UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES SECURITIES AND EXCHANGE COMMISSION,	)	
Plaintiff,	)	
v.	)	**Case No. 14-cv-3395**
STEVEN R. MARKUSEN, JAY C. COPE, and ARCHER ADVISORS LLC,	)	**Jury Trial Demanded**
Defendants.	)	

COMPLAINT

The United States Securities and Exchange Commission alleges as follows:

NATURE OF THE ACTION

1. This civil law enforcement action arises from a series of frauds perpetrated by Steven Markusen, a hedge fund manager. Markusen engaged in long-running schemes to misappropriate fund assets and artificially pump up the value of the funds. He carried out the schemes through his advisory firm, Archer Advisors LLC ("Archer"), which managed two hedge funds on behalf of investors. Markusen's friend and Archer insider Jay Cope participated in and benefitted from the schemes, which netted them over $1 million in ill-gotten gains.

2. From 2008 through 2013, the defendants bilked the funds out of over $1 million in phony research expenses and fees. They did so as the funds' deteriorating performance eroded Archer's legitimate income from managing the funds. Fund investors entrusted Archer with their money, but the defendants exploited that trust. They misappropriated fund assets as investor losses mounted.

3. During that period, Markusen routinely billed the funds for what he claimed were Archer's out-of-pocket research expenses. Most of those expenses were fake. Markusen knew Archer did not actually incur those expenses, which included fees he claimed Archer paid someone who did not even work for Archer at the time. Overall, Markusen caused the funds to reimburse Archer nearly $500,000 in fake expenses. He claimed most of those fake expenses were "research" fees Archer supposedly paid to Cope. Markusen also caused the funds to reimburse Archer $100,000 for Cope's salary payments by falsely characterizing them as "research" expenses. He spent these ill-gotten proceeds on luxury items like boarding school tuition, country club dues, and a Lexus.

4. Markusen and Cope also funneled $450,000 in fund assets to Cope by claiming the payments were for "research" Cope did as an independent consultant. Their claim was a fiction. In fact, Cope was an Archer insider and officer whose main duties were helping Markusen find new investors and placing trades. Cope did little, if any, research. The $450,000 in payments he received – typically $10,000 per month – was his salary for working at Archer. It was not for any "research" he performed. Rather than pay Cope's salary with Archer's funds, however, Markusen and Cope secretly used fund assets. Without telling investors, they improperly diverted fund trade commissions – known colloquially as "soft" dollars – to Cope by (i) misrepresenting Cope's relationship with Archer to the brokerage firms that administered the funds' soft dollars, and (ii) creating false and misleading monthly "research" invoices for the amount of Cope's salary. They sent the invoices to the funds' brokerage firms, who, in turn, paid fund soft dollars – $450,000 in total – directly to Cope. Cope paid Markusen a $1,000 monthly kickback from these payments.

5. In the securities industry, soft dollars are a percentage of client trade commissions that brokerage firms credit back to money managers like Archer. Since the managers' clients pay the entire commission, the manager is supposed to use the soft dollar credits to buy research services that help the manager make investment decisions for his or her clients. The soft dollars Markusen and Cope diverted were fund assets, not Archer's. Archer was supposed to use the soft dollars to buy third-party investment research that benefitted the funds. Instead, Markusen and Cope used fund soft dollars for their own benefit, namely, paying Cope's monthly salary out of investors' pockets rather than Archer's. They disguised Cope's monthly salary payments as "research" fees because, under the funds' governing documents and SEC regulations, Archer employees were not entitled to draw a salary from the funds or receive fund soft dollars for non-research assistance.

6. Markusen and Cope generated the soft dollars they funneled to Cope by placing trades in the funds' brokerage accounts. Markusen and Cope knew that the more trades they placed, the more client trade commissions – and hence soft dollars – they generated.

7. Markusen and Cope traded excessively in order to generate enough soft dollars to pay Cope's monthly Archer salary. The same day the brokerage firm warned them that there might be insufficient soft dollars to pay Cope's monthly "research" invoice, Markusen and Cope began day trading stocks – that is, buying and then selling a stock position the same day – in the funds' brokerage accounts. Placing hundreds of day trades, Markusen and Cope racked up over $100,000 in trade commissions in just five months. They funneled the commissions back to Cope in the form of soft-dollar payments for his purported "research" fees. They did not disclose their day trading to investors.

