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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

BRUCE J. FIXELLE, AURORA CAPITAL
MANAGEMENT, LLC, and GENESIS
ADVISORY SERVICES CORP.,

Defendants,

18 Civ. _____

COMPLAINT

Plaintiff Securities and Exchange Commission (the “Commission”), as and for its Complaint against defendants Bruce J. Fixelle (“Fixelle”), Aurora Capital Management, LLC (“Aurora”) and Genesis Advisory Services Corp. (“Genesis”), alleges as follows:

SUMMARY

1. Since at least 2014, and continuing through at least 2017, Fixelle, an investment adviser with a history of securities regulatory violations, made material misrepresentations to investors and used his investment fund, Aurora, and Aurora’s unregistered investment adviser,

Genesis, to perpetrate a scheme to misappropriate investor funds. The victims of Fixelle's scheme were long-time friends and acquaintances, whose trust he earned through association in at least one local community group. To these unsophisticated investors, Fixelle touted an investment strategy that consisted of buying securities in initial and secondary securities offerings, and selling them before the end of the initial trading day. He told his prospects that his strategy ensured that he maintained liquidity for his clients at the end of each trading day and reduced risk by not holding the securities overnight. He also told investors that he achieved substantial, positive returns.

2. In reality, by 2014, Fixelle had suffered earlier disastrous investment losses based on his trading strategy, and was facing mounting debts and outstanding judgments, including a \$1.5 million judgment he owed to the Commission for prior violations of federal securities laws. Moreover, by 2014, Fixelle had largely abandoned any investment strategy at all with his investors' money. Rather, he was instead using investor funds to pay his debts, personal expenses, and by at least 2016, to repay at least one other investor.

3. Fixelle never disclosed to his prospective or existing investors his personal or business financial problems, or his intention and practice of misappropriating their funds, until long after they invested with him. On the contrary, Fixelle actively sought to deceive them through periodic account statements that he knowingly falsified, and which falsely purported to show positive returns. Fixelle succeeded in inducing at least two investors, "Investor A," and "Investor B," into providing him with more than \$300,000 since 2014 through these fraudulent misrepresentations and omissions.

VIOLATIONS

4. By virtue of the conduct alleged herein, Fixelle, Aurora and Genesis, directly or

indirectly, singly or in concert, have engaged, and unless restrained and enjoined will continue to engage in acts, practices, schemes and courses of business that constitute violations of Section 17(a) of the Securities Act of 1933 (the “Securities Act”) [15 U.S.C. § 77q(a)], Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], and Sections 206(1), 206(2) and 206(4) of the Investment Advisers Act of 1940 (the “Advisers Act”) [15 U.S.C. §§ 80b-6(1), 80b-6(2) and 80b-6(4)], and Rule 206(4)-8 [17 C.F.R. § 275.206(4)-8] thereunder.

NATURE OF THE PROCEEDINGS AND RELIEF SOUGHT

5. The Commission brings this action pursuant to the authority conferred on it by Section 20(b) of the Securities Act [15 U.S.C. § 77t(b)], Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)], and Section 209(d) of the Advisers Act [15 U.S.C. § 80b-9(d)], seeking to permanently restrain and enjoin Defendants from engaging in the conduct, acts, practices, and courses of business alleged herein, and for such other equitable relief as may be appropriate or necessary for the benefit of investors.

6. The Commission also seeks a final judgment ordering Defendants to disgorge their ill-gotten gains and pay prejudgment interest thereon and to pay civil money 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 Sections 209(e) and 209(f) [15 U.S.C. §§ 80b-9(e) and 80b-9(f)] of the Advisers Act.

JURISDICTION AND VENUE

7. This Court has jurisdiction over this action, and venue lies in this District, pursuant to Sections 20(b), 20(d), and 22 of the Securities Act [15 U.S.C. §§ 77t(b), 77t(d), 77v], Sections 21 and 27 of the Exchange Act [15 U.S.C. §§ 78u and 78aa], and Section 209(d) of the

Advisers Act [15 U.S.C. § 80b-9(d)]. Defendants, directly or indirectly, have made use of the means or instruments of transportation or communication in, and the means or instrumentalities of, interstate commerce, or of the mails, in connection with the transactions, acts, practices, and courses of business alleged herein. Some of these transactions, acts, practices and courses of business occurred in the District of New Jersey.

