds" section was false or misleading. Kaptrosky had sent Harmon a detailed "Use of Proceeds" on April 19, 2011 that showed that incoming funds would be used for past-due taxes and penalties, legal fees, payroll,

[7] In an August 15, 2011 email, Harmon described the MLB market as "an economic dud."

and the company credit card—among other things. In addition, Kaptrosky briefed TTR's Board, including Harmon and Narayan, during the April 26, 2011 Board meeting—telling them that funds were needed for TTR's June corporate expenses. Thus, the Defendants knew that proceeds would not be invested in the business, as represented in the PPM.

ii. Narayan failed to disclose that he received over $1.5 million in finder's fees.

79. As TTR's internal records show, Narayan received a total of at least $1.5 million in finder's fees from TTR from June 2011 through the end of 2016. These fees were almost always paid to Narayan out of his clients' funds—as opposed to being invested in TTR's business.

80. Considering only the Client One, Client Two, and Client Three investments, Narayan received more than $1.5 million in undisclosed fees in exchange for directing over $30 million to TTR, as follows:

	Investments	Fees
Client One	$ 5,255,000	$ 543,193
Client Two	$ 15,105,000	$ 957,432
Client Three	$ 7,750,000	$ 23,682
Total	**$ 29,481,000**	**$ 1,523,000**

81. This arrangement was material—both because it created a conflict of interest and because client funds were being misappropriated and sent to Narayan rather than used to build TTR's business. Nonetheless, Narayan knowingly, recklessly, negligently, or unreasonably failed to disclose it to his clients.

iii. Narayan failed to disclose that he was a member of TTR's Board of Directors and a major TTR shareholder.

82. As noted above, Narayan has been on TTR's Board of Directors since at least 2003 and owned approximately 3 million shares of stock. This arrangement presented an actual or apparent conflict of interest since Narayan was also investing his clients' money in TTR.

83. Narayan knowingly, recklessly, negligently, or unreasonably failed to disclose these conflicts of interest to his clients. This information was material to Narayan's clients, as it would have been to any reasonable investor.

iv. Narayan failed to disclose that the TTR investments violated RGT's policies.

84. Throughout the time Narayan was employed by RGT, RGT maintained a Code of Ethics that describes the standards of conduct expected of all personnel. He agreed to comply with it. The Code of Ethics required Narayan to: (1) place the interests of clients above RGT's or any employee's interests; (2) disclose any activities that may create an actual or potential conflict of interest; and (3) disclose all material facts conflicts of interest. He was also required to obtain approval of RGT's Chief Compliance Officer ("CCO") prior to engaging in any outside business activity.

85. Narayan violated the Code of Ethics by failing to disclose the TTR business activity he was involved in. He further violated it by knowingly or recklessly failing to disclose to his clients (or to RGT) the many conflicts of interests created by the TTR arrangement.

86. Narayan knowingly, recklessly, negligently, or unreasonably failed to disclose his that he violated RGT's Code of Ethics—including by investing their money in TTR. This information was material to Narayan's clients, as it would have been to any reasonable investor.

IV. NARAYAN VIOLATED DUTIES TO HIS CLIENTS.

87. As noted above, as an investment adviser representative, Narayan was a fiduciary with duties to his clients. He had a duty to act with the utmost good faith and to fully and fairly disclose all material facts. He had a duty to disclose all actual and apparent conflicts of interest and to put his clients' interests above his own. And he had a duty to provide suitable investment advice.

88. In addition to all of his deceptive conduct, Narayan violated each of these duties. As detailed above, he consistently failed to disclose material facts—including conflicts of interest. He also placed his own interests above those of his clients.

89. Finally, he heavily concentrated clients—including Client One, Client Two, and Client Three—in investments in a high-risk, flailing, and debt-ridden private company. He did this despite the fact that these investors had explicitly directed him to pursue low-risk investment strategies—something he agreed to do. He also did this in spite of the fact that each of these investors is unique in that, as a professional athlete, he has a very short earnings window. By doing so, he violated his duty to provide suitable investment advice.

FIRST CLAIM
(Against Harmon, Narayan, and TTR)
Violations of 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]

90. Plaintiff SEC realleges and incorporates by reference paragraphs 1 through 89 of this Complaint as if set forth verbatim.

91. Defendants Harmon, Narayan, and TTR, by engaging in the conduct described above, directly or indirectly, singly or in concert with others, in connection with the purchase or sale of a security, by the use of means or instrumentalities of interstate commerce, or of the mails, or of the facilities of a national securities exchange, knowingly or recklessly:

a. employed a device, scheme, or artifice to defraud; and/or

b. made an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and/or

c. engaged in an act, practice, or course of business which operated or would operate as a fraud or deceit upon a person.

92. Accordingly, each of these Defendants 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].

SECOND CLAIM
(Against Harmon, Narayan, and TTR)
Violations of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)]

93. Plaintiff SEC realleges and incorporates by reference paragraphs 1 through 89 of this Complaint as if set forth verbatim.

94. Defendants Harmon, Narayan, and TTR, by engaging in the conduct above, singly or in concert with others, in the offer or sale of securities, by the use of means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

a. knowingly or recklessly employed a device, scheme, or artifice to defraud; and/or

b. knowingly, recklessly, or negligently obtained money or property by means of an untrue statement of a material fact or an omission 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; and/or

c. knowingly, recklessly, or negligently engaged in a transaction, practice, or course of business which operated or would operate as a fraud or deceit upon the purchaser.

