

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

ANTHONY P. POSTIGLIONE, JR.
WILLIAM J. LENNON,
FOUNTAINHEAD FUND, L.P., and
FOUNTAINHEAD ASSET MANAGEMENT, L.L.C.

Defendants.

Civil Action No.
04-CV-3604

COMPLAINT

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

SUMMARY

1. This matter involves antifraud violations committed by Anthony P. Postiglione, Jr. (“Postiglione”), and William J. Lennon (“Lennon”), sole shareholders of Fountainhead Asset Management, LLC (“FAM”), the general partner of, and unregistered investment adviser to, a hedge fund, Fountainhead Fund, LP (“the Fund”). From November 2001 through the present, Postiglione and Lennon have raised more than \$5 million for the Fund from at least 18 private investors.
2. Through a series of fraudulent acts, defendants Postiglione and Lennon, acting through FAM, have obtained assets fraudulently, have lulled investors into keeping their assets in the Fund, and have misused investor funds. During the course of this fraud,

Postiglione and Lennon also misappropriated several hundred thousand dollars of Fund assets for their personal use.

3. From the inception of the Fund through the present, Postiglione and Lennon have sent false quarterly statements and newsletters to investors, consistently overstating the Fund's value and performance. In addition, they have overstated the amount of Postiglione's investment in the Fund and the Fund's performance in order to lure new investment.

4. Further, in violation of their fiduciary duties to their clients, Postiglione and Lennon excessively traded several Fund securities accounts for the sole purpose of generating soft dollar credits, which they then withdrew as cash and used for, among other things, their own personal living expenses.

5. By knowingly or recklessly engaging in the conduct described in this Complaint, defendants Postiglione, Lennon, FAM, and the Fund violated, and unless restrained and enjoined will continue to violate, Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)], Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)], and Rule 10b-5 [17 C.F.R. § 240.10b5], thereunder.

6. By knowingly or recklessly engaging in the conduct described in this Complaint, defendants Postiglione, Lennon, and FAM violated, and unless restrained and enjoined will continue to violate, Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 ("Advisers Act") [15 U.S.C. § 80b-6(1) and 80b-6(2)].

7. The Commission brings this action seeking to preliminarily and permanently enjoin the defendants from engaging in the wrongful conduct alleged herein. The

Commission also seeks a final judgment ordering the defendants to disgorge any ill-gotten gains and to pay prejudgment interest thereon, and ordering Postiglione, Lennon, and FAM to pay civil money penalties.

JURISDICTION AND VENUE

8. The Commission brings this action pursuant to Section 20(b) of the Securities Act [15 U.S.C. § 77t(b)], Sections 21(d) and (e) of the Exchange Act [15 U.S.C. §§ 78u(d) and (e)], and Sections 209(d) and (e) of the Advisers Act [15 U.S.C. §§ 80b-9(d) and (e)], to enjoin such acts, transactions, practices, and courses of business; obtain disgorgement and civil penalties; and for other appropriate relief.

9. This Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)], Section 27 of the Exchange Act [15 U.S.C. § 78aa], and Section 214 of the Advisers Act [15 U.S.C. § 80b-14].

10. Certain of the acts, transactions, practices, and courses of business constituting the violations alleged herein occurred within the Eastern District of Pennsylvania and elsewhere, and were effected, directly or indirectly, by making use of the means and instruments of transportation or communication in interstate commerce, or the means and instrumentalities of interstate commerce, or the mails, or the facilities of a national securities exchange.

DEFENDANTS

11. Anthony P. Postiglione, Jr., age 34, resides in Malvern, PA. Postiglione is a co-founder of the Fountainhead Fund, LP and Managing Partner and shareholder of the Fountainhead Asset Management, LLC, which is the general partner of the Fund.

Postiglione was previously employed by several broker-dealers and holds several securities licenses.

12. William J. Lennon, Jr., age 37, resides in Media, PA. Lennon is a co-founder of Fountainhead Fund, LP. During the relevant time period, Lennon was a Managing Partner and shareholder of Fountainhead Asset Management, LLC. In October 2003, Lennon and Postiglione agreed to transfer full control of FAM to Postiglione and to divide the assets of the Fund. Lennon, however, continued to advise and invest three Fund clients' investments. Prior to founding the Fund, Lennon was a registered representative working for a broker-dealer and he holds several securities licenses.

