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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

-against-

**DAVID KUSHNER and LA MANCHA
FUNDING CORP.,**

Defendants.

COMPLAINT

24 Civ. 8900

JURY TRIAL DEMANDED

Plaintiff Securities and Exchange Commission (“Commission”), for its Complaint against Defendants David Kushner (“Kushner”) and La Mancha Funding Corp. (“La Mancha”) (collectively, “Defendants”), alleges as follows:

SUMMARY

1. Between approximately September 2018 and April 2021 (the “Relevant Period”), Kushner and La Mancha engaged in a fraudulent scheme through which they misappropriated at least \$2.14 million from investors.

2. During the Relevant Period, La Mancha and its president and sole owner, Kushner, offered and sold membership interests in at least 33 limited liability companies (“LLCs”). Kushner and La Mancha, acting as investment advisers, formed these LLCs for investors to invest in business loans that the LLCs would then make to various borrowers, including professional athletes and sports agents (each a “Borrower” and collectively “the Borrowers”).

3. La Mancha, acting through Kushner, served as the managing member of each of the LLCs. Defendants were responsible for managing the LLCs’ day-to-day business, including identifying, vetting, and selecting Borrowers and servicing the business loans the LLCs made.

4. Kushner and La Mancha raised approximately \$10.49 million by selling membership interests in these LLCs to approximately 20 investors.

5. As detailed herein, Kushner and La Mancha defrauded the investors by making material misrepresentations and omissions, misappropriating LLC and investor funds for their own benefit, and breaching their fiduciary duties as investment advisers while offering and selling membership interests in the LLCs to investors and managing the LLCs.

6. In the LLC operating agreements, Kushner and La Mancha represented that the LLCs would use the investors’ funds to make the loans to the Borrowers. Kushner and La Mancha also represented in the LLC operating agreements that the Borrowers’ interest and principal payments—other than small percentages of the interest and principal that La Mancha would keep—would be distributed to the investors when the Borrowers repaid the loans.

7. These representations were false. In connection with many of the LLCs, Kushner and La Mancha:

- a. Misappropriated investor and LLC funds at the outset by taking undisclosed “origination” and “broker” fees from the investor proceeds, which

Defendants had represented in the LLC operating agreements would be used by the LLCs to make the loans to the Borrowers; and

- b. Misappropriated the principal that certain Borrowers repaid on the loans, which Defendants had represented in the LLC operating agreements would be distributed to the LLCs and the LLC investors.

8. In addition, Kushner and La Mancha made material misrepresentations or omitted to disclose material facts to the investors about the due diligence Defendants had purportedly conducted on the Borrowers' criminal and credit histories.

9. Kushner and La Mancha also failed to disclose conflicts of interest Defendants had with an individual who received purported "broker" fees from certain LLCs and who, along with an entity he wholly owned, were Borrowers from other LLCs.

10. When some of the investors contacted Kushner after they had not received the principal payments they expected in connection with their purchase of the LLCs' membership interests, Kushner lied to these investors. For example, Kushner told certain investors that the Borrowers had not made principal payments on their loans when, in fact, the Borrowers had already made principal payments to La Mancha. And Kushner sent at least one investor a fabricated account statement that purported to corroborate Kushner's lies about having extended the due date for the principal payment on that loan.

11. Kushner diverted a significant portion of the funds that he and La Mancha misappropriated from investors for his own personal use, including at least \$300,000 in cashier's checks that Kushner made payable to himself or La Mancha, approximately \$248,000 in payments for his child's tuition and his child's apartment rental, approximately \$172,000 to rent a home in the Hamptons, at least \$130,000 that Kushner used to pay personal credit card bills, approximately \$76,000 in payments for a Jeep and a Mercedes Benz, approximately \$60,000 in country club dues, at

least \$55,000 that Kushner wired to a personal bank account, and approximately \$25,000 in payments to a diamond wholesaler.

VIOLATIONS

12. By virtue of the foregoing conduct and as alleged further herein, Kushner and La Mancha have violated 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 thereunder [17 C.F.R. § 240.10b-5], and Sections 206(1), (2) and (4) of the Investment Advisers Act of 1940 (“Advisers Act”) [15 U.S.C. §§ 80b-6(1), (2), and (4)] and Rule 206(4)-8 thereunder [17 C.F.R. § 275.206(4)-8].

NATURE OF THE PROCEEDINGS AND RELIEF SOUGHT

13. The Commission brings this action pursuant to the authority conferred upon it by Securities Act Sections 20(b) and 20(d) [15 U.S.C. § 77t(b) and 77t(d)], Exchange Act Section 21(d) [15 U.S.C. § 78u(d)], and Advisers Act Sections 209(d) and 209(e) [15 U.S.C. §§ 80b-9(d) and 80b-9(e)].

14. The Commission seeks a final judgment: (a) permanently enjoining Defendants from violating the federal securities laws and rules this Complaint alleges they have violated; (b) ordering Defendants, jointly and severally, to disgorge all ill-gotten gains and unjust enrichment they received as a result of the violations alleged herein and to pay prejudgment interest thereon on a joint-and-several basis pursuant to Exchange Act Sections 21(d)(3), (d)(5), and (d)(7) [15 U.S.C. § 78u(d)(3), 78u(d)(5), and 78u(d)(7)]; (c) ordering Defendants to pay civil money penalties pursuant to Securities Act Section 20(d) [15 U.S.C. § 77t(d)], Exchange Act Section 21(d)(3) [15 U.S.C. § 78u(d)(3)], and Advisers Act Section 209(e) [15 U.S.C. § 80b-9(e)]; (d) permanently prohibiting Kushner from serving as an officer or director of any company that has a class of securities registered under Exchange Act Section 12 [15 U.S.C. § 78l] or that is required to file reports under Exchange Act

Section 15(d) [15 U.S.C. § 78o(d)], pursuant to Securities Act Section 20(e) [15 U.S.C. § 77t(e)] and Exchange Act Section 21(d)(2) [15 U.S.C. § 78u(d)(2)]; (e) permanently enjoining Kushner from directly or indirectly, including, but not limited to, through any entity owned or controlled by Kushner, participating in the issuance, purchase, offer, or sale of any security, with the exception of purchasing or selling securities for his own personal account; and (f) ordering any other and further relief the Court may deem just and proper.

JURISDICTION AND VENUE

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

16. Defendants, directly and indirectly, have made use of the means or instrumentalities of, or the means or instruments of transportation or communication in, interstate commerce or of the mails in connection with the transactions, acts, practices, and courses of business alleged herein.