8. Markusen and Cope's only purpose in day trading was to benefit themselves at the expense of fund investors. The funds lost money on the day trading, which was inconsistent with both the funds' stated investment strategy and Archer's own trading history. Markusen and Cope kept day trading and funneling soft dollars to Cope right up until Markusen closed the funds in late 2013. The funds' closure saddled investors with substantial realized losses.

9. Markusen kept investors in the dark about the phony research expenses and fees he siphoned off the funds. Fund investors knew Cope was an Archer insider, but Markusen failed to tell them that Cope's supposed "research" fees were the single largest expense for which the funds reimbursed Archer. Instead, he concealed the connection to Cope. Markusen falsely claimed in the funds' financial statements that research performed by "outside entities" led to the funds' substantial research expenses. Markusen likewise failed to disclose that Cope was being paid with fund soft dollars, or that those payments were for Cope's purported "research." The payment of significant fund assets to an Archer insider was something investors would have wanted to know.

10. Through his fraud, Markusen charged investors twice for the same phony research expenses and fees. He caused the funds to reimburse Archer nearly $500,000 for research expenses – mostly Cope's "research" fees – Archer never paid. Meanwhile, he was secretly using fund soft dollars to pay those expenses – including salary payments to Cope disguised as "research" fees. Because the funds' expense reimbursements to Archer were wholly separate from the soft-dollar payments to Cope and others, Markusen effectively caused the funds to pay twice for "research" that Cope never performed, among other expenses.

11. From 2010 to 2013, Markusen and Cope engaged in a separate scheme to pump up the funds' value by manipulating the stock price of CyberOptics Corp., a NASDAQ-listed

Minnesota company (ticker symbol CYBE) whose shares were thinly traded. On the last trading day of at least 28 months during that period, Markusen and Cope "marked the close" in CYBE. That is, they sought to improperly drive up CYBE's closing price by placing multiple buy orders at or near the close of trading – often seconds before the market closed.

12. They marked the close in CYBE because it was by far the funds' largest holding. It comprised over 75% of the funds' combined portfolio. Archer became the largest CYBE shareholder as a result of the funds' CYBE holdings. CYBE's thin trading volume meant that its price was more susceptible to manipulation than heavily traded stocks. Markusen and Cope knew that CYBE was thinly traded and that Archer controlled a large block of CYBE shares. Each knew that Archer's trading in CYBE could materially impact the market price of CYBE.

13. Markusen and Cope marked the close in CYBE at least 28 times to artificially pump up the value of the funds' portfolios. It was no coincidence that those 28 instances all took place on the last trading day of the month. The funds' portfolios were valued as of the close of trading on the month's last trading day. Those valuations were used to calculate the funds' monthly returns that Archer reported to investors. They were also used to calculate Archer's monthly management fee, which was a fixed percentage of each portfolio's value. A higher CYBE closing price at the end of the month thus allowed Markusen to both inflate the funds' performance to investors and extract more management fees.

14. Markusen and Cope's manipulation of CYBE significantly inflated the monthly returns – sometimes by more than 20% – they reported to fund investors. Their conduct concealed from investors the true extent of the funds' mounting investment losses.

15. By engaging in the conduct described above, Markusen, Cope, and Archer violated the antifraud provisions of the federal securities laws, namely, Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)], Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], and Section 206 of the Investment Advisers Act of 1940 ("Advisers Act") [15 U.S.C. §§ 80b-6] and Rule 206(4)-8 thereunder [17 C.F.R. § 275.206(4)-8)]. Archer and Markusen also violated the reporting provisions in Section 16(a) of the Exchange Act [15 U.S.C. § 78(p)(a)] and Rule 16a-3 thereunder [17 C.F.R. § 240.16a-3].

JURISDICTION AND VENUE

16. The SEC brings this action pursuant to Section 20(b) and (d) of the Securities Act [15 U.S.C. § 77t(b), (d)], Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)], and Section 209(d) and (e) of the Advisers Act [15 U.S.C. § 80b-9(d)-(e)].