13. Fountainhead Asset Management, LLC, is a Pennsylvania limited liability company with its principal place of business located in Wayne, PA. It is the general partner of and investment adviser to the Fund, and has sole responsibility for the management of the Fund's business and investments. Postiglione and Lennon were the sole shareholders, members, and Managing Partners of FAM until October 2003, when their agreement was amended, leaving Postiglione as the sole shareholder and Managing Partner.

14. Fountainhead Fund, LP, is a Pennsylvania limited partnership created in October 2001, with its principal place of business located in Wayne, PA. FAM is the general partner of the Fund.

15. As investment advisers, Postiglione, Lennon, and FAM had a fiduciary duty to act at all times in the best interest of their clients – the Fund and its individual investors.

Accordingly, Postiglione, Lennon, and FAM had an affirmative obligation to act in the utmost good faith, and to provide full and fair disclosure of all material facts to their clients.

They further had an affirmative obligation to apply reasonable care to avoid misleading their

clients. At all time material hereto, defendant FAM acted through defendants Postiglione and Lennon; and defendant Fund acted through defendants Postiglione, Lennon, and FAM.

FACTS

Creation of the Hedge Fund By Postiglione and Lennon

16. Lennon, together with Postiglione, co-founded a hedge fund and called it the Fountainhead Fund LP, which commenced operations in or about November 2001.

17. Lennon and Postiglione also created Fountainhead Asset Management, LLC to act as the general partner of and investment adviser to the Fund. Lennon and Postiglione served as the Managing Partners, and were the only members, of FAM.

18. FAM had sole responsibility for the management of the Fund's business and investments and, under its agreement with the Fund, FAM was entitled to an annual management fee equal to one percent of each limited partner's assets, payable in quarterly installments, plus 20% of any profits.

19. At inception, it was understood that the Fund would be managed by both Postiglione and Lennon, equally, with Postiglione primarily responsible for sales, Lennon primarily responsible for researching investment opportunities, and investment decisions made jointly.

20. The Offering Circular indicated that the primary investment objectives of the Fund were "the preservation of capital and absolute returns."

21. From inception through calendar year 2003, Postiglione and Lennon raised approximately \$5 million from 18 investors. The investors included prior investment clients of both Postiglione and Lennon, as well as family members of Postiglione.

Postiglione and Lennon are personally invested in the Fund, approximately \$400,000 and \$18,000 respectively.

**Doomed From The Start:
Postiglione and Lennon Immediately Turn Investment Losses Into Fraud.**

22. From its inception, Postiglione and Lennon created false and misleading quarterly account statements and newsletters and sent these false statements to Fund investors. Investors never received a truthful picture of the status of their investments or of the Fund's performance, even on the couple of occasions when the Fund allegedly experienced positive results.

23. After suffering a loss in the first full quarter of the Fund's existence, Postiglione and Lennon determined to cover up their poor showing by deceiving their investors. Thus, they falsely reported a positive performance return in the quarterly account statements sent by the Fund to each investor and in all further and future communications with the Fund's limited partners.

24. The false performance figure was a completely arbitrary number devised by Postiglione and Lennon.

25. Thereafter, this fraudulent conduct continued, each and every calendar quarter, from the very first, to the present. Each quarter, investors received from the Fund an account statement, prepared by Lennon and Postiglione, reflecting the investor's initial investment, any additional contributions or disbursements, the fictional performance result devised by Lennon and Postiglione for the period, and the cumulative fictional performance result since inception.

26. It is believed and averred that the purpose of the false performance results Lennon and Postiglione concocted each and every calendar quarter was to keep their existing investors from withdrawing invested funds and to assist in the raising of new funds.

How Defendants Deceived Investors Each And Every Calendar Quarter

27. Once Postiglione and Lennon determined the fictitious performance figure for the quarter, Lennon reviewed each individual's investment and created an account statement that reflected that quarter's falsely positive performance result. Lennon also calculated each account's fabricated performance figure from initial investment to date.

