

trades placed by Barish between January 1, 2016 and July 31, 2019 were not preceded by a phone call. Given that Barish only communicated with customer through phone calls, this evidence shows widespread unauthorized trading by Barish.

FIRST CLAIM FOR RELIEF
Violations of Section 17(a) of the Securities Act

55. The Commission realleges and incorporates by reference herein each and every allegation contained in paragraphs 1 through 54, as if fully set forth herein.

56. The Defendant, directly or indirectly, singly or in concert, in the offer or sale of securities and by the use of the means or instruments of transportation or communication in interstate commerce or by use of the mails, knowingly or recklessly has: (a) employed devices, schemes, or artifices to defraud; (b) obtained money or property by means of untrue statements of a material fact or omissions of a material fact necessary in order to make the statement made, in light of the circumstances under which they were made, not misleading; and/or (c) engaged in transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon purchasers of securities and upon other persons.

57. The Defendant violated Section 17(a) of the Securities Act by, among other things, knowingly, recklessly or negligently making recommendations to customers with no reasonable basis to believe his recommendations were suitable for anyone; making recommendations to customers with no reasonable basis to believe his recommendations were suitable for his particular customers; making material misrepresentations to customers and omitting material information; and engaging in unauthorized trading.

58. By reason of the foregoing, the Defendant, directly or indirectly, singly or in concert, has violated, and unless enjoined, will again violate Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

SECOND CLAIM FOR RELIEF

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

59. The Commission realleges and incorporates by reference herein each and every allegation contained in paragraphs 1 through 54, as if fully set forth herein.

60. The Defendant, directly or indirectly, singly or in concert, in connection with the purchase or sale of securities and by the use of the means or instrumentalities of interstate commerce or of the mails, or of the facilities of a national securities exchange, knowingly or recklessly has: (a) employed devices, schemes, or artifices to defraud; (b) made untrue statements of a material fact or omitted to state a material fact necessary in order to make the statement made, in light of the circumstances under which they were made, not misleading; and/or (c) engaged in acts, transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon other persons.

61. The Defendant violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder by, among other things, knowingly or recklessly making recommendations to customers with no reasonable basis to believe his recommendations were suitable for anyone; making recommendations to customers with no reasonable basis to believe his recommendations were suitable for his particular customers; making material misrepresentations to customers and omitting material information; and engaging in unauthorized trading.

62. By reason of the foregoing, the Defendant, directly or indirectly, singly or in concert, has violated, and unless enjoined, will again 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].

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court enter a Final Judgment:

I.

Permanently enjoining the Defendant from committing, aiding and abetting or otherwise engaging in conduct that would make him liable for the violations of the federal securities laws alleged in this complaint.

II.

Ordering the Defendant to disgorge any ill-gotten gains and to pay prejudgment interest on those amounts.

III.

Ordering the Defendant to pay civil monetary penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)].

IV.

Granting such other and further relief as the Court may deem just and proper.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands trial by jury in this action of all issues so triable.

Dated: New York, New York
August 13, 2020

Respectfully submitted,

By: /s/ Marc P. Berger
Marc P. Berger
Sanjay Wadhwa
Sandeep Satwalekar
David Stoelting
Tuongvy T. Le
Attorneys for Plaintiff
U.S. Securities and Exchange Commission
New York Regional Office
200 Vesey Street, Suite 400
New York, New York 10281-1022
Tel: (212) 336-0174 (Stoelting)
Email: stoeltingd@sec.gov

ATTACHMENT

Customer	Annual Cost / Equity Ratio	Annualized Turnover	Average Equity ¹	Total Purchases	Total Costs	Total Loss	Weighted Days Held ²	Account Period	
								Beginning	End
1	122.7%	62.3	\$23,411	\$599,540	\$11,808	\$(10,922)	11.8	10/01/16	02/28/17
2	64.1%	38.5	28,276	3,172,095	52,807	(35,616)	15.4	09/01/16	07/31/19
3	47.6%	19.7	22,124	1,414,148	34,183	(9,159)	26.5	05/01/16	07/31/19
4	67.1%	29.8	20,533	2,040,753	45,958	(35,100)	19.8	06/01/13	09/30/16
5	56.8%	31.5	42,963	4,396,202	79,259	(28,886)	16.3	05/01/16	07/31/19
6	38.3%	20.2	40,507	1,365,676	25,854	(60,266)	20.8	10/01/14	05/31/16
7	51.5%	35.4	76,259	9,210,421	134,084	(94,771)	15.4	03/01/16	07/31/19
8	22.2%	11.8	68,449	2,624,851	49,520	(108,112)	30.5	03/01/13	05/31/16
9	48.3%	27.6	64,275	2,514,739	43,973	(10,397)	23.0	03/01/18	07/31/19
10	47.8%	27.1	35,860	1,941,605	34,206	(46,182)	28.2	08/01/17	07/31/19
11	11.8%	9.9	92,859	4,381,999	52,302	(199,790)	53.9	03/01/13	11/30/17
12	31.7%	22.7	103,734	6,057,746	84,785	(17,159)	25.9	01/01/17	07/31/19
13	47.9%	23.5	30,819	1,328,164	27,048	(28,342)	30.9	07/01/14	04/30/16
14	33.1%	17.2	16,806	576,468	11,140	(41,488)	49.3	02/01/15	01/31/17
15	80.0%	28.8	8,247	219,016	6,072	(6,953)	22.7	03/01/15	01/31/16
16	77.6%	44.0	33,690	5,808,043	102,310	(81,366)	15.1	09/01/15	07/31/19
Total:			\$301,636	\$47,651,466	\$795,307	\$(814,509)			
Average:	41.1%	24.6					23.6		

¹ “Average Equity” is an average of the net portfolio value amounts listed in the customers’ monthly account statement.

² Weighted for investment size.