

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff, : Civil Action No.

v. :

TIMOTHY S. BATCHELOR,

Defendant. :

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

Plaintiff, Securities and Exchange Commission (the “Commission”), files this
Complaint and alleges as follows:

OVERVIEW

1. This matter involves an offering fraud that was conducted between approximately October 2014 and November 2015 by Defendant Timothy S. Batchelor (“Batchelor” or “Defendant”), in connection with a now-defunct, unregistered investment fund called Specter Ventures Fund II, LLC (“Specter Ventures Fund”).

2. While serving as a principal for the manager of Specter Ventures Fund, Specter Ventures Fund, LLC (“Specter Ventures Manager”), Batchelor raised \$2.4 million from three high-net worth individuals and one institutional investor. According to the associated offering materials and other information provided to investors, their funds would be used to invest in “portfolio companies” engaged in various businesses related to national security, as well as the development of a high performance submarine vessel.

3. Although Batchelor used a portion of the funds raised for authorized expenses in support of Specter Venture Fund’s investment strategy and objectives, he misappropriated approximately \$1.2 million for his personal use and other wholly unrelated, unauthorized expenses.

4. Batchelor also provided false and materially misleading information to other principals of Specter Ventures Manager concerning the use of investor funds, which they then incorporated into various disclosures made to investors on behalf of Specter Ventures Fund and Specter Ventures Manager.

VIOLATIONS

5. Defendant has engaged and, unless restrained and enjoined by this Court, will continue to engage in acts and practices that constitute and will constitute violations of Section 17(a) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. § 77q(a)] and 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) and 206(2) of the Investment Advisers Act of 1940 (“Advisers Act”) [15 U.S.C. §§ 80b-6(1) and 80b-6(2)].

6. By his actions, Defendant also aided and abetted Specter Ventures Fund’s violations of 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].

JURISDICTION AND VENUE

7. The Commission brings this action pursuant to Sections 20 and 22 of the Securities Act [15 U.S.C. §§ 77t and 77v], Sections 21(d) and 21(e) of the Exchange Act [15 U.S.C. §§ 78u(d) and 78u(e)], and Sections 209(d) and 209(e) of the Advisers Act [15 U.S.C. §§ 80b-9(b) and 80b-9(d)], to enjoin Defendant

from engaging in the transactions, acts, practices, and courses of business alleged in this Complaint, and transactions, acts, practices, and courses of business of similar purport and object, for civil penalties and for other equitable relief.

8. This Court has jurisdiction over this action pursuant to Sections 20 and 22 of the Securities Act [15 U.S.C. § 77t and 77v], Sections 21(d), 21(e), and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), and 78aa] and Section 214 of the Advisers Act [15 U.S.C. § 80b-14(a)].

9. The Defendant, directly and indirectly, made use of the mails, the means and instruments of transportation and communication in interstate commerce and the means and instrumentalities of interstate commerce in connection with the transactions, acts, practices, and courses of business alleged in this Complaint, and made use of the mails and the means or instrumentalities of interstate commerce to effect transactions, or to induce or to attempt to induce the offering fraud alleged in this Complaint.

10. Venue is proper in this Court as certain of the transactions, acts, practices, and courses of business constituting violations of the Securities Act, the Exchange Act and the Advisers Act occurred in the Northern District of Georgia.

In addition, Batchelor resides in the Northern District of Georgia, and Specter Ventures Fund and Specter Ventures Manager had their principal places of business in the Northern District of Georgia.

11. The Defendant, unless restrained and enjoined by this Court, will continue to engage in the transactions, acts, practices, and courses of business alleged in this Complaint, and in transactions, acts, practices, and courses of business of similar purport and object.

THE DEFENDANT AND OTHER RELEVANT ENTITIES

12. Batchelor, 44, resides in Alpharetta, Georgia. He is not registered with the Commission in any capacity.

13. Specter Ventures Fund was a Georgia limited liability corporation formed in October 2014, with its principal place of business in Atlanta, Georgia. It was administratively dissolved by the State of Georgia on August 24, 2017.