28. In addition to the individual account statements, each quarter Fund investors received a newsletter prepared by Postiglione and signed by both Postiglione and Lennon as Managing Partners. The newsletter contained the Fund's false and inflated quarter-end performance, Postiglione's view of market conditions, and purported to recount the performance of various benchmark indices, including the S&P and the NASDAQ.

29. Remarkably, Postiglione even misrepresented to Fund investors the comparative index performance. For example, for the first quarter of 2004, the Fund newsletter stated that "the S&P 500 has returned a positive .89% and the Nasdaq was down approximately 3%." In fact, for that quarter, the S&P was up 1.72% and the Nasdaq was down 0.3%.

Defendants Arrange For False Tax Statements In Furtherance of Their Fraud

30. Postiglione and Lennon hired an accountant to prepare the Fund's 2002 tax return and year-end K-1 statements, which are sent to the limited partners for their own tax reporting purposes. Postiglione provided the accountant with spreadsheets that reflected, among other data, the false performance figures provided to Fund investors throughout

the year. In addition, the accountant requested and was given a signed certification that the financial information provided by the defendants was accurate.

31. The accountant prepared the K-1s and the tax return but was not retained to and did not perform an audit. As a result, Fund investors received 2002 K-1 statements inaccurately representing their actual investment and performance.

32. For calendar year 2003, the accountant refused to prepare the K-1s and tax return without third-party documentation. After conferring with Postiglione, Lennon accessed the Fund's on-line brokerage statements at Spear, Leeds & Kellogg, LP ("SLK"), which was then the Fund's prime broker and custodian of its funds, saved the on-line earnings information to his computer as an *.html* file, and opened the file using the software program Adobe. Lennon then proceeded to doctor the earnings information to match the false quarterly statements that had been sent to Fund investors.

33. Lennon's fabricated "third-party" documentation was then provided by the defendants to the accountant, along with a certification falsely confirming the veracity of the information. As a result, the accountant prepared the 2003 K-1 statements and the Fund's tax return based on false "third-party" documents created by Lennon.

**Current and Prospective Investors Were Duped and Lulled
By the Defendants With False Information.**

34. Fund investors were never provided with the means to corroborate information provided by Postiglione and Lennon, since investors did not receive brokerage account statements that detailed the Fund's transactions.

35. Instead, investors received only the representations of Lennon and Postiglione, as set forth in the individual quarterly statements and annual K-1s sent to them by the Fund.

Lennon and Postiglione told investors that their initial investments were growing steadily and many continued to invest additional funds on that basis.

36. Postiglione and Lennon also misrepresented the Fund's performance to both prospective and current investors by making oral misstatements in client meetings and, in at least one case, by providing a fabricated false quarterly statement to a prospective investor.

37. Postiglione and Lennon attended meetings together to pitch the Fund to prospective investors. At these meetings, they presented a PowerPoint presentation that provided general background information concerning the Fund's structure, investment process, and themselves. The presentation described their investment objectives as the "preservation of capital and absolute returns." Although the written presentation did not provide any performance figures, repeatedly and throughout the relevant time period, Postiglione orally told prospective investors that, "we've outperformed the S&P 500" when, in fact, he knew that the Fund was rapidly losing money.

38. In mid-to-late 2002, in an effort to secure a potentially large investor, in addition to his oral misrepresentations, Postiglione and Lennon misrepresented the performance of the Fund, as well as the amount of Postiglione's own vested interest, in a written document provided to that investor. The document was given to the investor at, or shortly following, a meeting with Postiglione and Lennon.

39. Postiglione falsified one of his own personal account statements to reflect a multiple of several times his actual investment, changing his \$400,000 actual investment into millions of dollars, and provided this fabricated account statement to this prospective investor.

40. In addition, this same falsified document also misstated the historical performance of the Fund, as it reflected the fraudulently inflated investment returns for that quarter, as well as overall fictional returns from the inception of the Fund.

