

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

**SECURITIES AND EXCHANGE  
COMMISSION,**

**Plaintiff,**

**v.**

**JESUS RODRIGUEZ,**

**Defendant.**

**Civil Action No. 3:24-cv-27**

**JURY TRIAL DEMANDED**

**COMPLAINT**

Plaintiff Securities and Exchange Commission (the “Commission”) alleges the following for its Complaint against Defendant Jesus Rodriguez (“Rodriguez” or “Defendant”):

**SUMMARY**

1. From approximately 2014 through 2021 (the “Relevant Period”), Rodriguez engaged in a fraudulent scheme to misappropriate more than \$3.4 million from the accounts of at least ten investors (the “Investors”) while he served as their registered representative and/or investment adviser representative at a large financial institution dually-registered with the Commission as a broker-dealer and investment adviser (“Firm A”).

2. Rodriguez carried out his misappropriation scheme by initiating fraudulent disbursements of funds primarily through unauthorized ACH transfers, wire transfers, and cash journal transfers to other accounts at Firm A.<sup>1</sup>

---

<sup>1</sup> ACH transfers are electronic, bank-to-bank money transfers processed through the Automated Clearing House (ACH) Network.

3. In a number of instances, Rodriguez misappropriated from the Investors' accounts by incurring unauthorized indebtedness collateralized by their securities accounts. In other instances, Rodriguez sold securities from Investors' accounts shortly before misappropriating all or part of the sales proceeds.

4. Rodriguez was also an investment adviser to three of the defrauded Investors and he breached his fiduciary duties to them by misappropriating their funds and/or by making false statements to them.

### **VIOLATIONS**

5. By virtue of the foregoing conduct and as alleged further herein, Defendant has 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], and Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 ("Advisers Act") [15 U.S.C. §§ 80b-6(1) and (2)].

6. Unless Defendant is restrained and enjoined, he will engage in the acts, practices, transactions, and courses of business set forth in this Complaint or in acts, practices, transactions, and courses of business of similar type and object.

### **NATURE OF THE PROCEEDINGS AND RELIEF SOUGHT**

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

8. The Commission seeks a final judgment: (a) permanently enjoining Defendant from violating the federal securities laws and rules this Complaint alleges he has violated, pursuant to Section 21(d)(1) of the Exchange Act and Section 209(d) of the Advisers Act [15 U.S.C. § 78u(d)(1) and 15 U.S.C. § 80b-9(d)]; (b) ordering Defendant to disgorge all ill-gotten gains he has received as a result of the violations alleged here and to pay prejudgment interest

thereon, pursuant to Exchange Act Sections 21(d)(3), 21(d)(5), and 21(d)(7) [15 U.S.C. §§ 78u(d)(3), 78u(d)(5), and 78u(d)(7)]; (c) ordering Defendant to pay civil money penalties pursuant to 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)]; and (d) ordering any other and further relief the Court may deem just and proper.

### **JURISDICTION AND VENUE**

9. This Court has jurisdiction over this action pursuant to Sections 21(d), 21(e), and 27 of the Exchange Act [15 U.S.C. § 78aa] and Section 214 of the Advisers Act [15 U.S.C. § 80b-14].

10. In connection with the transaction, acts, practices, and courses of business described in this Complaint, Defendant, directly and indirectly, made use of the means or instrumentalities of interstate commerce, or of the mails, or of the means and instruments of transportation or communication in interstate commerce.

11. Venue lies in this District under Section 27 of the Exchange Act [15 U.S.C. § 78aa] and Section 214 of the Advisers Act [15 U.S.C. § 80b-14]. Certain of the acts, practices, transactions, and courses of business described in this Complaint occurred within the El Paso Division of the Western District of Texas. For example, during the Relevant Period, Rodriguez resided in El Paso and worked in the El Paso branch of Firm A.

### **DEFENDANT**

12. **Rodriguez**, age 44, is a Mexican citizen residing in El Paso, Texas. In 2008, after working at another dually-registered entity from 2004 through 2007, Rodriguez joined Firm A as a registered representative and investment adviser representative at its El Paso, Texas branch. Rodriguez served in that role at Firm A until 2021, when he was terminated following the discovery of the conduct alleged in this complaint. Rodriguez has held FINRA Series 7 and 66

licenses. Following his departure from Firm A, FINRA accepted a letter of acceptance, waiver, and consent from Rodriguez, barring Rodriguez from associating with any FINRA member firm.