17. This Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)], Section 27(a) of the Exchange Act [15 U.S.C. § 78aa(a)], Section 214(a) of the Advisers Act [15 U.S.C. § 80b-14(a)], and 28 U.S.C. § 1331.

18. Venue is proper pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)], Section 27(a) of the Exchange Act [15 U.S.C. § 78aa(a)] and Section 214(a) of the Advisers Act [15 U.S.C. § 80b-14(a)]. All of the defendants are inhabitants of, are found in, and transact business in the District of Minnesota, and many of the acts and transactions constituting the violations alleged in this Complaint occurred within the District of Minnesota.

19. Defendants, directly and indirectly, have made, and are making, use of the means and instrumentalities of interstate commerce and of the mails in connection with the acts and transactions constituting the violations alleged herein.

DEFENDANTS

20. **Steven R. Markusen**, age 60, resides in Minneapolis, Minnesota. He is Archer's sole owner and CEO. Markusen has 29 years of experience in the investment industry. He is not registered with the SEC.

21. **Jay C. Cope**, age 54, resides in Shorewood, Minnesota. From 2003 through 2013, he worked with Markusen at Archer. Cope has over 20 years of investment experience and is not registered with the SEC.

22. **Archer Advisors LLC** is a Delaware limited liability company with its principal place of business in Wayzata, Minnesota. Its only business purpose was to serve as the investment manager for two private funds, the Archer Equity Fund and Archer Focus Fund, both of which closed in October 2013. Archer is not registered with the SEC.

OTHER RELEVANT ENTITIES

23. **Archer Equity Fund LLC ("Equity Fund")** was a Delaware limited liability company based in Wayzata, Minnesota. It was a private fund managed by Archer for the benefit of Fund investors. The Equity Fund had over 40 investors and, at its peak in 2007, about $28 million in net assets. The Equity Fund was never registered with the SEC. It was governed by a 2002 limited liability company ("LLC") agreement and two private offering memoranda ("OM") dated 2003 and 2008.

24. **Archer Focus Fund LLC ("Focus Fund" and, together with the Equity Fund, the "Funds")** was a Delaware limited liability company based in Wayzata, Minnesota. It was a private fund managed by Archer for the benefit of Fund investors. The Focus Fund had over 20 investors and, at its peak in 2011, over $8 million in net assets. It was governed by a 2008 LLC agreement and a 2008 OM. The Funds were audited by a major accounting firm.

FACTS

25. Markusen formed Archer in 2002 and has been its sole owner and CEO since 2003.

26. Markusen formed Archer to serve as the investment manager for the Equity Fund, which he established in 2002, and any other funds Archer might establish. In 2008, Markusen, on behalf of Archer, established the Focus Fund.

27. Markusen alone controls Archer. It has no board of directors or trustees.

28. Markusen ran Archer out of a leased office at 150 S. Broadway in Wayzata, Minnesota. Before 2009, he ran Archer out of a leased office at 301 S. Broadway in Wayzata.

29. Through Archer, Markusen managed the Equity Fund and Focus Fund on behalf of the Funds' investors. In exchange for their investment, investors received membership interests in the Fund LLCs. Archer was the managing member of each LLC.

30. Through Archer, Markusen controlled the Funds. He made all investment decisions on behalf of the Funds. He had exclusive and complete control of the Funds' management and operations.

31. Markusen invested most of the Funds' assets in publicly traded U.S. stocks. His stated investment strategy was to seek long-term capital appreciation by purchasing stock in "under followed" and "out of favor" companies. He claimed to take large positions in under followed or out of favor companies whose share price he believed could double in two or three years. Archer claimed to use a "detailed, fundamental investment research approach" to identify investment opportunities.

32. Together, the Funds had over 50 individual investors, many of whom made initial investments of $250,000 or more.

33. Markusen and Archer were fiduciaries to the Funds. Markusen and Archer owed Fund investors a duty to manage the Funds fairly and honestly.

34. Markusen and Archer were investment advisers to the Funds. They received compensation in the form of fees and were engaged in the business of advising the Funds as to the value of securities or as to the advisability of investing in, purchasing, or selling securities.