41. After being provided with this false data about the Fund's results and about Postiglione's personal stake in the Fund, this investor invested over \$1 million in the Fund during the last quarter of 2002 and, then, relying on the false performance returns reflected on his own statement, contributed additional funds in 2003.

42. To this day, Postiglione and Lennon continue to misrepresent the performance of the Fund in hopes of maintaining current investors and attracting new investment. As of the date of this filing, Fund investors have no idea of the true status of their investments.

**Defendants Further Defrauded Their Investors By Concealing
Their Division of the Fund's Assets and the Change In Fund Management.**

43. In October 2003, due to Lennon's concern with the growing deficit between the actual and the inflated performance value and with Postiglione's increased assertion of control over investment decisions, Lennon and Postiglione agreed to divide their interests in FAM and in the Fund.

44. On October 9, 2003, Postiglione and Lennon entered into a series of contracts that divided the customer accounts giving each control of his own accounts, giving Lennon control of three clients, and giving Postiglione control of the remaining 15 clients. As a result, Postiglione became 100% owner of FAM and the sole Managing Partner of the Fund.

45. The agreements granted Postiglione control of 80% of the Fund assets and granted Lennon control of the remaining 20%. This division was intended to approximate the value of the assets of the clients that each man had brought into the Fund.

46. Postiglione and Lennon opened a sub-account at SLK called Fountainhead Fund II. Approximately 20% of the Fund assets were moved into that subaccount for Lennon to separately manage.

47. On or about June 2004, after being asked by SLK to take his brokerage accounts elsewhere, possibly because of excessive margin calls, Postiglione transferred his portion of the Fund assets to Bear Stearns. Since Bear Stearns does not permit sub-accounts, Lennon was unable to continue the sub-account practice and, so, he transferred his portion of the Fund assets to Terra Nova Trading. Both the Bear Stearns and the Terra Nova Trading accounts are entitled Fountainhead Fund. Only Postiglione can trade in the Bear Sterns account and only Lennon can trade in the Terra Nova Trading account.

48. As of July 23, 2004, the balance in Lennon's Terra Nova Trading account was only \$137,603.

49. As of June 30, 2004, Postiglione had assets worth \$2,540,979 in the Bear Stearns account. However, as of July 28, 2004, the asset balance in the Postiglione Fund account had plummeted to only \$1,645,825.

50. Fund investors have not been told, either by Lennon or Postiglione, of the change in management or that some Fund assets have been segregated and placed into a different account. These defendants continue to falsely represent that they jointly manage the Fund.

51. For example, for the quarter ended December 31, 2003, after the management changes had occurred, Postiglione and Lennon sent a jointly signed newsletter prepared by Postiglione to each of the Fund investors for which they were responsible.

52. Lennon used the newsletter drafted by Postiglione and made an adjustment to the performance return before sending it to his clients. Lennon did not provide an accurate performance return but he did provide a false performance figure different from that used by Postiglione.

53. After the management change, Postiglione became more creative in his false reporting of the Fund's performance. Rather than report the same false performance results to all of his clients, higher false returns were reported to those clients he believed were more likely to withdraw their investment.

54. In late January 2004, after the change in management, Postiglione and Lennon met with one of Lennon's clients, who was considering withdrawing his investment. At the meeting, Postiglione falsely reassured the investor that the Fund had changed its investment strategy to be more aggressive. Neither Lennon nor Postiglione disclosed to this investor that Lennon was no longer a Managing Partner of the Fund, that the investor's money was no longer being jointly managed, or that his money had actually been withdrawn from and, thus, was no longer invested within the total Fund pool.

55. During or shortly after this meeting, this investor decided not to withdraw his investment.

56. At the end of the first quarter 2004, in an effort to mitigate the size of the deficit between the actual account balances and the fraudulent reports, Lennon prepared individual quarterly reports for his clients that reflected a 9.89% decrease in performance. Unlike prior quarterly statements, in this statement, Lennon overstated the loss for that quarter.

57. In addition, Lennon used Postiglione's first quarter newsletter and inserted his own false performance value to distribute to his investors. This was the first time a newsletter was sent to investors that was signed only by Lennon; however, still no mention was made of the management change.