17. Venue lies in this District under Securities Act Section 22(a) [15 U.S.C. § 77v(a)], Exchange Act Section 27 [15 U.S.C. § 78aa], and Advisers Act Section 214 [15 U.S.C. § 80b-14]. Defendants transacted business in the Southern District of New York, and certain of the acts, practices, transactions, and courses of business alleged in this Complaint occurred within this District. For example, in order to solicit investment in the La Mancha LLCs' membership interests and to discuss the loans extended by the LLCs, Kushner communicated by phone and email and/or met in person with at least one investor while that investor was located in this District in order to solicit that investor. Kushner also met an individual described below as Borrower 1 in person in this District to discuss providing loans to the Borrowers. In each of the LLC operating agreements and promissory notes, Kushner and La Mancha represented that La Mancha had an address in this District—specifically, an office address belonging to the escrow agent. Similarly, in connection with

this fraudulent scheme, Kushner and La Mancha directed the wiring of funds to the escrow agent's bank account at a bank located in this District.

DEFENDANTS

18. **Kushner**, age 59, resides in Boca Raton, Florida and, during much of the Relevant Period, he lived in Cresskill, New Jersey. Since La Mancha's inception, Kushner has been the company's president and sole shareholder. Kushner does not hold any securities licenses. In March 2021, a grand jury in the District of New Jersey indicted Kushner on three counts of tax evasion, in violation of 26 U.S.C. § 7201, related to his failure to report income for tax purposes for the years 2014 through 2016, and those charges remain pending. On November 21, 2024, an indictment returned by a grand jury in New York County was unsealed, which charged Kushner on five counts of grand larceny in the second degree, in violation of N.Y. Penal Law § 155.40(1), one count of grand larceny in the third degree, in violation of N.Y. Penal Law § 155.35(1), and one count of scheme to defraud in the first degree, in violation of N.Y. Penal Law § 190.65(1)(b).

19. **La Mancha** is a New York corporation with its principal place of business in Closter, New Jersey. Kushner owns and controls La Mancha.

FACTS

I. BACKGROUND

A. **Kushner Created and Controlled La Mancha and the LLCs to Make Loans to Borrowers and Attract Investors.**

20. Kushner formed La Mancha in approximately September 2018.

21. La Mancha specialized in providing short term loans to the Borrowers, who were professional athletes (including current and former National Football League players), sports agents, and real estate investors. Those loans were typically collateralized by the Borrowers' future earnings.

22. As La Mancha's president and sole shareholder, Kushner has controlled all aspects of La Mancha's business and financial operations at all times.

23. In approximately September 2018, Kushner opened a bank account for La Mancha (the “Bank Account”).

24. Kushner was the sole person with signatory authority on the Bank Account.

25. Beginning in approximately November 2018, Kushner and La Mancha began forming individual LLCs for the purpose of raising capital to provide loans to the Borrowers.

26. Kushner and La Mancha solicited investors to purchase LLC membership interests in order to fund the loans the LLCs would provide to the Borrowers.

27. In total, Kushner and La Mancha formed at least 33 separate LLCs.

28. Each LLC had a unique name, following the naming convention of “La Mancha Funding #__ LLC,” such as “La Mancha Funding #25 LLC.”

B. Each LLC Was Governed By An Operating Agreement That Kushner Signed On La Mancha’s Behalf.

29. With limited exceptions, each LLC was governed by a written operating agreement.

30. The parties to each operating agreement were the LLC itself, La Mancha, and the LLC members—*i.e.*, the investor(s) who purchased the LLC’s membership interests by making a capital contribution to the LLC.

31. Some of the LLCs had multiple investor members, while others had a single investor member.

32. Each LLC operating agreement designated La Mancha as the LLC’s managing member and identified Kushner as La Mancha’s president.

33. Each LLC operating agreement gave La Mancha the authority to manage the LLC’s business affairs, including advancing a loan to the Borrower(s) and servicing that loan.

34. As the managing member of each LLC, La Mancha (through Kushner) had the authority to sign all documents on behalf of the LLCs and to legally bind the LLCs.

35. Each LLC operating agreement stated the number and proportional value of

membership interests in the LLC, the total of which equaled the face amount of the loan the LLC would provide to the Borrower(s).

36. For example, the operating agreement for La Mancha Funding #25 LLC stated that the LLC had 733,000 membership interests and that the purpose of the LLC was to provide a \$733,000 loan to two Borrowers (a sports agent and a sports agency).

37. A schedule attached to each LLC operating agreement listed the names and addresses of the LLC members, their initial capital contributions, the number of membership interests owned by each member, and each member's percentage ownership in the LLC.

38. For example, the schedule attached to the operating agreement for La Mancha Funding #25 LLC stated that an investor ("Investor A") contributed \$733,000 to the LLC, held 732,926.7 membership interests, and owned 99.99% of the LLC. The schedule also stated that La Mancha made no capital contribution, held 73.3 membership interests, and owned 0.01% of the LLC.

39. With limited exceptions, each LLC operating agreement made clear that La Mancha owned a small fraction of the LLC's membership interests—0.01% of the total membership interests—and the investors owned the remaining 99.99% of the membership interests in each LLC.

40. Each operating agreement set forth the rights of the LLC's investor member(s) and La Mancha's obligations as to how to distribute the Borrower's interest and principal payments to the member(s), as described further below in Section III.A.

41. Kushner signed each operating agreement on La Mancha's behalf as its president.

C. Each LLC Provided a Loan to a Borrower, Evidenced By a Promissory Note and Secured By a Security Agreement That Kushner Signed On La Mancha's Behalf.

42. Each LLC provided a loan to one or more Borrowers.

43. Each loan was evidenced by a promissory note provided by the Borrower(s) to the

LLC that loaned the money to the Borrower(s).

44. Each promissory note reflected the terms of the LLC's loan to the Borrower(s).

45. Pursuant to the promissory notes, the loans the LLCs made to the Borrowers ranged in amount from \$17,700 to \$1.5 million, carried an annual interest rate ranging from 10% to 13%, and ranged in duration from six months to 24 months.

46. The promissory notes stated the terms on which the Borrowers agreed to repay the money received via the loans from the LLCs.

47. With respect to interest payments, most of the promissory notes specified that the Borrower(s) would prepay to the relevant LLC, on the date the promissory notes were executed, all the interest due from that date through the maturity date of the promissory notes.

48. With respect to principal payments, the promissory notes typically specified that the principal was due and payable by the Borrower(s) on the maturity date.

49. Each promissory note was secured by a security agreement and other supporting documents.

50. Each security agreement stated that, as security for payment under the promissory note, the Borrower(s) granted the LLC a security interest in certain collateral.

51. That collateral typically included income the Borrower(s) expected to receive from professional sports contracts or other future earnings.

52. Each security agreement was executed by the Borrower(s) and the LLC.

53. Kushner, as La Mancha's president, signed each security agreement on behalf of the respective LLC.

D. Kushner and La Mancha Acted as Investment Advisers.

54. Kushner and La Mancha acted as investment advisers to the LLCs, and in the case of the single-member LLCs, acted as investment advisers to the individual investor members.

55. Kushner and La Mancha advised the LLCs and the single-member-LLC investors—Kushner’s and La Mancha’s investment advisory clients—concerning the investment of these clients’ assets in the loans to Borrowers (evidenced by promissory notes), including choosing which loans the LLCs made to which Borrowers on which terms.