DEFENDANTS

8. **Fixelle**, age 58, is a resident of Hillsdale, New Jersey, and is the principal of Aurora Capital Management, LLC and Genesis Advisory Services Corp.

9. **Genesis** is a Delaware limited liability company, with its principal place of business in Hillsdale, New Jersey. Genesis is an unregistered investment adviser, solely owned and operated by Fixelle and it has one administrative employee. Genesis was the general partner of Aurora, and Fixelle directed all trading decisions (to the extent he made any) for Genesis and Aurora.

10. **Aurora** is a Delaware limited liability company, with its principal place of business in Lodi, New Jersey. Aurora was established in 2015, and represented to prospective investors that it is an unregistered limited partnership, managed by its general partner, Genesis.

FACTS

A. Background

11. In 1992, Fixelle founded Genesis Group L.P. (“the Genesis Fund”), an unregistered investment fund he advised through Genesis, with initially approximately \$1 to \$1.2 million in investments. By 2006, his strategy consisted of obtaining allocations of initial and secondary securities offerings from a network of brokers with whom he had developed relationships. Fixelle’s stated strategy was to buy shares in these offerings, benefit from intra-

day rises in trading prices, and then liquidate by the end of the trading day.

12. On May 21, 2014, the Commission entered an order (the “Order”) against Fixelle, Genesis and another entity he controlled, finding that from June 2008 through November 2012, Fixelle traded or directed trading that violated Rule 105 in connection with 35 secondary and follow-on offerings. Rule 105 was enacted to prevent manipulative short selling prior to public offerings, and it prohibits short selling securities during a defined restricted period, and then subsequently purchasing the same securities in a covered follow-on or secondary offering.

13. The Commission, with the consent of Fixelle and Genesis (who neither admitted nor denied the findings contained in the Commission’s order): (1) ordered Fixelle and Genesis to cease-and-desist from committing or causing any violations and any future violations of Rule 105; (2) censured them; and (3) ordered them to pay, jointly and severally, disgorgement of \$951,060.13, prejudgment interest of \$140,488.48 and a civil money penalty of \$492,394, for a total of \$1,583,942.61.

14. Fixelle made only one partial payment of \$100,000 due under the Order. On January 13, 2016, the Commission obtained a final judgment from the United States District Court for the District of New Jersey against him and Genesis enforcing the Order. *SEC v. Genesis Advisory Services Corp., et al.*, 15 Civ. 8181 (D.N.J. Jan. 13, 2016). Neither Fixelle nor Genesis has made any further payments in satisfaction of the Order, or the judgment of the District Court. Beginning in 2014, in addition to his outstanding obligation to the Commission, public records reflect that Fixelle has faced hundreds of thousands of dollars in mounting debts.

B. Defendants’ Material Misrepresentations and Scheme to Defraud Investors

15. In the midst of this growing financial pressure, Fixelle, beginning no later than 2014, began fraudulently inducing investments into Aurora, focusing his efforts on individuals

whose trust he had gained from long associations at a local organizations.

16. To at least two of these individuals, Fixelle represented (as he had previously when marketing his Genesis Fund), that Aurora's investment strategy consisted of purchasing shares of initial public offerings on the first day of trading, and closing those positions the same day – a strategy he claimed ensured liquidity, reduced overnight risk, and consistently yielded substantial positive returns.

17. These claims, as Fixelle knew, were false. In reality, by 2014, Fixelle was seeking new investor funds primarily to pay his personal and family expenses and debts, and to make repayments to former investors, facts he never disclosed to these individuals. Through his deception, Fixelle succeeded in obtaining more than \$300,000 in investor proceeds from these two investors, all of which he misappropriated.