58. Postiglione also misrepresented to his clients the amount of the Fund's loss for the first quarter of 2004, like Lennon, taking the opportunity to reduce the enormous deficit between real and actual performance by overstating his loss.

Disbursements to Investors Further Perpetuate the Fraud.

59. The Offering Circular prohibits investors from making withdrawals for one year from their investment. Several investors, though, following this period of limitation, have taken required mandatory distributions from their accounts. In addition, some investors have taken more occasional withdrawals. These withdrawals from the Fund by investors continue on an irregular basis.

60. After the first quarter of 2004, Lennon contacted the same client who, in January, had met with Lennon and Postiglione about his interest in withdrawing some of his investment, and suggested that he now withdraw funds, in light of the quarter's losses. That investor withdrew \$268,000, believing that he was leaving the remainder of his investment in the Fund, when, in fact, what was left of his investment was in Lennon's Terra Nova Trading account.

61. Once the fraudulent scheme commenced, every disbursement made to investors has been made to the detriment of other investors who have not withdrawn as much, or any part, of their investments. Given hemorrhaging losses, coupled with the misappropriations of Fund assets, discussed further below, there simply will not be

enough money for every investor to withdraw the amount of their original investment, much less to withdraw what these investors have been told is in their accounts.

**Postiglione and Lennon Further Defrauded Investors
By Excessively Trading and Misappropriating Fund Assets.**

a. Excessive Trading to Generate Cash

62. Postiglione and Lennon conducted the Fund's trading at various brokerage firms, several of which provided them with the use of soft dollar accounts.

63. "Soft dollar practices" are arrangements under which products or services are obtained by an investment adviser from or through a broker-dealer in exchange for the adviser's direction of brokerage transactions to the providing broker-dealer. Soft dollar credits can be advanced in anticipation of future brokerage business. Although soft dollars are typically used to pay for investment research, brokers will often permit soft dollars to be used for any reason, including cash payments to the investment adviser.

64. These soft dollar accounts provided Postiglione and Lennon with additional cash for their use. Postiglione secured soft dollar accounts with various firms, including: Jeffco, Schwab Capital, VanDam Securities, Direct Trade, and Donaldson & Co.

65. Postiglione withdrew approximately \$450,000 from these various soft dollar accounts to pay expenses incurred in connection with the operation of the Fund, as well as to cover personal expenses, like personal credit card bills, personal legal expenses, and personal household expenses. Lennon, too, used part of these funds for his own personal expenses.

66. Postiglione excessively traded in the Fund's brokerage accounts to generate commissions that would, in turn, generate soft dollar credits that he then used to pay down the amounts withdrawn from the soft dollar accounts, in essence "churning the

account,” for the sole purpose of generating more disposable cash, to spend as he and Lennon needed. The more active the trading, the greater the commissions generated for broker-dealers, and the more soft dollar credits obtained by Postiglione and Lennon.

67. Based on soft dollar credits earned on commissions generated, Postiglione had reduced the \$450,000 obligation owed to Jeffco, Schwab Capital, VanDam Securities, Direct Trade, and Donaldson to about \$225,000 by July 2004.

68. However, in addition, Postiglione withdrew \$125,000 from yet another soft dollar account, this one at SLK, and Lennon also recently withdrew \$50-75,000 from that same SLK soft dollar account.

69. Neither Lennon nor Postiglione had the soft dollar credits at SLK to cover this amount of withdrawals. Therefore, SLK would anticipate the eventual generation of additional commissions to cover any amounts advanced against future transactions.

70. If this unlawful conduct continues unabated, the generation of these commissions will undoubtedly continue to be at the expense of sound investment practice and, thus, will further reduce the value of Fund assets.

b. Outright Misappropriation of Fund Assets

71. The Offering Circular provided that FAM was to receive an annual fee of one percent of the assets of the limited partners, payable in quarterly installments, plus twenty percent of any profits.

72. The Fund has never had a profit.

73. Rather than take the management fee provided under the Offering Circular, from the inception of the Fund and continuing into the present, Postiglione and Lennon have

taken weekly cash withdrawals from Fund assets amounting to hundreds of thousands of dollars, far in excess of any amounts reasonably anticipated by investors.