56. In return, Kushner and La Mancha received monetary compensation as specified in the LLC operating agreements.

57. La Mancha held itself out in each LLC operating agreement as the managing member responsible for each LLC’s operations.

58. Kushner, as La Mancha’s sole owner and president, was responsible for La Mancha’s management.

59. As investment advisers, Kushner and La Mancha owed fiduciary duties to their clients—the LLCs and the single-member-LLC investors—including the duties to exercise the utmost good faith with their clients, to provide their clients with full and fair disclosure of all material facts, and to always act in their clients’ best interests.

II. DEFENDANTS SOLICITED INVESTORS FOR THE LLCs AND MADE MATERIAL MISREPRESENTATIONS AND OMISSIONS ABOUT THE DUE DILIGENCE THEY PURPORTEDLY CONDUCTED.

60. When soliciting investors to purchase membership interests in the LLCs, Kushner and La Mancha represented that they would conduct appropriate due diligence on the Borrowers to whom the LLCs would be making loans in order to ensure that the Borrowers were creditworthy and could therefore repay the loans’ principal with interest.

61. Kushner and La Mancha made representations to the investors, both orally and by email, that they conducted criminal background checks and credit checks on the Borrowers.

62. Kushner assured the investors that, based on the due diligence he and La Mancha had purportedly conducted, the loans carried low credit risk.

63. Specifically, Kushner and La Mancha made representations to investors that the Borrowers had “no criminal history” and/or “good credit.”

64. In multiple instances, as described in more detail below, these representations were false because Kushner and La Mancha either: (a) failed to conduct adequate due diligence to uncover that several Borrowers had prior criminal history and/or poor credit; or (b) knew or recklessly disregarded that several Borrowers had a prior criminal history and/or poor credit and omitted to disclose that information to the investors.

65. Kushner and La Mancha claimed that several Borrowers had no prior criminal history or omitted to disclose that those Borrowers had prior criminal history.

66. In reality, several Borrowers had prior criminal convictions.

67. For example, one Borrower (“Borrower 1”) obtained loans from several of the LLCs: La Mancha Funding #16 LLC, La Mancha Funding #31 LLC, and La Mancha Funding #42 LLC.

68. In an initial conversation about La Mancha and its plan to offer short term loans to Borrowers, Borrower 1 informed Kushner that he had a prior criminal conviction for conspiracy to commit wire fraud.

69. Kushner and La Mancha nevertheless failed to disclose Borrower 1’s prior criminal conviction to the investors who funded these three LLCs.

70. Similarly, another Borrower (“Borrower 2”) obtained a loan from La Mancha Funding #37 LLC.

71. Kushner and La Mancha either failed to conduct adequate due diligence that would have uncovered that Borrower 2 had a prior criminal conviction for carrying a pistol without a permit or they knew or recklessly disregarded that information and failed to disclose it to the investor in La Mancha Funding #37 LLC.

72. On June 6, 2019, Kushner sent an email to the investor in the LLC and falsely represented that Borrower 2 had “NO CRIMINAL HISTORY.”

73. Kushner and La Mancha also claimed that several other Borrowers had good credit or omitted to disclose that these Borrowers did not have good credit.

74. In reality, several Borrowers did not have good credit, because they had prior unpaid tax debts, had failed to repay other loans, or had previously filed for bankruptcy.

75. For example, one Borrower (“Borrower 3”) had unpaid assessed federal income taxes that, as of July 2023, totaled over \$4.6 million.

76. Another Borrower (“Borrower 4”) had failed to repay over \$1.1 million in non-La Mancha loans that Borrower 4 had received previously.

77. Yet another Borrower (“Borrower 5”) had filed for bankruptcy.

78. Kushner and La Mancha did not disclose any of these facts to the investors in the relevant LLCs.

79. In fact, with respect to Borrower 5, Kushner received an email on November 18, 2018 indicating that Borrower 5 had previously filed for bankruptcy.

80. Kushner did not disclose that fact to the prospective investors in La Mancha Funding #11 LLC—the LLC that ultimately provided a loan to Borrower 5.

81. Instead, on November 23, 2018, Kushner simply told the investors in an email, “[w]e have done a UCC search and there are no liens or judgments” against Borrower 5, making no mention of the fact that the Borrower had filed for bankruptcy.

82. Defendants’ failure to disclose material facts about certain of the Borrowers’ prior criminal history and credit history resulted in investors’ funding LLCs that made loans to Borrowers with a higher credit risk than Defendants had represented to investors.

83. Defendants’ material misrepresentations and omissions about the due diligence they

purportedly conducted, and the resulting increase in the Borrowers' credit risk, caused substantial investor losses when several Borrowers defaulted on their La Mancha LLC loans, including in the examples described in paragraphs 84-87 below.

84. Borrower 5, whose prior bankruptcy Kushner knowingly or recklessly failed to disclose, defaulted in full on his loan.

85. Borrower 1, whose prior criminal conviction for conspiracy to commit wire fraud Kushner knowingly or recklessly failed to disclose to investors, defaulted in full on at least one of his loans and in total repaid to La Mancha only approximately \$281,000 out of the \$1.93 million he received from three La Mancha LLCs.

86. Borrower 3, whose unpaid assessed federal taxes Kushner knowingly or recklessly failed to disclose to investors, defaulted in full on at least two of his three loans.

87. Borrower 4, whose default on prior non-La Mancha loans Kushner knowingly or recklessly failed to disclose to investors, also defaulted in full on at least two of his three loans.

III. DEFENDANTS MADE MATERIAL MISREPRESENTATIONS AND OMISSIONS IN THE LLC OPERATING AGREEMENTS.

A. Defendants Made Misrepresentations and Omissions in the Operating Agreements About the Use of Investors' Funds.

88. In the LLC operating agreements, Defendants represented the purpose for which the LLCs were created and how the investors' funds, in the form of capital contributions to the LLCs to purchase LLC membership interests, were to be used: to invest in business loans, evidenced by promissory notes, to one or more Borrowers.

89. For example, Section 1.2 of the operating agreement for La Mancha Funding #41 LLC represented:

The purposes for which the Company [the LLC] has been formed is to advance a \$1,200,000 business loan (the 'Loan') to [a named borrower] and [a named sports agency] (collectively 'the Borrower') and as evidenced by all the documents evidencing said Loan (the 'Loan Documents'), and to engage in any other lawful

act or activity related thereto for which limited liability companies may be formed under the [Limited Liability Company Act of the State of New York, as amended].

90. Each LLC operating agreement claimed that “[a]ny funds received by the [LLC] shall be utilized by the [LLC] for the purposes of advancing the Loan or as otherwise set forth herein.”

91. With respect to interest payments that Borrowers made on the loans, each LLC operating agreement claimed that La Mancha would receive and retain for itself 0.50% to 1.0% of the loan amount (prorated over the term of the loan).