14. Specter Ventures Manager was a Georgia limited liability corporation formed in October 2014, with its principal place of business in Atlanta, Georgia. It was organized for the purpose of engaging in financial advisory activities, financial management activities and general investment activities related to

Specter Ventures Fund. Specter Ventures Manager was previously registered with the Commission as an exempt reporting adviser. During the time frame at issue in this litigation, Batchelor was the principal for of Specter Ventures Manager. That firm's status as a limited liability company in Georgia was terminated on March 29, 2016, and its registration with the Commission was withdrawn on March 30, 2016.

THE FRAUDULENT SCHEME

A. Relevant Disclosures to Investors Concerning the Permissible Use of Investor Funds

15. Between January 2015 and July 2015, three high net-worth individuals and one institutional investor invested \$2.4 million into Specter Ventures Fund. Each investor was provided with a subscription agreement and private placement agreement ("PPM") that was drafted primarily based upon information provided by Batchelor.

16. The offering materials for Specter Ventures Fund and other information provided to investors represented that investor funds would be used to invest in various businesses related to national security, as well as the development of a high performance submarine vessel.

17. In addition to describing Specter Ventures Fund's investment objectives, the PPM noted that Specter Ventures Manager would receive a 2% yearly fee, based on the net assets of Specter Ventures Fund, as well as 20% of the fund's gains.

18. The PPM also noted that Specter Ventures Fund would pay expenses directly related to Specter Ventures Manager's operation of the fund, including, among other categories, operating, research, administrative, travel and marketing expenses.

19. The PPM also stated that "[c]ertain of the funds to be paid related to Fund Expenses, transactions and organization expenses incurred by or on behalf of the Fund may be paid to one or more affiliates of the Manager ... for services provided to the Fund. ... [I]t is expected that such fees will be paid according to the usual and customary industry standards"

20. In response to an investor question about whether salaries were paid to Specter Ventures Manager's personnel, and based upon information received from Batchelor, an associate of Batchelor's stated in an e-mail that:

"[Specter Ventures Fund] will require the professional services of certain independent service providers for investor protection. Examples of this include, but are not limited to, [Specter Ventures

Fund's] independent auditors, legal counsel, and valuation agents. These providers are retained for investor protection, and their professional fees and expenses are paid from [Specter Ventures Fund's] capital. The nature of their assignment requires independence from [Specter Ventures Manager], and, as such, no [Specter Ventures Manager] personnel will fill these roles. Additionally, [Specter Ventures Fund] will not pay any salaries directly to [Specter Ventures Manager] personnel to manage the fund. The fee structure of 2/20 has been designed to be inclusive of all required fund management functions.”

B. Specter Ventures Fund Files a Form D Containing False and Materially Misleading Statements

21. On March 2, 2015, Specter Ventures Fund filed a Form D with the Commission, to report its reliance on the exemption from the securities registration provisions provided by Rule 506(b) of Regulation D.

22. Batchelor provided all of the information that was incorporated into the Form D.

23. The Form D contained several false and misleading statements.

24. First, the Form D indicated that the total amount of interests in the Specter Ventures Fund sold between February 16, 2015 and March 2, 2015, was \$70 million, when in fact only \$900,000 had been sold during that period.

25. Second, the Form D failed to disclose that substantial amounts of investor funds had already been moved to Batchelor's personal bank accounts and spent on personal goods and services. Instead, the Form D falsely stated that that no amount of the gross proceeds from the offering were used as payments to Batchelor or others associated with Specter Ventures Fund.

26. After filing, the Form D was provided to prospective investors in the Specter Ventures Fund.

C. Batchelor's Misappropriation of Investor Funds

27. Through a series of transfers and withdrawals directed by Batchelor, Batchelor misappropriated approximately \$1.2 million of the \$2.4 million raised from investors for his personal use and other wholly unrelated, unauthorized expenses.