35. The Funds paid Archer two types of fees. The first was a monthly "management" fee equal to .125% of the monthly balance of each investor's capital account in the Funds. The Funds paid Archer a management fee every month regardless of performance. The second was an annual "performance" fee equal to 20% of the Funds' investment gains, that is, the net capital appreciation of each investor's capital account. The Funds only paid Archer a performance fee in years where the Funds' portfolios increased in value.

36. The Funds also reimbursed Archer for out-of-pocket expenses that Archer claimed it incurred in managing the Funds. Markusen submitted those claimed expenses monthly on behalf of Archer.

37. The management fees, performance fees, and expense reimbursements from the Funds were Archer's only sources of income.

THE PHONY RESEARCH EXPENSES AND FEES

38. From 2008 to 2013, the Funds reimbursed Archer over $680,000 for payments Markusen claimed Archer made to Cope, another Archer insider (Tom Duxbury), and Bloomberg Finance LP, a service provider. Markusen claimed these payments were reimbursable, out-of-pocket expenses incurred by Archer.

39. Archer actually paid Cope, Duxbury, and Bloomberg Finance less than $200,000 combined during that period. The rest of the $680,000 went to Markusen.

40. In other words, Markusen caused the Funds to reimburse Archer nearly $500,000 for expenses Archer did not incur.

41. Markusen claimed Archer paid most of that $680,000 – about $415,000 – to Cope as monthly fees for "research" Cope performed for the Funds. In fact, Cope did little, if any, research, and Archer only paid him $100,000 of the $415,000 Markusen claimed. That is, the Funds reimbursed Archer $415,000 for "research" that Cope did not perform, and $315,000 of that amount was reimbursement for payments that Archer never made to Cope.

42. Markusen then charged the Funds a second time for the amounts he claimed Archer paid to Cope, Duxbury, and Bloomberg Finance. From 2009 to 2013, he and Cope funneled $450,000 in Fund assets – so-called "soft" dollars – to Cope. They claimed these payments were fees for "research" Cope did as an independent consultant, when in fact the soft-dollar payments were Cope's salary for working at Archer. Markusen also used Fund soft dollars to pay Duxbury and Bloomberg Finance. These soft-dollar payments were wholly separate from the $680,000 in expenses reimbursed by the Funds. But since they covered the same supposed Cope, Duxbury, and Bloomberg Finance fees Markusen claimed as Archer's reimbursable expenses, the Funds paid twice for the same purported research fees.

2008: Markusen Disguises Cope's Salary as a Reimbursable "Research" Expense

43. In January 2008, the Equity Fund suffered its worst month since 2003, losing almost 8%.

44. In early March 2008, Markusen requested reimbursement from the Equity Fund for monthly payments Archer made to Cope in February 2008. He requested similar reimbursements from the Focus Fund, which was launched in or around February 2008, starting in early 2009. He claimed the payments to Cope were for "research" Cope did for the Funds.

45. Before February 2008, Markusen did not ask the Funds to reimburse Archer for amounts paid to Cope.

46. Markusen requested reimbursement from the Funds by sending the Funds' administrator – a third-party entity responsible for administering the Funds and their assets – a list of Archer's "reimbursable expenses" for each month. This list purported to itemize certain out-of-pocket expenses incurred by Archer. The Funds' administrator, which alone could disburse Fund assets, had to authorize the payment of any fees or expenses to Archer from the Funds.

47. Nearly every month from February 2008 to August 2013, Markusen requested reimbursement from the Funds for amounts he claimed Archer paid for "Jay Cope Research." In some months, he also requested reimbursement for research fees he claimed Archer paid to Duxbury and Bloomberg Finance.

48. From 2008 to 2013, The Funds' administrator, after receiving fraudulent documentation from Markusen, authorized the Funds to reimburse Archer for the amounts Markusen claimed Archer paid to Cope, Duxbury, and Bloomberg Finance. The Funds' administrator did so by directing the Funds' account custodians to wire funds to Archer's bank account. Markusen had sole control over Archer's bank account.

49. By causing the Funds to reimburse Archer, Markusen shifted the burden of paying Cope from himself and Archer to Fund investors.