Investor A

18. Investor A is a resident of Bergen County, New Jersey, who met Fixelle approximately fourteen years ago through a local organization, and they became close friends. From 2015 to 2017, Investor A invested a total of \$274,000 with Fixelle and Aurora, and, despite demands for repayment, has received nothing in return.

19. Fixelle initially solicited Investor A's investment by describing his purported expansive network of broker dealers, and his strategy of buying securities in initial public offerings and selling by the end of the day. Fixelle boasted a rate of return of 10% or better to Investor A, and said that the return would be higher the more money he invested.

20. Fixelle also provided Investor A's accountant with a written summary of his investment strategy (consistent with his oral representations), together with a "Private Placement Memorandum & Subscription Agreement," which identified Aurora as the investment

partnership (with investors purchasing limited partnership interests) and Genesis as the managing or general partner of Aurora.

21. Investor A initially invested \$150,000 with Aurora, in a series of payments from October through November 2015. At no time before Investor A invested with Fixelle, did Fixelle ever disclose to Investor A his prior regulatory violations, his personal or business financial problems, or his intention and practice of misappropriating investor funds.

22. Defendants then sent Investor A account statements, signed by Fixelle as Aurora's General Partner, that consistently reported steady, positive returns. Defendants' statement for the period October 19, 2015 through December 31, 2015 reported that Investor A's \$150,000 investment had risen to \$152,760 by December 31, 2015. The statement Defendants sent for the period January 1, 2016 through March 31, 2016 reported a 1.425% gain for that quarter.

23. In May 2016, after Defendants sent those statements, Investor A invested another \$100,000 with Fixelle in two payments, and, in October 2017, an additional \$24,000, for a total investment of \$274,000. Defendants sent Investor A's accountant a statement for the period January 1, 2017 through December 31, 2017, which reported that Investor A's total investment had climbed \$32,134 in value as of that date – approximately 12% – for that calendar year.

24. These statements, as Defendants knew, were fictitious. Defendants sent the statements to deceive Investor A about the status of his investments and conceal Defendants fraud from Investor A, and also to induce additional investments from him. Fixelle had not invested Investor A's money – he misappropriated it. Fixelle used Investor A's \$150,000 initial investment primarily to pay Fixelle's sons, or for personal expenses such as credit cards, office rent, and condo association fees.

25. He also used Investor A's initial \$150,000 investment to pay his debts, including,

on November 23, 2015, a payment Fixelle made to a business whose proprietors held a \$250,000 judgment against Fixelle.

26. From Investor A's second investment of \$100,000, Fixelle used \$20,000 in May 2016 to repay an earlier investor ("Investor B"), and another \$40,000 to repay another individual as well. Fixelle also misappropriated another \$29,900 of Investor A's investment by sending it to a business operated by Fixelle's son.

27. Fixelle's accountant, with the knowledge of and on behalf of Fixelle, also sent Investor A's accountant statements that purported to represent Aurora's account with the clearing broker-dealer, as evidence of Aurora's "underlying statement of assets." On information and belief, however, Fixelle physically altered the broker-dealer's statements before sending them to his accountant, so they would falsely reflect more than \$600,000 in assets. In truth – based on the broker-dealer's records – the account held only \$48.

28. In early 2018, Investor A made a redemption request to Fixelle for \$50,000. Fixelle, stalling, falsely claimed in a text message to Investor A that he had "put in the request with [his] clearing firm," and that the firm was "running it up the flagpole." In June 2018, after Fixelle had still not honored Investor A's redemption request, Fixelle visited Investor A's office, and told him that his money was gone. Fixelle offered to put Investor A's name on the deed to his home and to get a new job to pay Investor A back, and also told him that he could send Fixelle to jail if he wanted. Investor A has had no subsequent contact with Fixelle, nor any repayment of his \$274,000.