28. Examples of Batchelor's personal expenses include the following: (a) approximately \$233,000 for new vehicle purchases; (b) approximately \$225,000 for student loans; (c) approximately \$29,000 for classes at Georgetown University; (d) \$44,000 transferred to his mother; (e) approximately \$80,000 transferred to his wife; and (f) \$25,000 for luxury watches.

29. Batchelor also withdrew approximately \$172,000 in cash or cashier's checks, for which the ultimate use is unknown.

30. Batchelor also made check card purchases that were personal in nature, including more than \$2,000 at Brooks Brothers, and more than \$3,000 at a retailer that carries leather handbags and goods.

D. Batchelor Belatedly Mischaracterizes the Misappropriated Funds as a "Loan"

31. In November 2015, Batchelor caused Specter Ventures Manager to send a letter to investors that misrepresented his use of investors' funds as a loan.

32. The letter specifically stated that an entity owned and controlled by Batchelor and an associate had "borrowed" \$2.4 million from investors in February 2015.

33. All information and supporting documentation concerning the purported loan was provided by Batchelor to outside counsel for Specter Ventures Fund, who then drafted the letter to be sent to investors.

34. The purported loan document was fabricated by Batchelor in an attempt to justify and conceal his earlier fraud.

COUNT I—FRAUD

**Violations of Sections 17(a)(1) of the Securities Act
[15 U.S.C. § 77q(a)(1)]**

35. Paragraphs 1 through 34 are hereby re-alleged and are incorporated herein by reference.

36. Starting in approximately October 2014 and continuing until approximately July 2015, the Defendant, in the offer and sale of the securities described herein, by the use of means and instruments of transportation and communication in interstate commerce and by use of the mails, directly and indirectly, employed devices, schemes and artifices to defraud purchasers of such securities, all as more particularly described above.

37. The Defendant knowingly, intentionally, and/or recklessly engaged in the aforementioned devices, schemes and artifices to defraud.

38. While engaging in the course of conduct described above, the Defendant acted with scienter, that is, with an intent to deceive, manipulate or defraud or with a severely reckless disregard for the truth.

39. By reason of the foregoing, the Defendant directly and indirectly, has violated and, unless enjoined, will continue to violate Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)].

COUNT II—FRAUD

**Violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act
[15 U.S.C. §§ 77q(a)(2) and 77q(a)(3)]**

40. Paragraphs 1 through 34 are hereby re-alleged and are incorporated herein by reference.

41. Starting in approximately October 2014 and continuing until approximately July 2015, the Defendant, in the offer and sale of the securities described herein, by use of means and instruments of transportation and communication in interstate commerce and by use of the mails, directly and indirectly:

- a. obtained money and property by means of untrue statements of material fact and omissions 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

b. engaged in transactions, practices and courses of business which would and did operate as a fraud and deceit upon the purchasers of such securities,

all as more particularly described above.

42. By reason of the foregoing, the Defendant, directly and indirectly, has violated and, unless enjoined, will continue to violate Sections 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C. §§ 77q(a)(2) and 77q(a)(3)].

COUNT III—FRAUD

**Violations of Section 10(b) of the Exchange Act
[15 U.S.C. § 78j(b)] and Rule 10b-5(a) and (c) thereunder
[17 C.F.R. § 240.10b-5(a) and (c)]**

43. Paragraphs 1 through 34 are hereby re-alleged and are incorporated herein by reference.

44. Starting in approximately October 2014 and continuing until approximately July 2015, the Defendant, in connection with the purchase and sale of securities described herein, by the use of the means and instrumentalities of interstate commerce and by use of the mails, directly and indirectly:

a. employed devices, schemes, and artifices to defraud; and

b. engaged in acts, practices, and courses of business which would and did operate as a fraud and deceit upon the purchasers of such securities,

all as more particularly described above.