13. Rodriguez is presently facing criminal prosecution by authorities in El Paso, based on allegations that he misappropriated funds from the Firm A account of an investor.

## FACTS

### I. Background

14. While employed at Firm A, Rodriguez recruited customers and clients, many of whom resided in Mexico, to open brokerage and/or advisory accounts with Firm A for which Rodriguez served as the assigned registered representative and/or investment adviser representative.

15. Rodriguez's brokerage customers and/or advisory clients trusted Rodriguez to manage their money and securities at Firm A. Rodriguez exploited this trust to steal from them.

16. From approximately March 2014 through July 2021, Rodriguez misappropriated a gross total of at least \$3.4 million from the ten Investors:

| Investor                     | Approximate (Gross)<br>Unauthorized Transfers |
|------------------------------|---|
| A                            | \$675,000                                     |
| B                            | \$600,000                                     |
| C                            | \$520,000                                     |
| D                            | \$440,000                                     |
| E                            | \$380,000                                     |
| F                            | \$335,000                                     |
| G                            | \$295,000                                     |
| H                            | \$124,000                                     |
| I                            | \$123,000                                     |
| J                            | \$28,000                                      |
| <b>Approximate<br/>Total</b> | <b>\$3,475,000</b>                            |

17. None of the Investors authorized Rodriguez to withdraw these funds from their accounts or to use their money for Rodriguez's own purposes.

18. Rodriguez convinced certain of the Investors, including Investors D, E, and H, to direct their account statements sent by Firm A to a mailing address under Rodriguez's control. Those Investors relied on Rodriguez to relay information to them about their accounts.

19. Certain other Investors similarly relied on Rodriguez to provide information to them about their accounts because they had limited access to the locations that they selected to have their account statements sent, and/or they had language barriers that prevented them from understanding Firm A's statements in English, and/or they did not regularly review their account statements.

## **II. Rodriguez's Primary Methods to Misappropriate from the Investors' Accounts**

20. Rodriguez misappropriated from the ten Investors using three primary methods. First, Rodriguez initiated unauthorized wire transfers from Investors' accounts by falsifying internal forms and letters of authorization. Second, Rodriguez initiated unauthorized cash journal transfers from Investors' accounts to certain other accounts at Firm A. Third, Rodriguez initiated unauthorized ACH transfers of funds from Investors' accounts that primarily were to pay balances on Rodriguez's credit cards.

### **A. Unauthorized Wire Transfers**

21. Between approximately March 2014 and July 2021, Rodriguez fraudulently misappropriated a total of more than \$1.7 million through more than seventy unauthorized wire transfers from the accounts of Investors A, C, D, E, G, and I, for Rodriguez's own benefit.

22. For almost every unauthorized wire, Rodriguez falsified Firm A's internal authorization forms by representing that he had received a verbal request for the wire from the

Investor. Rodriguez, or Rodriguez's assistant acting at his direction, filled out and submitted the forms based on Rodriguez's false assertion that the Investor had verbally requested the wire transfer. Rodriguez also falsified reasons for the wire transfers on these forms, such as "equipment for business purchase," "loan balance payoff," "payment of estate planning and business services," "professional services," and "property taxes," among others.

23. None of the Investors requested the wires or otherwise gave permission to Rodriguez to make these wire transfers.

24. Rodriguez directed these unauthorized third-party wires for this own benefit.

25. For example, Rodriguez directed more than \$350,000 in twenty separate wires from the accounts of Investors C, D, and G to his mother's bank account. Rodriguez and/or his mother, in turn, paid credit card bills and car payments from this account, withdrew cash from ATMs, and transferred some funds on to Rodriguez's own bank account.

26. Rodriguez also transferred \$325,400 in fourteen separate wires from the accounts of Investors A, D, and G to his then-wife and/or a company controlled by her.

27. In one instance, Rodriguez was unable to use a falsified verbal request authorization form because it exceeded Firm A's dollar limit on verbal wire transfers. Rodriguez instead forged a written authorization letter and fraudulently submitted it to Firm A to process.

28. Specifically, in December 2018, Rodriguez initiated a \$125,000 wire transfer from Investor C's account to pay for Rodriguez's purchase of a Lamborghini. Without Investor C's authorization or knowledge, Rodriguez created a falsified written authorization letter requesting the transfer "to finalize the purchase of [] commercial property" and applied an image of Investor C's signature to the authorization letter without her consent.