Investor B

29. Investor B also is not a sophisticated investor, and met Fixelle in a local organization, approximately fifteen years ago. Before he invested, Fixelle explained to Investor

B that he engaged in day trading, and thus that he was liquid every night, meaning that he sold the securities before the day ended. Beginning in January 2007 and continuing to September 2015, Investor B transferred a total of approximately \$2.8 million to Fixelle for investment in the Genesis Fund, \$45,000 of which he transferred within the past five years. Over the same period, Investor B has been paid approximately \$1.9 million, with the last payment occurring in February 2018, for \$8,000. At no time before Investor B invested did Fixelle ever disclose to Investor B his personal or business financial problems, or his intention and practice of misappropriating investor funds.

30. Fixelle sent Investor B an account statement dated September 30, 2017 that knowingly and falsely reflected a balance of \$902,724.55. In reality, however, Fixelle had lost or misappropriated much if not all of Investor B's balance in the account.

31. In January 2018, Investor B asked Fixelle to liquidate approximately \$210,000 from his accounts. As he did with Investor A, Fixelle first attempted to stall Investor B, by falsely claiming there was an issue with the clearing company, and as a result Fixelle repaid only a small portion of Investor B's investment. In May 2018, Fixelle confessed to Investor B that his money was completely gone, and gave him empty promises that he would repay him from the sale of a property or from personal funds that he expected to receive. Since the days immediately following Fixelle's admission that Investor B's money was gone, Investor B and Fixelle have not spoken.

32. In fact, Investor B's money was gone because, by no later than 2014, Fixelle was misappropriating much if not all of his funds, and using them to pay personal expenses and debts. For example, on July 31, 2014, Investor B invested \$8,000, which was deposited into a Genesis account at Wells Fargo that had a balance of \$1,733. Those funds were co-mingled with

a \$13,000 deposit from another Fixelle entity. None of the money was invested. It was instead spent as follows:

- \$4,439 to make payments on personal credit cards;
- \$5,463 to make a payment on a personal loan at Hudson City Savings and Loan;
- \$5,334 to pay Fixelle's mortgage;
- \$200 to the "Bruce Fixelle Irrevocable Trust";
- \$950 withdrawn in cash; and
- \$2,666 to pay health insurance premiums.

33. In addition, some of Investor B's redemptions were paid with funds from Investor A and other individuals. As described above, Fixelle sent \$20,000 of Investor A's investment in May 2016 to fund Investor B's redemption later that month. In May 2015, Fixelle sent Investor B funds he had received from another individual to partially redeem \$20,000 to Investor B. In January 2016, Fixelle again sent Investor B funds he had received from still another individual, to partially redeem \$40,000 to Investor B.

FIRST CLAIM FOR RELIEF

Violations of Section 17(a) of the Securities Act (All Defendants)

34. Paragraphs 1 to 33 are re-alleged and incorporated by reference as if fully set forth herein.

35. By engaging in the acts and conduct alleged above, Defendants, directly or indirectly, in the offer or sale of securities by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails: (a) with scienter, employed, and/or is employing, devices, schemes, or artifices to defraud; (b) obtained, and/or is

obtaining, money or property by means of untrue statements of material fact or by omitting to state a material fact necessary in order to make statements made, in light of the circumstances under which they were made, not misleading; and (c) engaged, and/or is engaging, in transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon the purchasers.

36. By reason of the foregoing, Defendants have violated and, unless restrained and enjoined, will continue to violate Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

SECOND CLAIM FOR RELIEF

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

37. Paragraphs 1 to 33 are re-alleged and incorporated by reference as if fully set forth herein.

38. By engaging in the acts and conduct alleged above, Defendants, directly or indirectly, in connection with the purchase or sale of securities, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, with scienter: (a) employed, and/or is employing, devices, schemes, or artifices to defraud; (b) made, and/or is making, untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaged, and/or is engaging, in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any person.

39. By reason of the foregoing, Defendants have violated and, unless restrained and enjoined, will continue to 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].