45. The Defendant knowingly, intentionally, and/or recklessly engaged in the aforementioned devices, schemes and artifices to defraud, made untrue statements of material facts and omitted to state material facts, and engaged in fraudulent acts, practices and courses of business. By engaging in such conduct, the Defendant acted with scienter, that is, with an intent to deceive, manipulate or defraud or with a severely reckless disregard for the truth.

46. By reason of the foregoing, the Defendant, directly and indirectly, has violated and, unless enjoined, will continue to violate Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5(a) and (c) thereunder [17 C.F.R. § 240.10b-5(a) and (c)].

COUNT IV—FRAUD

Aiding and Abetting Violations of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5(b) thereunder [17 C.F.R. § 240.10b-5(b)]

47. Paragraphs 1 through 34 are hereby re-alleged and are incorporated herein by reference.

48. Starting in approximately October 2014 and continuing until approximately July 2015, Specter Ventures Fund violated Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5] by making untrue statements of material fact, omitting 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 engaging in fraudulent acts, practices and courses of business.

49. The Defendant was generally aware that his role in connection with such violations was part of an overall activity that was improper, and provided substantial assistance to Specter Ventures Fund in committing such violations.

50. By reason of the foregoing, the Defendant, directly and indirectly, singly or in concert, has aided and abetted violations, and, unless enjoined, will

continue to aid and abet violations of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5(b) thereunder [17 C.F.R. § 240.10b-5(b)].

COUNT V—FRAUD

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

51. Paragraphs 1 through 34 are hereby re-alleged and are incorporated herein by reference.

52. Starting in approximately October 2014 and continuing until approximately July 2015, the Defendant, acting as an investment adviser, using the mails and the means and instrumentalities of interstate commerce, directly and indirectly, employed devices, schemes and artifices to defraud one or more advisory clients and/or prospective clients.

53. The Defendant knowingly, intentionally, and/or recklessly engaged in the aforementioned devices, schemes and artifices to defraud. In engaging in such conduct, the Defendant acted with scienter, that is, with intent to deceive, manipulate or defraud or with a severe reckless disregard for the truth.

54. By reason of the foregoing, the Defendant, directly and indirectly, has violated, and, unless enjoined, the Defendant will continue to violate Section 206(1) of the Advisers Act [15 U.S.C. § 80b-6(1)].

COUNT VI—FRAUD

**Violations of Section 206(2) of the Advisers Act
[15 U.S.C. § 80b-6(2)]**

55. Paragraphs 1 through 34 are hereby re-alleged and are incorporated herein by reference.

56. Starting in approximately October 2014 and continuing until approximately July 2015, the Defendant, acting as an investment adviser, by the use of the mails and the means and instrumentalities of interstate commerce, directly and indirectly, engaged in transactions, practices, and courses of business which would and did operate as a fraud and deceit on one or more advisory clients and/or prospective clients.

57. By reason of the foregoing, the Defendant, directly and indirectly, has violated and, unless enjoined, will continue to violate Section 206(2) of the Advisers Act [15 U.S.C. § 80b-6(2)].

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

I.

Enter Findings of Fact and Conclusions of Law pursuant to Rule 52 of the Federal Rules of Civil Procedure, finding that the Defendant committed the violations alleged herein.

II.

Enter injunctions, in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure, preliminarily and permanently restraining and enjoining the Defendant from violating, directly or indirectly, the violations of the law and rules alleged in this complaint, and an injunction from directly or indirectly participating in the issuance, purchase, offer or sale of any security, provided, however, that such injunction shall not prevent Batchelor from purchasing or selling securities for his own personal account.

III.

Order the Defendant to disgorge all ill-gotten gains in the form of any benefits of any kind derived from the illegal conduct alleged in this Complaint, plus prejudgment interest.

IV.

Order the Defendant 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.

Order such other relief as is necessary and appropriate.

JURY TRIAL DEMAND

The Commission hereby demands a jury trial as to all issues so triable.

Dated: February 13, 2018

Respectfully submitted,

/s/M Graham Loomis

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