29. Rodriguez also created a fake email account in order to impersonate Investor C and convince Firm A to process the wire. Rodriguez used the fake email account he created to send the forged letter to his email account at Firm A, from which he forwarded it within Firm A and requested that Firm A process the wire. Firm A processed the wire transfer.

**B. Unauthorized Cash Journal Transfers**

30. Between approximately March 2016 and June 2021, Rodriguez also misappropriated at least \$1.3 million via dozens of unauthorized cash journal transfers from the accounts of Investors B, C, D, E, F, G, H, I, J to other accounts at Firm A.

31. As with Rodriguez's falsification of internal Firm A authorization forms for verbal wire transfer client requests (as alleged in paragraph 23, above), Rodriguez falsified similar internal Firm A authorization forms for the purported verbally-requested journal transfers.

32. Rodriguez, or Rodriguez's assistant acting at his direction, filled out and submitted the forms based on Rodriguez's false representation that he had received a verbal request from the Investor for the journal transfer. Rodriguez also similarly provided a fake explanation on the form for the journal transfer, including "stock purchase," "vacation rental," "estate planning and taxes," "capital contribution," and "professional services," among others.

33. None of the Investors requested the cash journal transfers or otherwise gave permission to Rodriguez to make these transfers.

34. In many instances, Rodriguez directed these fraudulent transfers to the accounts of his relatives and/or associates.

35. For example, Rodriguez initiated unauthorized journal transfers to move more than \$375,000 from the Firm A accounts of Investors B and E to a Firm A account in the name of

a corporate entity owned by Rodriguez's mother. Rodriguez and/or his mother used this account to (among other things) wire funds to himself and his then-wife, and to pay credit card bills.

36. Similarly, in December 2019, Rodriguez also initiated an unauthorized journal transfer to move approximately \$8,000 from the Firm A account of Investor G to the account of a relative of Rodriguez's then-wife.

### **C. Unauthorized ACH Transfers**

37. Between approximately November 2018 and July 2021, Rodriguez stole more than \$400,000 from the accounts of Investors B, C, D, E, F, and G through more than 100 unauthorized ACH transfers.

38. Rodriguez initiated nearly all of the unauthorized ACH transfers through credit card companies to withdraw funds from the Investors' accounts at Firm A to make payments on credit cards for Rodriguez's benefit. In a small number of instances, Rodriguez initiated unauthorized ACH transfers through an online payment application to withdraw funds from an Investor's account to his own account with that online payment application.

39. To initiate each of these unauthorized ACH transfers, Rodriguez entered the account information for an Investor's account at Firm A as the payment source from which to withdraw funds using the ACH system. In initiating these ACH transfers at the credit card companies or online payment application, Rodriguez falsely represented to the credit-card company or online payment application that he was authorized to debit the designated accounts.

40. The credit card companies or online payment application, in turn, electronically transmitted those payment instructions to Firm A using the ACH system, which Firm A then processed by debiting the Investor's account at Firm A and transmitting the funds to the credit card company or online payment application. In doing so, Rodriguez took advantage of policies



at Firm A that did not require an authorization from the Firm A account holder for ACH transfers initiated by third-party financial institutions, such as credit card companies.

41. Using this method, Rodriguez misappropriated from the Investors' accounts to pay credit card balances with a dozen different credit card companies.

42. None of the Investors whose accounts were debited for these ACH transfers authorized Rodriguez to make these ACH transfers or to use his or her money for these purposes.

### **III. Rodriguez's Unauthorized Use of Securities-Backed Loans and Securities Sales Proceeds to Fund His Misappropriation**

43. Rodriguez funded much of his misappropriation from Investors A, B, C, D, E, G, I, and J by initiating unauthorized borrowing against these Investors' securities accounts.

44. Rodriguez misappropriated from Investors A, C, D, G, and I by making withdrawals from loan accounts or lines of credit at Firm A collateralized by the securities accounts of the Investor.

45. Similarly, Rodriguez misappropriated from Investors B, E, and J by using a margin feature on that Investor's securities account to make unauthorized withdrawals.

46. Each of the unauthorized withdrawals alleged in paragraphs 43 through 45 above from Investors' loan accounts or lines of credit at Firm A, or by using margin, was secured by pledges of the securities in the Investors' respective securities accounts. The pledge of securities is deemed to be a "sale" for purposes of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

47. In addition, as part of his scheme, Rodriguez in some instances misappropriated from Investors D, E, F, and G, by directly effecting securities sales in their accounts to generate cash and misappropriating all or a portion of the proceeds within three days thereafter.