THIRD CLAIM FOR RELIEF

**Violations of Sections 206(1) and 206(2) of the Advisers Act
(Defendants Fixelle and Genesis)**

40. Paragraphs 1 to 33 are re-alleged and incorporated by reference as if fully set forth herein.

41. Defendants Fixelle and Genesis, directly or indirectly, knowingly or recklessly, by use of the mails or any means or instrumentality of interstate commerce, while acting as investment advisers within the meaning of Section 202(11) of the Advisers Act [15 U.S.C. § 80b-2(11)], have: (a) employed devices, schemes, and artifices to defraud a client or prospective client; and/or (b) engaged in transactions, practices, or courses of business which operate as a fraud or deceit upon a client or prospective client.

42. Defendants knew or were reckless in not knowing of the activities described herein.

43. By reason of the foregoing, Defendants Fixelle and Genesis have each violated, and unless enjoined will likely again violate, Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §§ 80b-6(1) and 80b-6(2)].

FOURTH CLAIM FOR RELIEF

**Violations of Section 206(4) of the Advisers Act and Rule 206(4)-8
(Defendants Fixelle and Genesis)**

44. Paragraphs 1 to 33 are re-alleged and incorporated by reference as if fully set forth herein.

45. Section 206(4) of the Advisers Act [15 U.S.C. § 80b-6(4)] provides that it is unlawful for an investment adviser to engage in an act, practice, or course of business which is fraudulent, deceptive, or manipulative, and that the Commission shall issue rules to define and prescribe measures to prevent such misconduct. Rule 206(4)-8 issued under the Advisers Act [17 C.F.R. § 275.206(4)-8] provides that it is unlawful for an investment adviser to a pooled investment vehicle: (a) to make an untrue statement of a material fact or to omit to state a material fact necessary to make the statements made, in the light of the circumstances under which they were made, not misleading, to any investor or prospective investor in the pooled investment vehicle; or (b) to engage in any act, practice, or course of business that is fraudulent, deceptive, or manipulative with respect to any investor or prospective investor in the pooled investment vehicle. Rule 206(4)-8 defines a “pooled investment vehicle” to include an investment company as defined in Section 3(a) of the Investment Company Act of 1940 [15 U.S.C. § 80a-3(a)].

46. By reason of the foregoing, Defendants Fixelle and Genesis have each violated, and unless enjoined will likely again violate, Section 206(4) of the Advisers Act [15 U.S.C. § 80b-6(4)] and Rule 206(4)-8 [17 C.F.R. § 275.206(4)-8] thereunder.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that the Court grant the following relief:

I.

A Final Judgment finding that the Defendants violated the securities laws and rules promulgated thereunder as alleged against them herein;

II.

A Final Judgment permanently restraining and enjoining the Defendants and their agents, servants, employees and attorneys and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from committing future violations of 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];

III.

A Final Judgment permanently restraining and enjoining the Defendants Fixelle and Genesis, and their agents, servants, employees and attorneys and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from committing future violations of Advisers Act Sections 206(1), 206(2), and 206(4) [15 U.S.C. §§ 80b-6(1), 80b-6(2), and 80b-6(4)] and Rule 206(4)-8 [17 C.F.R. § 275.206(4)-8] thereunder;

IV.

A Final Judgment directing the Defendants to disgorge their ill-gotten gains, plus prejudgment interest;

V.

A Final Judgment directing Defendant to pay civil money 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; and

VI.

Such other and further relief the Court deems just and proper.

Dated: October 16, 2018
New York, New York

SECURITIES AND EXCHANGE COMMISSION

By: 
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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

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**UNITED STATES DISTRICT COURT
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**BRUCE J. FIXELLE, AURORA CAPITAL
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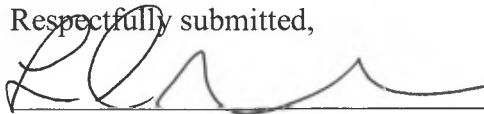
Designation of Agent for Service

Pursuant to Local 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 captioned action. Therefore, service upon the Chief of the Economic Crimes Unit of the United States Attorney’s Office for the District of New Jersey, 970 Broad Street, Newark, New Jersey 07102, shall constitute service upon the

Commission for purposes of this action.

Dated: October 16, 2018
New York, New York

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Lara Shalov Mehraban', is written over a horizontal line.

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