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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

SECURITIES AND EXCHANGE COMMISSION,	
Plaintiff,	**Civil No.**
-against-	**ECF CASE**
ADAM RENTZER,	**COMPLAINT AND JURY DEMAND**
Defendant.	

Plaintiff Securities and Exchange Commission ("Commission") alleges the following against defendant Adam Rentzer ("Rentzer" or "Defendant"):

SUMMARY OF ALLEGATIONS

1. This case involves a fraudulent scheme in which Rentzer paid undisclosed cash kickbacks to Brian Hirsch ("Hirsch"), then a registered representative, in succession, at two major broker-dealer firms, in exchange for preferential access to, and greater allocations of, initial and secondary public stock offerings marketed by those firms for their issuer clients. Hirsch was a member of the wealth syndicate desk at the two broker-dealer firms and was entrusted with determining offering allocations for certain groups of their retail customers.

While at both firms, Hirsch had an arrangement with Rentzer and at least one other customer in which they paid Hirsch cash kickbacks equal to a percentage of the secondary market trading profits they made on the offering stock that Hirsch allocated to them – 25 percent in Rentzer's case. In most instances, Rentzer sold the stock into the market as soon as possible, often turning a substantial profit.

2. Through their scheme, Rentzer and Hirsch defrauded the brokerage firms that employed Hirsch by using deception to subvert the firms' allocation policies and procedures so as to enable Rentzer to gain greater access to lucrative offerings at the expense of the firms' other brokerage customers and the issuers' interests in raising capital from long-term investors. The scheme enabled Rentzer to generate greater short-term trading profits by secretly sharing those profits with Hirsch, who was prohibited from doing so by his employers' policies.

3. Hirsch failed to disclose the cash kickbacks or anything at all about his arrangements with Rentzer to either brokerage firm that employed him. To further the scheme and enable Rentzer to continue secretly sharing trading profits with him in the form of cash kickbacks, Hirsch also made affirmative written representations to both brokerage firms that were materially false in light of his undisclosed arrangements with Rentzer, including false representations in quarterly and annual ethics certifications that Hirsch (i) had not entered into any *quid pro quo* arrangements with respect to offering allocations, which were expressly prohibited by firm policy; and (ii) had not received or solicited any prohibited or undisclosed gifts, including cash.

4. Rentzer also made materially false statements to further the scheme when receiving initial public offering ("IPO") allocations through Hirsch by falsely certifying to Hirsch's firm that no restricted person held a prohibited beneficial interest in Rentzer's account.

Absent such a certification, Rentzer would have been ineligible to purchase any of the IPO shares that Hirsch allocated to him pursuant to their scheme. Rentzer was, in fact, ineligible to purchase any of those shares and those certifications were false, because Hirsch was a restricted person as defined in the certification form, which defined beneficial interest as any "economic interest, including the right to share in gains or losses."

5. Rentzer made approximately $800,000 in trading profits on the offering allocations he received from Hirsch, and, pursuant to their arrangement, Rentzer paid Hirsch approximately $200,000 based on those trading profits.

VIOLATIONS

6. By virtue of the conduct alleged herein, Rentzer, directly or indirectly, singly or in concert, violated 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].

7. Unless Rentzer is permanently restrained and enjoined, he will again engage in the acts, practices, transactions and courses of business set forth in this complaint and in acts, practices, transactions and courses of business of similar type and object.

NATURE OF PROCEEDINGS AND RELIEF SOUGHT

8. The Commission brings this action pursuant to the authority conferred upon it by Section 21(d)(1) of the Exchange Act [15 U.S.C. § 78u(d)(1)] and seeks to restrain and permanently enjoin the Defendant from engaging in the acts, practices, transactions and courses of business alleged herein. In addition, the Commission seeks a final judgment (a) ordering Defendant to disgorge his ill-gotten gains, together with prejudgment interest thereon; and (b) ordering Defendant to pay civil monetary penalties pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)].

JURISDICTION AND VENUE

9. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and Sections 21(d), 21(e), and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), and 78aa].

10. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and Section 27 of the Exchange Act [15 U.S.C. § 78aa]. Certain securities transactions constituting or giving rise to the alleged violations occurred in the District of New Jersey.

11. In connection with the conduct alleged in this complaint, the Defendant, directly or indirectly, singly or in concert, has made use of the means or instrumentalities of interstate commerce or of the mails, or of the facilities of a national securities exchange.