48. All of Rodriguez's unauthorized transfers from Investor F's account were funded by automatic sales of Investor B's holdings of a money-market securities fund.

49. There were at least 5 instances, in which Rodriguez misappropriated a total of \$84,000 from Investor E, that took place within three days of a securities sale. Rodriguez similarly misappropriated a total of more than \$20,000 from Investor G and more than \$12,000 from Investor D through unauthorized transfers that took place within three days of a securities sale in their respective accounts.

#### **IV. Rodriguez Breached His Fiduciary Duty to His Advisory Clients**

50. Rodriguez was an investment adviser to Investors D, E, and H.

51. In that capacity, Rodriguez advised Investors D, E, and H, with respect to investments in securities and was compensated for these services through his receipt of a portion of the advisory fees these Investors paid to Firm A for their advisory accounts.

52. As an investment adviser to Investors D, E, and H, Rodriguez owed an affirmative fiduciary duty of utmost good faith to them. In violation of that duty, Rodriguez exploited the trust of these Investors to misappropriate from their advisory and/or brokerage accounts at Firm A.

53. Rodriguez misappropriated approximately \$440,000 from Investor D's accounts at Firm A, all of which occurred while Rodriguez served as an investment adviser to Investor D.

54. Rodriguez misappropriated approximately \$380,000 from Investor E's accounts at Firm A, all of which occurred while Rodriguez served as an investment adviser to Investor E.

55. Rodriguez misappropriated approximately \$124,000 from Investor H's accounts at Firm A, at least \$10,000 of which was during the time period in which Investor H was an advisory client of Rodriguez.

**V. Rodriguez Engaged in Additional Deceptive Conduct**

56. Rodriguez concealed his fraud from the Investors through other deceptive means.

57. For example, Rodriguez convinced Investor E and her husband to set up and fund an account at Firm A through a corporate entity, and to direct the account statements for the entity to be sent to a P.O. Box under Rodriguez's control.

58. Knowing that Investor E was not going to receive account statements, Rodriguez then arranged for unauthorized transfers from Investor E's account at Firm A for his own benefit.

59. For instance, on October 12, 2018, Rodriguez caused an unauthorized wire of \$25,000 to be sent from Investor E's account at Firm A to another company in which Rodriguez was an investor. To induce Firm A to process this wire, Rodriguez falsely indicated on a "verbal wire processing form" that Investor E had personally requested the transfer to fund a "capital contribution."

60. However, Investor E had not requested the transfer. In fact, when Firm A sent Investor E an email notification that her "wire transfer request" had been processed, Investor E was confused, as she had not requested any transfer. Investor E forwarded this message to Rodriguez and asked him about it. Rodriguez falsely assured her that he would "take care of it." Rodriguez not only misled Investor E by failing to disclose that he had initiated the transfer but also did not repay the money.

61. Because Investor E's account statements were directed to a P.O. Box under Rodriguez's control, she was unable to review these account statements and identify that no refund or credit of the amount was posted to her account. Over time, Investor E repeatedly requested that Rodriguez share her Firm A account statements with her, but he made excuses, and did not do so.

62. By lying to Investor E, and withholding her account statements from her, Rodriguez was able to misappropriate a total of \$380,000 from Investor E between January 2017 and September 2020.

63. As another example, after Investor J noticed that cash had been taken out of her account and asked Rodriguez about it, Rodriguez lied and told her it had been an error. In an attempt to conceal his misconduct, Rodriguez then moved \$16,460 from another account to partially repay Investor J.

64. To further perpetuate his scheme and conceal his misconduct, Rodriguez also lied to Firm A when responding to inquiries about some of the Investors' large loan obligations that Rodriguez had incurred in their accounts to fund his misappropriation from them, as alleged in paragraphs 44 through 46 above.

65. For example, in July 2018, Firm A's leverage review personnel asked Rodriguez about the balance owed by Investor G. Rodriguez falsely represented that Investor G had "borrowed funds to acquire commercial real estate" and that Rodriguez was "comfortable with the client's capacity and ability to pay the loan off." Rodriguez made these misrepresentations while knowing that Rodriguez incurred the loan balance at issue without Investor F's knowledge or authorization.