92. Each LLC operating agreement claimed that La Mancha was required to distribute the balance of the Borrower’s interest payments (which typically ranged from 9.5% to 12.5% of the loan amount, prorated over the term of the loan) to the LLC members in accordance with their percentage ownership in the LLC.

93. For example, the LLC operating agreement for La Mancha Funding #24 LLC claimed that La Mancha was entitled to receive 1.0% of the \$105,000 loan amount (prorated over the 12-month term of the loan), or \$1,050, as its share of the interest. La Mancha was required to distribute the remaining 12%, or \$12,600, in interest to the investor in the LLC.

94. None of the LLC operating agreements disclosed that La Mancha or Kushner would divert any fees—such as “origination” fees and “broker” fees—from the investors’ capital contributions to the LLCs or from the loan proceeds.

1. Defendants Misappropriated Investor Funds Through Undisclosed “Origination” and “Broker” Fees.

95. Kushner and La Mancha misappropriated LLC and investor funds—which were supposed to fund the LLCs’ loans to the Borrowers—through undisclosed “origination” and “broker” fees.

96. The process by which Kushner and La Mancha misappropriated investor funds through these undisclosed fees followed a similar pattern.

97. To purchase the LLC membership interests, investors wired the purchase price (*i.e.*, their capital contribution to the LLC) to La Mancha's escrow agent.

98. The total amount investors in any particular LLC wired to the escrow agent equaled the total face amount of the loan or loans to the Borrower(s) in which the LLC was going to invest.

99. At Kushner's direction, the escrow agent withdrew a specified amount for its legal fee.

100. The escrow agent then typically wired an amount equal to the total interest owed by the Borrower over the term of the loan (*i.e.*, the prepaid interest) into the Bank Account.

101. La Mancha retained the 0.5% or 1% portion of the loan amount—the interest it was entitled to receive under the terms of the LLC operating agreements—and Kushner and La Mancha generally distributed the remaining prepaid interest to the investors.

102. Kushner, however, did not direct the escrow agent to disburse all of the remaining investor funds to the Borrowers as loan proceeds.

103. Instead, for each LLC, Kushner typically directed the escrow agent to first transfer approximately 3% to 4.5% of the face amount of the loans to La Mancha's Bank Account as a purported "origination" fee.

104. In at least one instance, on approximately June 18, 2019, Kushner directed the escrow agent to transfer 4.5% of the loan amount (\$2,835) to Kushner's personal bank account, rather than to La Mancha's Bank Account, as a purported "origination" fee.

105. These purported "origination" fees were deducted from the Borrowers' loan proceeds without reducing the principal amount the Borrowers owed on the loans. Therefore, even though the Borrowers never received these "origination" fee amounts, they were still required to pay those amounts to the LLCs as loan "principal."

106. Kushner and La Mancha did not disclose to the investors that the LLCs would pay

these “origination” fees to La Mancha from the investor funds.

107. Nor did Kushner and La Mancha disclose that these fees would be deducted from the Borrowers’ loan proceeds without reducing the principal amount the Borrowers owed on the loans.

108. In total, Kushner and La Mancha diverted approximately \$455,000 of investor funds to La Mancha or Kushner in undisclosed “origination” fees.

109. In connection with nearly all of the LLCs, Kushner also directed the escrow agent to transfer approximately 2% to 3.5% of the face amount of the loans—purported “broker” fees—to an entity owned by Borrower 1.

110. These purported “broker” fees were also deducted from the Borrowers’ loan proceeds without reducing the principal amount the Borrowers owed on the loans.

111. Like the “origination” fees above, Kushner and La Mancha did not disclose to the investors that the LLCs would pay these “broker” fees from investors’ funds.

112. Nor did Kushner and La Mancha disclose that these fees would be deducted from the Borrowers’ loan proceeds without reducing the principal amount the Borrowers owed on the loans.

113. In total, Kushner and La Mancha diverted approximately \$207,000 of investor funds to an entity owned by Borrower 1 in undisclosed “broker” fees.

2. Defendants Misappropriated “Origination” and “Broker” Fees From Some Investors As They Were Making Misrepresentations About the Use of Investor Proceeds to Other Investors.

114. Even after Kushner and La Mancha took undisclosed “origination” fees for themselves and diverted undisclosed “broker” fees in connection with some LLCs, Defendants entered into other LLC operating agreements for other LLCs that similarly misrepresented how the investors’ proceeds would be used. Defendants failed to disclose that these fees would be siphoned

off from the capital contributions made by the investors and, ultimately, the loan proceeds received by the Borrowers, as the examples below describe.

115. On January 18, 2019, Kushner (on behalf of La Mancha) and an investor (“Investor B”) entered into an LLC operating agreement for La Mancha Funding #21 LLC in order to fund a \$74,000 loan to two Borrowers.

116. The operating agreement contained the misrepresentations and omissions about the use of the LLC investor’s funds described above in paragraphs 88-90.

117. That same day, after Investor B made a capital contribution to the LLC, La Mancha diverted \$3,300 of that amount to the Bank Account for an “origination” fee and diverted \$1,850 of the capital contribution to an entity owned by Borrower 1 for a “broker” fee.

118. Defendants did not disclose those fees to Investor B.

119. A week later, on January 25, 2019, Kushner (on behalf of La Mancha) and Investor A entered into an LLC operating agreement for La Mancha Funding #23 LLC in order to fund a \$70,000 loan to two Borrowers.

120. The operating agreement contained the misrepresentations and omissions about the use of the LLC investor’s funds described above in paragraphs 88-90.

121. That same day, after Investor A made a capital contribution to the LLC, La Mancha diverted \$3,150 to the Bank Account as an “origination” fee and diverted \$1,750 to an entity owned by Borrower 1 as a “broker” fee.

122. Defendants did not disclose those fees to Investor A.

123. About a month later, on February 27, 2019, Kushner (on behalf of La Mancha) and Investor A entered into an LLC operating agreement for La Mancha Funding #26 LLC in order to fund a \$290,000 loan to a Borrower.

124. The operating agreement contained the misrepresentations and omissions about the

use of the LLC investor's funds described above in paragraphs 88-90.

125. That same day, after Investor A made a capital contribution to the LLC, La Mancha diverted \$7,250 to an entity owned by Borrower 1 as a "broker fee."

126. The next day, La Mancha diverted \$13,050 to the Bank Account as an "origination fee."

127. Defendants did not disclose those fees to Investor A.

128. About a week after that, on March 6, 2019, Kushner (on behalf of La Mancha) and Investor B entered into an LLC operating agreement for La Mancha Funding #27 LLC in order to fund an \$80,000 loan to two Borrowers.

129. The operating agreement contained the misrepresentations and omissions about the use of the LLC investor's funds described above in paragraphs 88-90.