DEFENDANT

12. **Rentzer**, age 52, is a stock trader who resides in Roslyn, New York. He was a registered representative associated with several broker-dealers from 1989 through 2006. During the time he was a registered representative, Rentzer's securities license was suspended by the New York Stock Exchange and withdrawn or revoked in multiple states.

RELEVANT INDIVIDUAL

13. **Hirsch** was, from September 2008 through December 2015, a registered representative associated with Firm A, a registered broker dealer and, at that time, an investment adviser with offices in New York City. Hirsch worked on Firm A's wealth syndicate desk. In December 2015, Firm B, also a dually-registered broker-dealer and investment adviser with offices in New York City, acquired Firm A's wealth syndicate desk and Hirsch continued performing the same services for Firm B until his resignation in December 2017. On December 19, 2017, the Commission filed a complaint against Hirsch, and another customer of his who was also involved in the kickback scheme, in the United States District Court for the District of New

Jersey, *SEC v. Brian Hirsch et al.*, Case No. 3:17-cv-13266 (MAS), based on their conduct relating to the scheme. On the same day, Hirsch also pled guilty to one count of violating 18 U.S.C. § 1952(a)(3) and 18 U.S.C. § 2, in a parallel criminal action filed by the United States Attorney's Office for the District of New Jersey, *U.S. v. Brian Hirsch*, Case No. 3:17-cr-541 (MAS).

THE DEFENDANT'S FRAUDULENT CONDUCT

Background

14. Publicly traded issuers have a number of ways to raise funds. One way is through a public offering of securities. When an issuer whose securities are not yet publicly traded conducts a public offering of securities, such an offering is commonly referred to as an initial public offering or "IPO." When an issuer whose securities are already publicly traded conducts an offering of additional securities, such an offering is commonly referred to as a secondary or follow-on offering (referred to hereinafter as a "secondary offering").

15. In an offering, an issuer typically offers to sell a set number of new shares at a set price to private investors or to the general public and retains one or more investment banking firms to market the offering, a function commonly referred to as underwriting. An investment banking firm may purchase a set number of shares from the issuer up front at a set price and then try to resell the shares to private or public investors. An offering underwritten in this manner is commonly referred to as being done on a "firm commitment" basis.

16. During the relevant period, Firm A and Firm B both engaged in the business of underwriting IPOs and secondary offerings for issuers. As part of the offering process, Firm A and Firm B allocated the available shares to interested investors. Many of the offerings at issue here, which included the vast majority of the numerous IPOs that Firm A and Firm B underwrote

during the relevant period, provided lucrative investment opportunities and were highly sought after by investors, both as long-term investments and, in part, due to the potential for profitable trading opportunities on the secondary market. While certain secondary offerings were attractive to investors for these reasons, some were less desirable, in part because the dilutive impact of a secondary offering might temporarily depress market prices for the stock.

Hirsch's Role in Allocating Offering Shares at Firm A and Firm B

17. As a member of the wealth syndicate desk, first at Firm A and then at Firm B, Hirsch's responsibilities included soliciting indications of interest from the firm's brokerage customers and allocating shares among interested customers for offerings underwritten by the firm, generally on a firm commitment basis as lead or joint "book runner" on the offering.

18. For example, Firm A's capital markets group would typically provide a certain number of shares to be allocated by Hirsch's group. Hirsch's supervisors entrusted him, subject to occasional review, to then allocate those shares among the group's customers in accordance with the firm's allocation policies, which provided specific criteria and guidance to ensure that the issuers' and the firm's interests were being advanced. The issuer's interests were paramount and, for that reason, key customers with more capital for long-term investments and who provided more overall business to the firm were generally expected to receive more shares than other types of customers. Hirsch continued this work at Firm B under the same supervisor.

The Firms' Written Allocation Policies and Procedures

19. Firm A and Firm B had written policies and procedures that set forth specific allocation principles, rules and criteria that Hirsch was required to follow. Firm A's global allocation policy articulated the primacy of the issuer's interests and preferences, as follows: "All allocations should be made with an emphasis on the Issuer's allocation preference (if any).