74. Postiglione and Lennon each withdrew from Fund accounts \$1,000 per week in 2002, increasing to \$1,500 per week in 2003.

75. However, following the division of Fund assets in October 2003, Postiglione began taking as much as \$4,000 per week from Fund accounts.

76. Thus, in addition to taking money from investors under false pretenses, lying – both orally and in written materials sent to investors – in order to lull investors to keep their investments in place and make new investments, excessively trading the investment accounts to generate soft dollar credits which they withdrew as cash for their own personal use, Postiglione and Lennon also simply misappropriated cash from their investors.

FIRST CLAIM FOR RELIEF

Violations of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder

Against All Defendants

77. The Commission realleges and incorporates by reference each and every allegation in paragraphs 1 through 76, inclusive, as if the same were fully set forth herein.

78. From at least October 2001 and continuing through the present time, Postiglione, Lennon, FAM, and the Fund knowingly or recklessly, in connection with the offer, purchase, or sale of securities, directly or indirectly, by use of the means or instruments of transportation or communication in interstate commerce, or the means or

instrumentalities of interstate commerce, or the mails, or the facilities of a national securities exchange:

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

(b) obtained money or property by means of, or made untrue statements of material fact, or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and

(c) engaged in acts, transactions, practices, or courses of business that operated as a fraud or deceit upon offerees, purchasers, and prospective purchasers of securities.

79. By engaging in the foregoing conduct, Postiglione, Lennon, FAM, and the Fund violated Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Rule 10b-5 [17 C.F.R. § 240.10b5], thereunder.

SECOND CLAIM FOR RELIEF

Violations of Sections 206(1) and 206(2) of the Advisers Act

Against Postiglione, Lennon, and FAM

80. The Commission realleges and incorporates by reference each and every allegation in paragraphs 1 through 79, inclusive, as if the same were fully set forth herein.

81. Defendants Postiglione, Lennon, and FAM acted as investment advisers to the Fund. For compensation, they engaged in the business of advising the Fund and its investors, directly and through publications and writings, as to the value of securities and as to the advisability of investing in, purchasing, or selling securities.

82. From at least October 2001 and continuing through to the present time, defendants Postiglione, Lennon, and FAM made use of the means and instrumentalities of interstate commerce and of the mails while acting as investment advisers.

83. From at least October 2001 and continuing through to the present time, defendants Postiglione, Lennon, and FAM, directly or indirectly, by use of the mails and means and instrumentalities of interstate commerce, employed devices, schemes, and artifices to defraud investment advisory clients, and engaged in transactions, practices and courses of business which operated as a fraud and deceit upon such clients.

84. By reason of the foregoing, defendants Postiglione, Lennon, and FAM have violated Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §§ 80b-6(1) and 80b-6(2)].

WHEREFORE, the Commission respectfully requests that this Court:

I.

Permanently restrain and enjoin defendants Postiglione, Lennon, FAM, and the Fund, and their agents, officers, servants, employees, attorneys, and those persons in active concert or participation with them, directly or indirectly, singly or in concert, from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Rule 10b-5 [17 C.F.R. § 240.10b5], thereunder.

II.

Permanently restrain and enjoin defendants Postiglione, Lennon, and FAM and their agents, officers, servants, employees, attorneys, and those persons in active concert or participation with them, directly or indirectly, singly or in concert, from violating Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §§ 80b-6(1) and 80b-6(2)].

III.

Order defendants Postiglione, Lennon, FAM, and the Fund to account for and to disgorge any and all ill-gotten gains, together with prejudgment interest, derived from the activities set forth in this Complaint, in accordance with a plan of disgorgement acceptable to the Court and to the Commission.

IV.

Order defendants Postiglione, Lennon, and FAM to pay civil penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)], and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)], in an amount to be determined by the Court.

V.

Grant such other and further relief as the Court may deem just and appropriate.

Respectfully submitted,

/s/

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Attorneys for Plaintiff

**SECURITIES AND EXCHANGE
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