130. That same day, after Investor B made a capital contribution to the LLC, La Mancha diverted \$3,600 to the Bank Account as an "origination fee" and diverted \$2,000 to an entity owned by Borrower 1 as a "broker fee."

131. Defendants did not disclose those fees to Investor B.

3. Defendants' Misrepresentations and Omissions About the "Origination" and "Broker" Fees Were Material.

132. Because Defendants took the undisclosed "origination" fees shortly after the investors funded the LLCs, Defendants obtained these purported fees whether the Borrower ultimately repaid the loan or defaulted.

133. Therefore, unbeknownst to the LLC investors, Defendants profited from the LLCs regardless of whether the LLCs' loans to the Borrowers were profitable—unlike the investors, who profited from their LLC investments only if the loans were profitable.

134. In addition, also unbeknownst to the LLC investors, the "origination" and "broker" fees reduced the amount of the loan proceeds the Borrowers received but did not reduce the

“principal” amounts the Borrowers ultimately owed on the loans. This meant the Borrowers owed money, designated as “principal,” to the LLCs that the Borrowers had never received from the LLC.

135. These purported “fees” therefore effectively increased the annual interest rate on each loan to a figure well above the annual interest rate disclosed in the LLC operating agreements, promissory notes, or otherwise.

136. This effective increase in the loans’ annual interest rates in turn increased the credit risk—the risk that the Borrowers would not repay the loans—beyond what Kushner and La Mancha had disclosed to the investors, as the Borrowers would need to obtain additional funds to pay the LLC the shortfall between the “principal” amount due and the actual amount the Borrowers had received from the loans.

B. Defendants Failed to Disclose Conflicts of Interest.

137. While acting as investment advisers to the LLCs, Kushner and La Mancha failed to disclose to the LLCs or their investors a conflict of interest with Borrower 1.

138. As discussed above, Borrower 1 received “broker” fees in connection with almost all of the loans made by the LLCs.

139. During the Relevant Period, Borrower 1 had a La Mancha email address and used that email address to solicit potential Borrowers of the loans provided by the other LLCs; used an email signature line that stated “[Borrower 1], La []Mancha Funding Corp”; and provided Kushner with paperwork concerning other Borrowers’ collateral.

140. At the same time, Kushner and La Mancha offered and sold to investors interests in LLCs that provided loans to Borrower 1 and an entity wholly owned by Borrower 1 (“Borrower 1’s Company”).

141. Borrower 1 and Borrower 1’s Company together received at least three loans, including one from each of three LLCs: La Mancha Funding #16 LLC, La Mancha Funding #31

LLC, and La Mancha Funding #42 LLC.

142. Together, these three loans totaled nearly \$2 million.

143. When the investors purchased membership interests in La Mancha Funding #16 LLC, La Mancha Funding #31 LLC, and La Mancha Funding #42 LLC, and funded the loans received by Borrower 1 and Borrower 1's Company, Defendants failed to disclose to those investors that Borrower 1 had received "broker" fees in connection with other La Mancha LLC loans and appeared to be affiliated with La Mancha.¹

144. Borrower 1 and Borrower 1's Company defaulted entirely on one of the loans and owed over \$1.5 million on the other two loans they received.

C. Defendants Made Misrepresentations About and Misappropriated Borrowers' Principal Repayments.

145. Each LLC operating agreement represented that, after the LLC's expenses were paid (including reimbursements to the managing member for out-of-pocket expenses incurred on the LLC's behalf), the LLC would distribute the Borrower's interest and principal payments to the LLC's members in accordance with each member's percentage ownership in the LLC.

146. Each LLC operating agreement further represented that the Borrower was required to remit its principal payments to an escrow agent, which in turn was required to disburse those payments to the LLC members in accordance with their percentage ownership in the LLC.

147. For example, the LLC operating agreement for La Mancha Funding #24 LLC claimed that La Mancha was entitled to receive from the escrow agent 0.01% of the principal repaid by the Borrower, and the investor was entitled to receive from the escrow agent 99.99% of principal repaid by the Borrower.

¹ Borrower 1 did not receive "broker" fees in connection with the LLCs' loans to Borrower-1's Company.

148. None of the LLC operating agreements disclosed that La Mancha or Kushner would retain some or all of the principal repayments made by the Borrower rather than distributing those funds to the LLC investors in accordance with their percentage ownership in the LLCs.

149. In a number of instances, however, including those examples cited in Section III.D below, the Borrowers repaid some or all of the principal due on their loans and Defendants retained those principal payments rather than distribute those funds to investors—as Defendants had represented they would do in the LLC operating agreements.

150. Borrowers typically sent their principal payments to La Mancha’s Bank Account, where Defendants commingled the principal payments with other Borrower repayments on different loans, the undisclosed “origination” fees La Mancha misappropriated, and La Mancha’s own funds.

151. Defendants misappropriated at least \$1.48 million of principal payments from LLC investors in this manner.

152. Kushner used the misappropriated principal payments and other misappropriated funds, including the “origination” fees described above, to pay personal expenses and for other unauthorized purposes, including at least \$300,000 in cashier’s checks that Kushner made payable to himself or La Mancha, approximately \$248,000 in payments for his child’s tuition and his child’s apartment rental, approximately \$172,000 to rent a home in the Hamptons, at least \$130,000 that Kushner used to pay personal credit card bills, approximately \$76,000 in payments for a Jeep and a Mercedes Benz, approximately \$60,000 in country club dues, at least \$55,000 that Kushner wired to a personal bank account, and approximately \$25,000 in payments to a diamond wholesaler.

D. Examples of Defendants’ Fraud

153. The following examples detail how Kushner and La Mancha defrauded the LLCs and the LLC investors by misappropriating “origination” fees, “broker” fees, and Borrowers’ principal payments.

1. La Mancha Funding #24 LLC

154. On approximately February 4, 2019, an investor (“Investor C”) wired \$105,000 to the escrow account for La Mancha Funding #24 LLC to purchase membership interests in that LLC.

155. Investor C’s purpose in doing so was to invest in and fund a loan by the LLC in that principal amount, as reflected in the operating agreement for La Mancha Funding #24 LLC.

156. In exchange for his investment, Investor C received 99.99% of the membership interests in La Mancha Funding #24 LLC, as reflected in the same operating agreement.

157. This LLC’s loan to its Borrower had a 12-month term and a 13% annual interest rate.

158. The LLC operating agreement represented that La Mancha would receive 1.0% of the loan amount (prorated over the term of the loan), or \$1,050, as its share of the prepaid interest, with the remaining 12% in interest to be distributed to Investor C.

159. In the LLC operating agreement, Defendants represented that, after payment of the LLC’s expenses (for example, the escrow agent’s legal fee), the balance of the funds would be disbursed to the Borrower.

160. At Kushner’s direction, after Investor C wired the funds to the escrow account, the escrow agent deducted its legal fees.

161. The escrow agent then wired the total 13% interest amount owed by the Borrower for the loan term, as prepaid interest, to La Mancha at the Bank Account.