Exceptions may be agreed upon only with the Compliance department on a case-by-case basis." Additional factors that were to be considered by the wealth syndicate desk at Firm A included the following:

- The investor client's account history and overall business relationship with the firm;
- The investor client's nature and level of demonstrated interest in the Offering or Issuer, including participation in road shows and timeliness of indications of interest;
- Whether the investor client owns similar securities in its portfolio and/or trades comparable securities, including the investor client's historic and existing position in the Issuer's securities and the investor client's interest in the Issuer's industry sector;
- Whether Syndicate believes the investor client intends to hold the securities as an investment, or, instead, expects to sell the securities in the immediate aftermarket; and
- The investor client's desired long-term position in the security being offered or in the relevant industry, and the price or prices at which the investor client might accumulate that long-term position.

20. At Firm A, both the global allocation policy and the syndicate desk's standard operating procedures also expressly prohibited certain allocation practices that gave rise to conflicts of interest with the firm or the issuer, including any "predetermined agreement or *quid pro quo* arrangement with an investor client in return for an allocation, including the promise to allocate in a future offering of a different issuer." The standard operating procedures also expressly prohibited "cross-selling," defined as "promising an allocation of an oversubscribed syndicate offering in exchange for the client purchasing an offering that is undersubscribed."

21. During the time Hirsch worked at Firm B, Firm B's policies and procedures applicable to equity offerings also expressly prohibited "*quid pro quo* allocations." In a section titled "Prohibition on Abusive Allocation Arrangements," the relevant policy manual, which governed the performance of functions of employees involved in offerings and allocations, stated that Firm B: (i) "does not allocate a new issue as a means of obtaining a 'kick back' from the recipient in the form of excessive compensation for other services offered" by the Firm; and (ii) "does not offer . . . shares [Firm B] allocates of a new issue as consideration or inducement for

the receipt of compensation that is excessive in relation to the services provided." The manual goes on to state that this "provision prohibits *quid pro quo* activity, not only with respect to trading services, but any service offered by" Firm B. The manual further provided that other, "generally accepted criteria" were to be used instead "in determining the allocation of public offerings," such as "the length of a client relationship" and the "size of a client's account."

22. As he did with his other customer, Hirsch breached his obligations to his employers and betrayed his employers' trust by secretly entering into a prohibited *quid pro quo* arrangement with Rentzer, whereby Hirsch agreed, contrary to the firms' allocation policies, to give Rentzer preferential access to offerings and increase their allocations in exchange for cash payments equal to a substantial percentage of the aftermarket trading profits generated by those offering allocations.

<u>Rentzer's Undisclosed Kickback Scheme With Hirsch</u>

23. Rentzer's arrangement with Hirsch began in 2013, when Hirsch was still at Firm A, and continued after Hirsch moved to Firm B. At some point in 2013, Hirsch and Rentzer discussed entering into a *quid pro quo* arrangement with respect to offering allocations and Rentzer's secondary market trading profits on those allocations. Subsequently, Hirsch began increasing Rentzer's allocations and giving him preferential access to IPOs and other lucrative offerings and Rentzer began paying Hirsch 25% of his secondary market trading profits on a monthly basis in cash. Rentzer's payments to Hirsch, and the improved allocations he received from Hirsch, continued throughout the period from 2014 through 2016. When Hirsh moved to Firm B, their scheme continued. Rentzer made approximately $800,000 in secondary market trading profits on allocations he received from Hirsch pursuant to their scheme, and, in return,

Rentzer paid Hirsch approximately $200,000 in cash through 2016. Rentzer also made additional cash payments to Hirsch in 2017 pursuant to their arrangement.

24. Pursuant to their kickback arrangement, Hirsch gave Rentzer more offering allocations, including allocations in more desirable offerings, and a larger number of shares in offerings than Rentzer would have otherwise received. Beginning in 2013, Hirsch allocated offering shares to Rentzer in approximately 268 separate stocks, for a total of at least 758 separate allocations. Rentzer then promptly sold the shares on the secondary trading market to generate the trading profits that he shared with Hirsch. The additional allocations and shares that Hirsch gave to Rentzer pursuant to their arrangement came at the expense of other customers, who would have otherwise received larger and more frequent allocations, and also at the expense of the issuers, who typically preferred to have their shares allocated to larger, more established, long-term investors who would hold the stock, rather than a trader like Rentzer who would sell the shares as soon as possible.

25. Rentzer understood the impropriety of his kickback arrangement with Hirsch, the risk it presented to Hirsch in his employment, and the need for confidentiality to prevent Hirsch's employer from learning about the arrangement in order to continue the scheme.