50. From 2008 to 2013, the Funds reimbursed Archer about $680,000 for payments Markusen claimed went to Cope, Duxbury, and Bloomberg Finance.

51. Markusen claimed over $400,000 of that amount was for "Jay Cope Research."

Cope Did Little, If Any, Research

52. From at least 2003 through 2013, Cope worked for Archer.

53. Cope worked out of the office Archer rented at 150 S. Broadway in Wayzata. His office was separated from Markusen's by a glass partition.

54. Cope's main duties at Archer were marketing the Funds, investor relations, and placing trades.

55. Markusen told Fund investors that Cope's job was to seek out new investors and capital for the Funds.

56. The Equity Fund's 2003 OM listed Cope as Archer's Chief Operating Officer ("COO").

57. When Markusen opened a brokerage account in the Equity Fund's name in 2004, he listed Cope as Archer's COO on the account application. He also stated on the application that Cope was responsible for the Equity Fund's operations, marketing, and investor relations. Markusen did not list research as one of Cope's duties.

58. In or around December 2010, Cope sent marketing materials for the Equity Fund to a broker for review. The materials stated that Cope was a managing member of Archer and its COO. The Equity Fund materials listed Cope's responsibilities as operations, marketing, and investor relations. Research was not listed as one of Cope's duties. The materials also had a "History and Background" section stating that in 2003, Archer entered "into a strategic relationship with Jay Cope . . . to provide operational support and marketing services." That section did not mention that Cope provided research.

59. In 2011, Markusen drafted a hedge fund "questionnaire" about Archer. The questionnaire listed Cope's duties as "marketing and client service," not research. The questionnaire also stated that Cope was paid a base salary plus bonus.

60. Cope brought new investors to the Funds and communicated with existing investors. Cope's name appeared alongside Markusen's on the monthly newsletters sent to the Funds' investors. Cope held himself out to investors and others as an employee and agent of Archer.

61. Markusen instructed investors to call Cope with any questions about the Funds. Cope managed Archer and the Funds when Markusen was out of the office.

62. Cope was authorized to trade in Fund brokerage accounts. He placed hundreds of trades in those accounts.

63. Cope was paid a monthly sum for his work at Archer. From 2011 to 2013, Cope was typically paid $10,000 a month. Before 2011, Cope was typically paid $6,000 a month. These payments were Cope's salary for working at Archer.

64. Cope did little, if any, research for Archer. He did not author any research reports for Archer. He did not create any written research analyses, recommendations, or studies for Archer.

65. Cope was not paid $10,000 a month to conduct research for Archer. He was paid a $10,000 monthly salary to find new investors, deal with existing investors, place trades, and, as Archer's COO, to handle other operational and administrative tasks.

Cope Created Phony "Research" Invoices

66. In or before February 2008, Cope began creating monthly invoices for his work at Archer. In the "bill to" line, the invoices listed Archer and Markusen. The invoices stated that all checks should be payable to Cope.

67. The amount of these invoices matched the amount of the monthly salary he received for his work at Archer. From 2011 to 2013, for example, each invoice was typically $10,000. The invoices described Cope's services as "research provided for" Archer. There was no further description. Before 2011, the invoices were typically for $6,000 and contained the same description.

68. The invoices did not list marketing, investor relations, or placing trades as services that Cope provided. The invoices did not state that Cope was Archer's COO.

69. The invoices were not for "research." They were for Cope's Archer salary. Cope created the invoices to disguise his salary as a legitimate and permissible Fund expense.

Cope's Salary Was Not a Permissible Fund Expense

70. The Funds' governing documents limited Archer's compensation to a monthly management fee, an annual performance fee, and reimbursement for legitimate expenses.

71. The Funds' governing documents did not allow Markusen, Cope, or anyone else at Archer to draw a salary from the Funds. Nor did they entitle Archer to reimbursement for any salaries it paid to employees. Legitimate research expenses, however, were reimbursable.

72. Archer was not entitled to reimbursement for amounts paid to Cope as salary for his work as an Archer employee and officer, namely, marketing the Funds, investor relations, and placing trades. The Funds paid Archer a management fee to manage and administer the

Funds. Cope's Archer salary should have come from the monthly management fee Archer charged to the Funds or other Archer asserts, not from the Funds.