162. La Mancha retained 1% for itself and distributed the remaining 12% to Investor C.

163. However, Kushner also instructed the escrow agent to transfer an additional 4.5% of the loan amount (\$4,725) to La Mancha as an “origination” fee and 2.5% of the loan amount (\$2,625) to Borrower 1 as a “broker” fee before remitting the balance to the Borrower.

164. By deducting these undisclosed “fees” from the loan proceeds remitted to the Borrower without reducing the principal amount due on the loan, Defendants secretly increased the effective annual interest rate on the loan to approximately 20%—higher than the 13% annual interest rate disclosed in the LLC’s operating agreement and promissory note.

165. This increased the risk that the Borrower would default on the loan.

166. The Borrower did repay the loan in full on October 7, 2019, but Defendants failed to distribute to the LLC or Investor C any of the principal payments made by the borrower.

167. Kushner misappropriated all \$105,000 of the Borrower’s principal payments for his own use.

168. For example, on the same day the borrower repaid the principal, Kushner wired \$9,000 to himself from the La Mancha Bank Account.

169. On October 9 and October 15, 2019, Kushner made a \$1,452 payment to Mercedes Benz and a \$3,600 payment to a country club, respectively, from that same account.

2. La Mancha Funding #32 LLC

170. On approximately April 11, 2019, an investor (“Investor D”) wired \$85,000 to the escrow account for La Mancha Funding #32 LLC in order to purchase membership interests in that LLC.

171. Investor D’s purpose in doing so was to invest in and fund a loan by the LLC in that principal amount, as reflected in the operating agreement for La Mancha Funding #32 LLC.

172. In exchange for his investment, Investor D received 99.99% of the membership interests in La Mancha Funding #32 LLC, as reflected in the same operating agreement.

173. This LLC’s loan to its Borrower had an 8.5-month term and a 13% annual interest rate.

174. The LLC operating agreement represented that La Mancha would receive 1.0% of

the loan amount (prorated over the term of the loan), or \$605, as its share of the prepaid interest, with the remaining 12% in interest to be distributed to Investor D.

175. In the LLC operating agreement, Defendants represented that, after payment of the LLC's expenses (for example, the escrow agent's legal fee), the balance of the funds would be disbursed to the Borrower.

176. At Kushner's direction, after Investor D wired the funds to the escrow account, the escrow agent deducted its legal fees.

177. The escrow agent then wired the total 13% interest amount owed by the Borrower for the loan term, as prepaid interest, to La Mancha at the Bank Account.

178. La Mancha retained 1% for itself and distributed the remaining 12% to Investor D.

179. However, Kushner instructed the escrow agent to transfer an additional 4.5% of the loan amount (\$3,825) to La Mancha as an "origination" fee and 2.5% of the loan amount (\$2,125) to Borrower 1 as a "broker" fee before remitting the balance to the Borrower.

180. By deducting these undisclosed "fees" from the loan proceeds remitted to the Borrower without reducing the principal amount due on the loan, Defendants secretly increased the effective annual interest rate on the loan to approximately 16%—higher than the 13% annual interest rate disclosed in the LLC's operating agreement and promissory note.

181. This increased the risk that the Borrower would default on the loan.

182. The Borrower did repay the loan in full by November 22, 2019, but Defendants failed to distribute to the LLC or the investor approximately \$63,000 of the principal payments made by the Borrower.

183. Kushner misappropriated approximately \$63,000 of the Borrower's principal payments for his own use.

184. For example, on November 26, 2019, Kushner drafted a \$2,000 check payable to

himself from the La Mancha Bank Account.

185. On November 29, 2019, from that same account, Kushner made a \$18,720 credit card payment on an American Express account under his wife's name.

3. La Mancha Funding #37 LLC

186. On approximately June 6, 2019, Investor A wired \$100,000 to the escrow account for La Mancha Funding #37 LLC in order to purchase membership interests in that LLC.

187. Investor A's purpose in doing so was to invest in and fund a loan by the LLC in that principal amount, as reflected in the operating agreement for La Mancha Funding #37 LLC.

188. In exchange for his investment, Investor A received 99.99% of the membership interests in La Mancha Funding #37 LLC, as reflected in the same operating agreement.

189. This LLC's loan to its Borrower had a 7-month term and a 13% annual interest rate.

190. The LLC operating agreement represented that La Mancha would receive 0.50% of the loan amount (prorated over the term of the loan), or \$308, as its share of the prepaid interest, with the remaining 12.5% in interest to be distributed to Investor A.

191. In the LLC operating agreement, Defendants represented that, after payment of the LLC's expenses (for example, the escrow agent's legal fee), the balance of the funds would be disbursed to the Borrower.

192. At Kushner's direction, after Investor A wired the funds to the escrow account, the escrow agent deducted its legal fees.

193. The escrow agent then wired the total 13% interest amount owed by the Borrower for the loan term, as prepaid interest, to La Mancha at the Bank Account.

194. La Mancha retained 0.50% for itself and distributed the remaining 12.5% to Investor A.

195. However, Kushner also instructed the escrow agent to transfer an additional 4.5% of

the loan amount (\$4,500) to La Mancha as an “origination” fee and 2.5% of the loan amount (\$2,500) to Borrower 1 as a “broker” fee before remitting the balance to the Borrower.

196. By deducting these undisclosed “fees” from the loan proceeds without reducing the principal amount of the loan, Defendants secretly increased the effective annual interest rate on the loan to 14.6%—higher than the 13% annual interest rate disclosed in the LLC’s operating agreement and promissory note.

197. This increased the risk that the Borrower would default on the loan.

198. The Borrower did repay the loan in full by January 6, 2020, but Defendants failed to distribute to the LLC or Investor A approximately \$75,000 of the principal payments made by the Borrower.

199. Kushner misappropriated approximately \$75,000 of the Borrower’s principal payments for his own use.

200. For example, on the same day the borrower repaid the principal, Kushner wired \$9,000 to himself from the La Mancha Bank Account.

201. The next day, Kushner made a \$1,182 rent payment for an apartment (located near where Kushner’s child attended college) from that same account.

202. On January 18, 2020, Kushner made a \$1,452 payment to Mercedes Benz from that same account.

4. La Mancha Funding #33 LLC

203. On approximately April 30, 2019 and May 1, 2019, multiple investors wired a total of \$900,000 to the escrow account for La Mancha Funding #33 LLC in order to purchase membership interests in that LLC.

204. The investors’ purpose in doing so was to invest in and fund a loan by the LLC in that principal amount, as reflected in the operating agreement for La Mancha Funding #33 LLC.

205. In exchange for their investments, the investors together received 99.99% of the membership interests in La Mancha Funding #33 LLC, as reflected in the same operating agreement.