The Deception of Firm A and Firm B to Effectuate the Scheme

26. By no later than 2013, Firm A required all covered employees, including Hirsch, to attest in writing in quarterly and annual certifications to their compliance with its global conflicts of interest policies, including each of its component policies. To prevent Firm A from finding about the kickback scheme, Hirsch falsely stated in each such certification he provided from 2013 until his departure from Firm A in December 2015 that he had complied with each of the relevant policy components listed in the certification and described below.

27. Employees were required to disclose and consult with compliance about any potential or actual conflicts of interest. Hirsch's undisclosed kickback arrangements with Rentzer posed such a conflict, as Hirsch was putting his own interests ahead of the firm's interests by increasing Rentzer's allocations for the sole purpose of enabling Rentzer to make a trading profit that would result, by virtue of the kickbacks, in increased income for Hirsch, and doing so in direct contravention of his firm's allocation policies.

28. The overall conflicts of interest policy also specified that it was to be read in conjunction with a number of other policies applicable to particular lines of business, which were listed in an appendix to the global conflicts of interest policy document. The appendix included the global allocation policy, which expressly prohibited the very type of *quid pro quo* arrangement that Hirsch had with Rentzer.

29. Another component of the periodic conflicts of interest certification was the global gifts and entertainment policy, which reinforced and intertwined with the other global policies in this area. The gifts and entertainment policy expressly stated that "giving, accepting or otherwise engaging in the following activities [among others] is prohibited:

- Cash or cash equivalent[s];
- Gifts or Entertainment that could or could be perceived to bring [Firm A] into disrepute;
- Gifts or Entertainment giving rise to a perceived or actual conflict of interest;
- Gifts or Entertainment without a legitimate business purpose;
- Soliciting Gifts or Entertainment from a Business Contact;
- Gifts or Entertainment that may be deemed to be offered in exchange for pending or anticipated business;
- Gifts or Entertainment which otherwise might, or might be seen to, influence the recipient to act improperly or contrary to the recipient's duties to his/her employer;
- Activities or conduct deemed to be contrary to applicable law, including anti-bribery and anti-corruption laws, rules or regulations (e.g., kickbacks, corrupt payments); and
- Gifts or Entertainment in breach of this or any other firm policy.

The cash payments from Rentzer fell within each of these prohibited categories.

30. An additional component of the periodic conflicts of interest certification required Hirsch to attest to compliance with the global personal investments policy, which mandated, among other things, disclosure of all reportable accounts and each securities transaction in such accounts. Hirsch was also subject to a periodic reporting requirement that required him to certify compliance with an identical policy applicable specifically to his group. Under both policies, the definition of reportable accounts, set forth in the certification forms he executed and elsewhere, included any brokerage account in which the employee has an interest. Pursuant to his arrangement with Rentzer, Hirsch had an interest in Rentzer's accounts, including accounts held away from Firm A that were used for the secondary market trading, and did not disclose those accounts or report the securities transactions made in them to Firm A.

31. Firm B required all covered employees, including Hirsch, to make similar disclosures and certifications as Firm A. After Hirsch joined Firm B, he was required to respond in writing to a "New Associate Compliance Questionnaire" that covered multiple policies applicable to all Firm B employees, including relevant policies laid out in Firm B's compliance manual and Code of Ethics. Hirsch submitted his response to Firm B attesting to his purported compliance with those policies on February 25, 2016, even though his kickback arrangement with Rentzer was ongoing at that time and Hirsch was therefore in violation of multiple policies referenced in the questionnaire.

32. In addition to violating the express prohibition on *quid pro quo* arrangements, Hirsch falsely attested in the response to the questionnaire to his compliance with Firm B's policies governing employees' conflicts of interest, outside income or gifts and interests in securities accounts. Firm B's Code of Ethics, which the questionnaire referenced, has a detailed conflict of interest policy that provides, among other things, that a conflict may arise when an

employee "has a financial . . . incentive to favor the interest of one client or group of clients over another client" or when the employee has an "interest [that] differs or is perceived to differ with the interests of the firm." The policy clearly states that "[a]ctions or relationships that may create personal conflicts of interest must not be undertaken without prior approval of the firm," and that "[a]ssociates must notify their supervisors or the Compliance Department of information that relates to an actual, potential or perceived conflict that has not already been addressed." Hirsch's kickback arrangement with Rentzer gave Hirsch the financial incentive to favor Rentzer over other firm customers and over the firm's interests when allocating offering stock, yet Hirsch failed to obtain the firm's prior approval for those arrangements or to notify anyone about them.