73. Consistent with the Funds' governing documents, investors believed that any Archer-related compensation paid to Cope should have come from the management fee.

74. Instead, Markusen and Cope disguised Cope's Archer salary as "research" fees to make it look like a legitimate Fund expense for which Archer was entitled to reimbursement.

Cope's "Research" Fees Were Not Disclosed

75. The "research" fees Archer claimed it paid to Cope were the Funds' largest expense after management fees. From 2008 to 2012, they comprised nearly one third of the roughly $1.4 million in reimbursed expenses Archer received from the Funds.

76. Investors knew that Cope worked alongside Markusen at Archer. Investors believed that Cope's job at Archer was finding new investors.

77. Markusen did not disclose to Fund investors that the Funds were reimbursing Archer for payments to Cope. Nor did he disclose to Fund investors that the reimbursements were for "research" Markusen claimed Cope performed. These facts were not disclosed in the Funds' OMs, LLC agreements, audited financials, investor newsletters, or marketing materials.

78. Markusen drafted or controlled the content of all written communications sent to Fund investors. He and Cope distributed or caused the distribution of those written communications.

Markusen Falsely Claimed "Outside Entities" Did Research for the Funds

79. Archer was responsible for preparing Fund financial statements for investors and supplying information to the Funds' auditor. In March 2009, the Funds' auditor questioned

Markusen about the $140,494 in research expenses the Equity Fund listed as 2008 expenses. Most of that amount was reimbursements the Fund paid Archer for Cope's "research" fees.

80. To determine if the fees were permissible Fund expenses, the auditor asked Markusen what types of fees they were, who they were being paid to, and why they were being charged to the Fund in 2008. The Fund had no research expenses in 2007.

81. Markusen led the auditor to believe that the research fees were being paid to "outside entities." Markusen did not disclose to the auditor that, in fact, the payments were going to Cope, an Archer officer and insider. Markusen did not disclose to the auditor that Cope worked for Archer, nor did he disclose Cope as a "related party" for purposes of the audit.

82. The Equity Fund's final 2008 audited financial statements contained the following disclosure: "The [Fund] pays all costs and expenses related to its operations, including brokerage commissions and other costs related to investment transactions, as well as legal, accounting, auditing, and tax return preparation fees. **Additionally, the [Fund] utilizes certain outside entities to perform research functions on behalf of the [Fund]**." (emphasis added)

83. That disclosure was false and misleading. Cope was not an "outside entity." He was an Archer officer who was listed as part of Archer's management team on investor newsletters. Archer was also not an "outside entity." The financials explicitly referred to Archer as the Fund's "Managing Member."

84. The false and misleading "outside entity" disclosure remained in the Funds' audited financials for fiscal years 2009, 2010, 2011, and 2012. Archer sent the audited financials to Fund investors each of those years.

85. In connection with the Funds' audits, Markusen falsely certified to the auditor, on behalf of Archer, that Archer disclosed all transactions with related parties. He also falsely certified in writing that he made no false statements to the auditor in connection with the audits, and that there were no instances of fraud involving others that could have a material effect on the Funds' financial statements.

86. Archer and Markusen were responsible for the content of the audited financials. The auditor letter accompanying the financials in each of those years stated that "these financial statements and the financial highlights" were the responsibility of the Funds' management.

2009: Markusen Submits Entirely Fake Research Expenses

2008 Was the Funds' Worst Year

87. The larger Equity Fund suffered its worst year in 2008 amid the deepening U.S. financial crisis.

88. The Equity Fund lost over half its value in 2008. It opened the year with over $26 million in assets and closed the year with less than $11 million.

89. The Equity Fund's losses in 2008 meant that Archer was not entitled to a performance fee after the end of that year. 2008 was the first year since the Equity Fund's inception in 2003 that Archer did earn a performance fee – the 2007 fee was over $60,000.

90. The decline in the Equity Fund's value in 2008 also caused Archer's management fees, which were based on the Fund's value, to decrease from about $382,000 in 2007 to about $308,000 in 2008.

91. The Equity Fund's 2008 losses reduced Archer's total fee income by about $140,000 compared to 2007. That amount was nearly identical to the $140,494 in "research" expenses Archer billed to the Fund in 2008. The Fund had no research expenses in 2007.