206. This LLC's loan to its Borrower had an 18-month term and a 10% annual interest rate.

207. The LLC operating agreement represented that La Mancha would receive 0.50% of the loan amount (prorated over the term of the loan), or \$6,750, as its share of the prepaid interest, with the remaining 9.50% in interest to be distributed to the investors in the LLC.

208. In the LLC operating agreement, Defendants represented that, after payment of the LLC's expenses (for example, the escrow agent's legal fee and title recording fees), the balance of the funds would be disbursed to the Borrower.

209. At Kushner's direction, after the investors wired the funds to the escrow account, the escrow agent deducted its legal fees and paid the title and recording fee for the underlying mortgage note.

210. The escrow agent then wired the total 10% interest amount owed by the Borrower for the loan term, as prepaid interest, to La Mancha at the Bank Account.

211. La Mancha retained 0.50% for itself and distributed the remaining 9.50% to the investors.

212. However, Kushner also instructed the escrow agent to transfer an additional 3.0% of the loan amount (\$27,000) to La Mancha as an "origination" fee and another \$6,250 to La Mancha as a "lender per diem" before remitting the balance to the Borrower.

213. By deducting these undisclosed "fees" from the loan proceeds without reducing the principal amount of the loan, Defendants secretly increased the effective annual interest rate on the loan to approximately 16.19%—higher than the 10% annual interest rate disclosed in the LLC's

operating agreement and mortgage note.

214. This increased the risk that the Borrower would default on the loan.

215. The loan was repaid in full on approximately January 19, 2021, but Defendants failed to distribute to the LLC or to the investors approximately \$728,000 of the principal payments made by or on behalf of the Borrower.

216. Kushner misappropriated approximately \$728,000 of these principal payments for his own use.

217. After approximately \$902,000 of principal was repaid on January 19, 2021, the balance of the La Mancha Bank Account was approximately \$907,000. About two months later, the balance of the La Mancha Bank Account was approximately \$6,000.

218. In that two-month period, Kushner appears to have spent the majority of the repaid principal on personal expenses.

219. For example, Kushner issued a total of \$300,000 of cashier's checks made payable to himself or La Mancha, wired a total of approximately \$55,000 to himself, made credit card payments totaling approximately \$130,000 on an American Express account under his wife's name and a Capital One account under his name, spent approximately \$45,000 to rent a home in the Hamptons, made approximately \$29,000 in payments to Jeep and Mercedes Benz, and made approximately \$26,000 in payments for a child's tuition and a child's apartment rental.

IV. DEFENDANTS LIED TO INVESTORS TO PERPETUATE AND CONCEAL THEIR FRAUDULENT SCHEME.

220. In late 2019 through the spring of 2020, certain of the LLCs' investors had not received principal payments that had come due on some of the loans made by the LLCs.

221. As a result, these investors contacted Kushner to determine whether the Borrowers had made the principal payments, and, if not, whether Kushner and La Mancha had taken steps to enforce the LLCs' rights under the applicable loan documents.

222. For example, under the loan documents for all of the LLCs, La Mancha could enforce the LLCs' rights by charging the Borrowers additional interest pursuant to loan extension agreements or by taking legal action to collect on the loans in the event of default.

223. In response to investors' inquiries, Kushner lied to the investors.

224. In some instances, Kushner told investors that the Borrowers had not made the outstanding principal payments on their loans when, in fact, Defendants had already received those payments.

225. For example, on approximately April 11, 2019, La Mancha Funding #32 LLC extended an \$85,000 loan to a borrower.

226. Pursuant to the operating agreement for La Mancha Funding #32 LLC, Investor D owned 99.99% of its membership interests.

227. The principal amount was due to be paid by the Borrower in equal installments pursuant to a schedule, beginning on September 20, 2019 and concluding on December 27, 2019.

228. In the LLC's operating agreement, the Defendants represented that, once the escrow agent had received those principal payments and the LLC's expenses (including reimbursements to La Mancha for out-of-pocket expenses incurred on the LLC's behalf) had been paid, the escrow agent was required to distribute the remainder of the principal payments to Investor D pursuant to Investor D's percentage ownership in the LLC.

229. When Investor D contacted Kushner in December 2019 about the principal payments that were still outstanding from the Borrower, Kushner told Investor D that those payments were forthcoming.

230. In reality, the Borrower had already repaid the loan principal in full by November 22, 2019, and, as detailed above, Defendants had kept approximately \$63,000 of the principal payments rather than distribute those funds to Investor D, as the Defendants had represented they would in

the operating agreement.

231. On April 21 and May 7, 2020, Kushner sent Investor D wires for \$507.50 and \$532.50, respectively, with the former marked as an interest payment rather than a principal payment, and falsely told Investor D by email that he had agreed with the Borrower to extend the loan for 6 additional months at an interest rate of 15%.

232. On April 21, 2020, Kushner also sent Investor D a fabricated account statement showing that the outstanding account balance on the loan exceeded \$53,000.

233. In another example, Kushner lied to other investors—Investor A, Investor B, and a third investor (“Investor E”)—when those investors inquired about outstanding loan payments.

234. Beginning in late 2019, Investor A, Investor B, and Investor E contacted Kushner several times to request information about at least five outstanding loans made by LLCs in which those investors had purchased membership interests.

235. Kushner responded to those investors in February 2020 and told them that he expected La Mancha “to be paid in full” on three of those loans by the end of February 2020 (the loans extended by La Mancha Funding #13 LLC, La Mancha Funding #15 LLC, and La Mancha Funding #19 LLC) and on two of those loans by “mid March” 2020 (the loans extended by La Mancha Funding #26 LLC and La Mancha Funding #37 LLC).

236. When Kushner made those representations, La Mancha had received no principal payments on two of the first three loans referenced above.

237. What Kushner characterized as a single loan made by La Mancha Funding #15 LLC was actually comprised of two separate loans—each to a different Borrower. As Kushner knew or recklessly disregarded, one of those two Borrowers had already repaid his loan in full, but Defendants kept the funds rather than distributing them to Investor A and instead used those funds for unauthorized purposes.

238. With respect to the two other loans referenced above—those made by La Mancha Funding #26 LLC and La Mancha Funding #37 LLC—when Kushner told Investor A, Investor B, and Investor E that he expected those loans to be paid in full by “mid-March,” Kushner knew or recklessly disregarded that the Borrowers on those loans had already repaid their respective loans in full to La Mancha.

239. By the time the Borrowers fully repaid those loans by December 31, 2019 and January 6, 2020, respectively, Kushner and La Mancha returned only approximately 25% of the \$390,000 principal payments those Borrowers had made.

240. The Defendants failed to return the remainder of those principal payments, \$292,500, to Investor A and used those funds for unauthorized purposes.

241. Among other things, on January 3 and January 6, 2020, Kushner made a \$5,358.20 payment for his child’s tuition and a \$1,182.95 payment for his child’s apartment rental, respectively, from the La Mancha Bank Account.