33. Firm B's Code of Ethics also prohibited employees from accepting or receiving "gifts" or any "similar form of consideration from any person with which" the firm "does business" unless the consideration complies with, among other things, Firm B's policies and "cannot be construed as potentially influencing any business judgment of the [employee's] performance of his or her duties." Pursuant to the scheme, Hirsch falsely attested to compliance with these policies as well, stating falsely in his submission that he did not have reportable outside "sources of income" even though he knew that he was receiving cash payments from Rentzer.

34. Hirsch's submission also falsely attested to his compliance with the firm's policy requiring disclosure of all accounts "where an employee has a personal financial interest" in which the "employee is directly or indirectly financially interested" or in which the employee has a "beneficial interest." Moreover, Firm B's policies governing employee accounts expressly provided that "employees may not share directly or indirectly in the profits or losses of a customer's account," except in limited circumstances not present here and only with the prior

approval of compliance. Hirsch was in violation of those policies because he was sharing in the trading profits of, and therefore had a substantial financial and beneficial interest in, brokerage accounts held by Rentzer.

Rentzer's Own Misrepresentations When Buying IPO Shares

35. Rentzer himself made materially false statements to further the kickback scheme when receiving IPO allocations through Hirsch by falsely certifying to Firm A that no restricted person held a prohibited beneficial interest in Rentzer's accounts. Rentzer submitted IPO certifications to Firm A after his scheme with Hirsch had already started, and Rentzer's certifications to Firm A were therefore knowingly false when made.

36. Such a certification was required in order for a purchaser to be eligible to purchase the IPO shares. The requisite certification form states that the underwriting firm "may not sell or cause to be sold a **new issue** . . . to any account in which a **restricted person** holds a **beneficial interest** unless the account qualifies for a **general exemption** under [FINRA Rule 5130]." (Emphasis added.) As an associated person and employee of a broker-dealer, Hirsch was a restricted person as defined in the certification form, and beneficial interest is defined as any "economic interest, including the right to share in gains or losses." Hirsch had a beneficial interest in the Rentzer accounts to which he allocated IPO stock because his kickback arrangement with Rentzer entitled him to a share of the gains in those accounts.

37. None of the general exemptions applied and while a purchaser could still remain eligible if the account holder implemented procedures to reduce the beneficial interests of all restricted persons with respect to new issues to, in the aggregate, below 10%, Rentzer did not implement any such procedures, and Hirsch's interest in the accounts (with respect to new issues and otherwise) always remained at the agreed upon percentage of 25%, well above the 10%

threshold. Nevertheless, Rentzer submitted certifications stating that no restricted person held a prohibited beneficial interest in his accounts, thereby certifying his eligibility to purchase IPO shares, and he never disclosed Hirsch's interests in their accounts. Those statements were materially false, and Rentzer was therefore ineligible to purchase any of the IPO shares that Hirsch allocated to him during the course of their scheme due to his interest in Rentzer's accounts.

CLAIM FOR RELIEF

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

38. The Commission realleges and incorporates by reference herein each and every allegation contained in paragraphs 1 through 37.

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

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

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests a Final Judgment;

I.

Permanently restraining and enjoining the Defendant from violating 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];

II.

Ordering the Defendant to disgorge all of the unlawful trading profits and all other ill-gotten gains he received from the violations alleged in this complaint, and ordering him to pay prejudgment interest thereon;

III.

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

IV.

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

JURY DEMAND

Plaintiff demands that this case be tried to a jury.

Dated: New York, New York
September 24, 2018

Respectfully submitted,

/s/ *Todd Brody*

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LOCAL RULE 11.2 CERTIFICATION

Pursuant to Local Rule 11.2, I certify that the matter in controversy alleged in the foregoing Complaint is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding.

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DESIGNATION OF AGENT FOR SERVICE

Pursuant to Local Civil Rule 101.1(f), because the Securities and Exchange Commission (the "Commission") does not have an office in this district, the United States Attorney for the District of New Jersey is hereby designated as eligible as an alternative to the Commission to receive service of all notices or papers in the above-captioned action. Therefore, service upon the United States or its authorized designee, J. Andrew Ruymann, Chief, Civil Division, United States Attorney's Office for the District of New Jersey, 402 East State Street, Room 430, Trenton, NJ 08608, shall constitute service upon the Commission for purposes of this action.

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