66. Firm A's leverage review personnel followed up with Rodriguez to discuss the loan balance owed by Investor G again in September 2019, August 2020, and December 2020; each time, Rodriguez made similar misrepresentations about the purpose of the loan and provided false assurances of Investor G's supposed intention to repay it.

67. Similarly, Rodriguez lied in August 2019 when Firm A's leverage review personnel asked him about the large balance owed by Investor C. Rodriguez falsely responded

that Investor C had incurred the debt to purchase commercial real estate, that she was “aware of the risk of leverage and is comfortable with it,” and that she was planning to pay off the loan once she had sold her real estate. In fact, most of the balance that Investor C purportedly owed Firm A as of August 2019 was attributable to Rodriguez’s misappropriations from Investor C’s accounts, including his misappropriation to purchase a Lamborghini for himself as alleged in paragraphs 28 and 29, above.

**VI. Rodriguez Used Misappropriated Funds to Support His Lifestyle**

68. Rodriguez used funds that he misappropriated from the Investors to support his opulent lifestyle, which included the purchase and operation of multiple luxury automobiles, including a Lamborghini, multiple BMWs, a Land Cruiser, a Land Rover, and a Toyota Yaris. Rodriguez routinely traveled from El Paso to Austin to race these cars on a private track.

69. As detailed above, Rodriguez also incurred hundreds of thousands of dollars in credit card bills, some of which he paid directly from Firm A investor accounts, and others of which he paid after transferring money to his mother’s bank account.

70. Rodriguez also transferred \$325,000 to his then-wife from Investors at Firm A without authorization.

**FIRST CLAIM FOR RELIEF  
Violations of Exchange Act Section 10(b) and Rule 10b-5 Thereunder**

71. The Commission re-alleges and incorporates by reference here the allegations in paragraphs 1 through 70.

72. Rodriguez, 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 has: (i) employed one or more devices, schemes or artifices to defraud; and/or (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.

73. By reason of the foregoing, Rodriguez, directly or indirectly, singly or in concert, has 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].

**SECOND CLAIM FOR RELIEF**  
**Violations of Advisers Act Section 206**

74. The Commission re-alleges and incorporates by reference here the allegations in paragraphs 1 through 70.

75. At all relevant times, Rodriguez was an investment adviser under Section 202(11) of the Advisers Act [15 U.S.C. § 80b-2(11)].

76. Rodriguez, by use of the mails or any means or instrumentalities of interstate commerce, directly or indirectly has: (i) knowingly or recklessly employed one or more devices, schemes, or artifices to defraud any client or prospective client; and/or (ii) knowingly, recklessly, or negligently engaged in one or more transactions, practices, and courses of business which operated or would operate as a fraud or deceit upon any client or prospective client.

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

**PRAYER FOR RELIEF**

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

**I.**

Permanently enjoining Rodriguez and his agents, servants, employees, and attorneys and all persons in active concert or participation with him from violating, directly or indirectly, 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) and 206(2) [15 U.S.C. §§ 80b-6(1) and 80b-6(2)];

**II.**

Ordering Rodriguez to disgorge all ill-gotten gains he received directly or indirectly, with pre-judgment interest thereon, as a result of the alleged violations;

**III.**

Ordering Rodriguez to pay civil monetary penalties under Exchange Act Section 21(d)(3) [15 U.S.C. § 78u(d)(3)] and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)]; and

**IV.**

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

**JURY DEMAND**

The Commission demands a trial by jury.

Dated: January 24, 2024

Respectfully submitted,

/s/ Nicholas Flath

Nicholas Flath

Application for admission *pro hac vice* pending  
U.S. SECURITIES AND EXCHANGE COMMISSION  
New York Regional Office  
100 Pearl Street Suite 20-100  
New York, NY 10004-2616  
Tel. (212) 336-9149  
[flathn@sec.gov](mailto:flathn@sec.gov)

Jennifer D. Reece

Local Counsel

Texas Bar No. 00796242  
U.S. SECURITIES AND EXCHANGE COMMISSION  
801 Cherry Street, Suite 1900  
Fort Worth, TX 76102  
Tel: (817) 978-6442  
Fax: (817) 978-4927  
[reecej@sec.gov](mailto:reecej@sec.gov)

Attorneys for Plaintiff

Of Counsel

Antonia M. Apps

Tejal D. Shah

Wendy B. Tepperman

Todd D. Brody

SECURITIES AND EXCHANGE COMMISSION

New York Regional Office

100 Pearl Street, Suite 20-100

New York, New York 10004-2616