92. In late 2008, Markusen reassured investors in an e-mail that the Fund was designed to prevent the type of frauds committed by Bernie Madoff and Tom Petters. He stated in the e-mail that a national accounting firm reviewed all Fund transactions, including "fees and expenses, to make sure the Fund is managed consistent with the" governing documents.

Markusen Begins Falsifying Expenses

93. From early 2008 through early 2009, Archer actually paid Cope and Duxbury the amounts Markusen claimed from the Funds as Archer's reimbursable "research" expenses.

94. Duxbury stopped working for Archer in or around November 2008. Archer stopped paying Duxbury in early January 2009.

95. In or around April 2009, Archer stopped paying Cope. Cope continued to work for Archer through 2013.

96. Even after Archer stopped paying Cope and Duxbury in early 2009, however, Markusen continued billing the Funds for Cope and Duxbury's fees. He continued to claim the fees were out-of-pocket expenses incurred by Archer.

97. Archer did not, in fact, pay most of these expenses. Markusen knew most of these expenses were fake.

98. Between April 2009 and October 2013, Archer actually paid Cope a total of $24,000 in monthly payments, but was reimbursed about $340,000 from the Funds for monthly fees purportedly paid to Cope. Markusen caused the Funds to reimburse Archer over $300,000 in fake Cope research fees.

99. Between February 2009 and October 2013, Archer actually paid Duxbury $12,000 but was reimbursed $136,000 from the Funds for monthly fees purportedly paid to him. Markusen caused the Funds to reimburse Archer over $120,000 in fake Duxbury fees.

100. Markusen billed the Funds for Duxbury's fees nearly every month in 2009 and early 2010. Duxbury, who had left Archer in late 2008, did not work for Archer during this period.

101. After rehiring Duxbury in 2010, Markusen also inflated the amount of Duxbury's fees in the reimbursement requests he sent to the Funds' administrator.

102. For example, Markusen billed the Funds $5,000 for Duxbury's fees every month from March to June 2013 even though Duxbury's fees were only $2,000 during that period.

The Funds Reimbursed Archer Almost $500,000 for Fake Expenses

103. From 2009 to 2013, the Funds reimbursed Archer nearly $500,000 for out-of-pocket "research" expenses Archer did not actually pay. "Research" fees purportedly paid to Cope comprised most of that amount, with purported payments to Duxbury and Bloomberg Finance comprising the remainder.

104. Markusen personally spent the reimbursements Archer received from the Funds. Between 2008 and 2013, the Funds wired over $3 million in management fees and expense reimbursements into Archer's bank account. During that period, Markusen transferred over $3 million from that account to his personal checking account. He personally spent most of that amount.

105. Markusen spent the money he received from Archer on country club dues, a Lexus, and tuition for a Connecticut boarding school, among other things.

Markusen Temporarily Stopped Billing for Cope's "Research" After Performance Improved

106. The Funds increased in value in 2010. That was the last year Archer would earn performance fees.

107. In early 2011, Archer was paid about $380,000 in performance fees for 2010.

108. On January 31, 2011, Markusen sent an e-mail to the Funds' administrator stating that that he would no longer be charging the Funds for Cope's "research." He then stopped billing the Funds for Cope's "research" for several months.

109. At the end of June 2011, the Equity Fund was down almost 8% for the quarter. The Focus Fund was down over 9% for the quarter. Beginning in or around June 2011, Markusen resumed billing the Funds for Cope's "research."

Markusen Stopped Billing the Funds after Learning of the SEC's Investigation

110. Markusen stopped billing the Funds for Cope's and Duxbury's fees in July 2013 after he learned of the SEC's investigation in this matter.

111. Before July 2013, and with the exception of a few months in early 2011, Markusen had billed the Funds for Cope's "research" almost every month since February 2008.

The Phony Research Expenses Ballooned as Fund Performance Deteriorated

112. The Funds' expense ratio (*i.e.*, the ratio of the Funds' expenses to the Funds' net asset value) increased 550% in 2008 after Markusen began billing them for "research" fees.