242. On January 6, January 16, and January 22, 2020, Kushner wired \$9,000, \$1,000, and \$1,000, respectively, from the La Mancha Bank Account to Kushner’s personal bank account.

243. And on January 20, 2020, from the La Mancha Bank Account, Kushner made a \$20,000 credit card payment on an American Express account under his wife’s name.

244. Investors suffered significant losses from Defendants’ fraudulent scheme, and many investors lost most of the money they invested except for their share of the prepaid interest amounts.

245. By June 17, 2021, Kushner had drained all the funds out of the La Mancha Bank Account (such that it had a negative balance), including all of the “origination” fees and principal payments he and La Mancha had misappropriated, to pay for his own personal expenses and to make other unauthorized payments.

246. The La Mancha Bank Account's balance continued to be negative until the account was closed with a zero balance on August 17, 2021.

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

247. The Commission re-alleges and incorporates by reference here the allegations in paragraphs 1-136 and 145-246.

248. Kushner and La Mancha, 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 the mails, (1) knowingly or recklessly have employed one or more devices, schemes or artifices to defraud, (2) knowingly, recklessly, or negligently have obtained money or property by means of one or more untrue statements of a material fact or omissions of 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 (3) knowingly, recklessly, or negligently have engaged in one or more transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon the purchaser.

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

SECOND CLAIM FOR RELIEF
Violations of Exchange Act Section 10(b) and Rule 10b-5 Thereunder
(Both Defendants)

250. The Commission re-alleges and incorporates by reference here the allegations in paragraphs 1-136 and 145-246.

251. Kushner and La Mancha, directly or indirectly, singly or in concert, in connection with the purchase or sale of securities and by the use of means or instrumentalities of interstate

commerce, or the mails, or the facilities of a national securities exchange, knowingly or recklessly have (i) employed one or more devices, schemes, or artifices to defraud, (ii) made one or more untrue statements of a material fact or omitted to state one or more material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, and/or (iii) engaged in one or more acts, practices, or courses of business which operated or would operate as a fraud or deceit upon other persons.

252. By reason of the foregoing, Kushner and La Mancha, directly or indirectly, singly or in concert, have violated and, unless enjoined, will again violate Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

THIRD CLAIM FOR RELIEF
Violations of Advisers Act Sections 206(1) and (2)
(Both Defendants)

253. The Commission re-alleges and incorporates by reference here the allegations in paragraphs 1-246.

254. At all relevant times, Kushner and La Mancha were investment advisers under Advisers Act Section 202(11) [15 U.S.C. § 80b-2(11)].

255. Kushner and La Mancha, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly have: (1) knowingly or recklessly employed one or more devices, schemes, or artifices to defraud any client or prospective client, and/or (2) knowingly, recklessly, or negligently engaged in one or more transactions, practices, and courses of business which operated as a fraud or deceit upon clients or prospective clients.

256. By reason of the foregoing, Kushner and La Mancha, directly or indirectly, singly or in concert, have violated and, unless enjoined, will again violate Advisers Act Sections 206(1) and (2) [15 U.S.C. §§ 80b-6(1) and 80b-6(2)].

FOURTH CLAIM FOR RELIEF
Violations of Advisers Act Section 206(4) and Rule 206(4)-8 Thereunder
(Both Defendants)

257. The Commission re-alleges and incorporates by reference here the allegations in paragraphs 1-202 and 220-246.

258. At all relevant times, Kushner and La Mancha were investment advisers, under Advisers Act Section 202(11) [15 U.S.C. § 80b-2(11)], to one or more pooled investment vehicles, as defined in Rule 206(4)-8(b) [17 C.F.R. § 275.206(4)-8(b)].

259. Kushner and La Mancha knowingly, recklessly, or negligently (i) made one or more untrue statements of a material fact or omitted to state one or more material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, to investors or prospective investors in pooled investment vehicles, and/or (ii) engaged in one or more acts, practices, or courses of business that were fraudulent, deceptive, or manipulative, with respect to investors or prospective investors in a pooled investment vehicle.

260. By reason of the foregoing, Kushner and La Mancha, directly or indirectly, singly or in concert, have violated and, unless enjoined, will again violate Advisers Act Section 206(4) [15 U.S.C. § 80b-6(4)] and Rule 206(4)-8 thereunder [17 C.F.R. § 275.206(4)-8].

PRAYER FOR RELIEF

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

I.

Permanently enjoining Kushner and his agents, servants, employees and attorneys and all persons in active concert or participation with any of them from violating, directly or indirectly, Securities Act Section 17(a) [15 U.S.C. § 77q(a)], Exchange Act Section 10(b) [15 U.S.C. §§ 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. §§ 240.10b-5], and Advisers Act Sections 206(1), (2) and (4)

[15 U.S.C. §§ 80b-6(1), (2), and (4)] and Rule 206(4)-8 thereunder [17 C.F.R. § 275.206(4)-8].

II.

Permanently enjoining La Mancha and its agents, servants, employees and attorneys and all persons in active concert or participation with any of them from violating, directly or indirectly, directly or indirectly, Securities Act Section 17(a) [15 U.S.C. § 77q(a)], Exchange Act Section 10(b) [15 U.S.C. §§ 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. §§ 240.10b-5], and Advisers Act Sections 206(1), (2) and (4) [15 U.S.C. §§ 80b-6(1), (2), and (4)] and Rule 206(4)-8 thereunder [17 C.F.R. § 275.206(4)-8].

III.

Ordering Defendants, jointly and severally, to disgorge all ill-gotten gains and unjust enrichment they received as a result of the violations alleged herein and to pay prejudgment interest thereon on a joint-and-several basis pursuant to Exchange Act Sections 21(d)(3), (d)(5), and (d)(7) [15 U.S.C. § 78u(d)(3), 78u(d)(5), and 78u(d)(7)]

IV.

Ordering Defendants to pay civil monetary penalties pursuant to Securities Act Section 20(d) [15 U.S.C. § 77t(d)], Exchange Act Section 21(d)(3) [15 U.S.C. § 78u(d)(3)], and Advisers Act Section 209(e) [15 U.S.C. § 80b-9(e)];

V.

Permanently prohibiting Kushner from serving as an officer or director of any company that has a class of securities registered under Exchange Act Section 12 [15 U.S.C. § 78l] or that is required to file reports under Exchange Act Section 15(d) [15 U.S.C. § 78o(d)], pursuant to Securities Act Section 20(e) [15 U.S.C. § 77t(e)] and Exchange Act Section 21(d)(2) [15 U.S.C. § 78u(d)(2)];

VI.

Permanently enjoining Kushner from directly or indirectly, including, but not limited to, through any entity owned or controlled by Kushner, participating in the issuance, purchase, offer, or sale of any security, with the exception of purchasing or selling securities for his own personal account.

VII.

Granting any other and further relief this Court may deem just and proper.

JURY DEMAND

The Commission demands a trial by jury.

Dated: New York, New York
November 21, 2024

/s/ Antonia M. Apps
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