95. Accordingly, each of these Defendants violated, and unless enjoined, will continue to violate Section 17(a)(1) and (3) of the Securities Act [15 U.S.C. § 77q(a)].

THIRD CLAIM
(Against Harmon)
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]

96. Plaintiff SEC realleges and incorporates by reference paragraphs 1 through 89 of this Complaint as if set forth verbatim.

97. Defendant Harmon, by engaging in the conduct described above, directly or indirectly, singly or in concert with others, in connection with the purchase or sale of a security, by the use of means or instrumentalities of interstate commerce, or of the mails, or of the facilities of a national securities exchange, knowingly or recklessly aided and abetted Narayan and TTR when they made an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

98. Accordingly, Harmon aided and abetted violations of, and unless restrained and 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].

FOURTH CLAIM
(Against Harmon)
Aiding and Abetting Violations of Section 17(a)(2) of the Securities Act [15 U.S.C. § 77q(a)]

99. Plaintiff SEC realleges and incorporates by reference paragraphs 1 through 89 of this Complaint as if set forth verbatim.

100. Defendant Harmon, by engaging in the conduct above, singly or in concert with others, in the offer or sale of securities, by the use of means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly aided and abetted Narayan and TTR when they knowingly, recklessly, or negligently obtained money or property by means of an untrue statement of a material fact or an omission 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.

101. Accordingly, Harmon aided and abetted violations of, and unless enjoined, will continue to aid and abet violations of Section 17(a)(2) of the Securities Act [15 U.S.C. § 77q(a)].

FIFTH CLAIM
(Against Narayan)
Violations of Sections 206(1) and 206(2) of the Advisers Act [[15 U.S.C. §§ 80b-6(1)-(2)])]

102. Plaintiff SEC realleges and incorporates by reference paragraphs 1 through 89 of this Complaint as if set forth verbatim.

103. Narayan, directly or indirectly, singly or in concert, knowingly or recklessly, through the use of the mails or any means or instrumentality of interstate commerce, while acting as an investment adviser within the meaning of Section 202(11) of the Advisers Act [15 U.S.C. § 80b-2(11)]:

a. has employed, is employing, or is about to employ devices, schemes, and artifices to defraud any client or prospective client; or

b. has engaged, is engaging in, or is about to engage in acts, practices, or courses of business which operates as a fraud or deceit upon any client or prospective client.

104. Accordingly, Defendant Narayan has violated, and unless enjoined, will continue

to violate Sections 206(1)-(2) of the Advisers Act [15 U.S.C. §§ 80b-6(1)-(2)].

SIXTH CLAIM
(Against Kaptrosky)
Aiding and Abetting Violations of 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]

105. Plaintiff SEC realleges and incorporates by reference paragraphs 1 through 89 of this Complaint as if set forth verbatim.

106. Defendant Kaptrosky, by engaging in the conduct described above, directly or indirectly, singly or in concert with others, in connection with the purchase or sale of a security, by the use of means or instrumentalities of interstate commerce, or of the mails, or of the facilities of a national securities exchange, knowingly or recklessly aided and abetted Harmon, Narayan, and TTR when they:

a. employed a device, scheme, or artifice to defraud; and/or

b. made an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and/or

c. engaged in an act, practice, or course of business which operated or would operate as a fraud or deceit upon a person.

107. Accordingly, Kaptrosky aided and abetted violations of, and unless restrained and 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 thereunder [17 C.F.R. § 240.10b-5].

SEVENTH CLAIM
(Against Kaptrosky)
Aiding and Abetting Violations of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)]

108. Plaintiff SEC realleges and incorporates by reference paragraphs 1 through 89 of this Complaint as if set forth verbatim.

109. Defendant Kaptrosky, by engaging in the conduct above, singly or in concert with others, in the offer or sale of securities, by the use of means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly aided and abetted Harmon, Narayan, and TTR when they:

a. knowingly or recklessly employed a device, scheme, or artifice to defraud; and/or

b. knowingly, recklessly, or negligently obtained money or property by means of an untrue statement of a material fact or an omission 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; and/or

c. knowingly, recklessly, or negligently engaged in a transaction, practice, or course of business which operated or would operate as a fraud or deceit upon the purchaser.

110. Accordingly, Kaptrosky aided and abetted violations of, and unless enjoined, will continue to aid and abet violations of Section 17(a)(1) and (3) of the Securities Act [15 U.S.C. § 77q(a)].

REQUEST FOR RELIEF

The SEC respectfully requests that this Court:

I.

Permanently enjoin each Defendant from further violations of the federal securities laws.

II.

Order each Defendant to disgorge an amount equal to the funds and benefits obtained illegally, or to which that Defendant otherwise has no legitimate claim, as a result of the

violations alleged, plus prejudgment interest on that amount.

III.

Order each Defendant to pay a civil penalty in an amount determined by the Court pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)] for the violations alleged herein.

IV.

Order such other relief as this Court may deem just and proper.

January 4, 2018

Respectfully submitted,

_/s/ Chris Davis_____
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CERTIFICATE OF SERVICE

I certify that on January 4, 2018, I electronically filed the foregoing document with the Clerk of the Court for the Northern District of Texas, Dallas Division, using the CM/ECF system. The electronic case filing system will send a "Notice of Electronic Filing" to all counsel of record who have consented in writing to accept service of by electronic means.

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