113. From 2008 to 2013, expense reimbursements comprised a growing share of Archer's total compensation from the Funds. Cope's "research" fees were the single largest reimbursable expense – about $415,000 – Archer claimed during that period.

114. In 2008, 2011, 2012 and the first half of 2013, the Funds lost value and Archer earned no performance fees. In those years, expense reimbursements comprised between 41% and 76% of Archer's total compensation from the Funds.

115. The Equity Fund had over $26 million in assets at the end of 2007. By the end of 2012, the Funds had less than $10 million. The Funds lost over half their value in five years

due to both poor performance, which was exacerbated by phony expenses, and investors leaving the Funds because of that performance.

116. As the Funds shed over half their value between 2007 and 2012, Archer's fee income – both management fees and performance fees – declined significantly.

117. Despite the significant reduction in fee income, Markusen kept Archer's annual compensation above $500,000 by submitting phony expense reimbursements – mostly for Cope's purported fees – rather than growing the Funds or improving performance.

118. In 2007, the Equity Fund, which was worth over $26 million, paid Archer about $540,000, 18% of which was expense reimbursements. In 2012, the Funds, which were worth less than $10 million, paid Archer about $505,000, 61% of which was expense reimbursements.

2009: Defendants Divert Fund Soft Dollars to Cope Under the Guise of "Research" Fees

119. In early 2009, as alleged above, Markusen started claiming reimbursement from the Funds for expenses – mostly Cope "research" fees – that Archer never paid. At the same time, and unbeknownst to Fund investors, he began diverting other Fund assets to pay those same expenses. Those other Fund assets consisted of trade commissions – known in the securities industry as "soft" dollars – paid by the Funds.

120. Markusen stopped paying Cope with Archer's funds in or around April 2009. From April 2009 to October 2013, Cope continued to work for Archer and collect a monthly salary. Rather than pay Cope's salary with Archer's funds, however, Markusen and Cope used Fund soft dollars to pay Cope's monthly salary.

121. From May 2009 through 2013, Markusen and Cope improperly diverted $450,000 in Fund soft dollars to Cope. During this period, Cope was paid almost exclusively in Fund soft dollars for his work at Archer.

122. Markusen and Cope generated the soft dollars they diverted to Cope by racking up trade commissions in the Funds' brokerage accounts. Markusen and Cope placed excessive trades in those accounts for the sole purpose of generating soft dollars to divert to Cope.

123. Archer was supposed to use soft dollars to buy research products or services from third parties and which benefitted the Funds. Instead, Markusen and Cope diverted soft dollars to Cope by falsely representing to brokers that these payments were for "research" that Cope provided for the Funds, and that Cope was an independent consultant. Nearly every month during that period, Cope or Markusen sent the broker an invoice for Cope's "research" fees, typically $10,000 after 2010. Markusen also caused the brokers to pay Duxbury and Bloomberg's research fees with soft dollars.

124. These payments were for the same phony research fees that Markusen was simultaneously claiming from the Funds as Archer's reimbursable out-of-pocket expenses.

125. From 2009 to 2013, the Funds' brokers paid Cope, Duxbury, and Bloomberg Finance over $500,000 in soft dollars, $450,000 of which went to Cope. Markusen authorized these payments, claiming they were third-party research fees. During that period, Markusen caused the Funds to separately reimburse Archer about $470,000 for those same fees, falsely claiming Archer had paid those expenses out-of-pocket.

126. In other words, from 2009 to 2013, Markusen caused the Funds to pay twice – once in the form of expense reimbursements to Archer and twice in the form of soft-dollar payments to Cope, Duxbury, and Bloomberg Finance – for the same research fees.

127. From 2009 to 2013, Markusen caused the Funds to pay twice – once in the form of expense reimbursements to Archer and twice in the form of soft-dollar payments to Cope – for "research" that Cope did not perform.

Markusen and Cope Generated the Soft Dollars They Diverted to Cope

128. In early 2009 and again in 2012, Markusen and Cope, on behalf of Archer, opened several brokerage accounts in the Funds' names. The accounts were governed by soft-dollar arrangements with the executing brokerage firms (hereinafter, the "soft-dollar brokers"), and Markusen and Cope opened the accounts for the express purpose of generating soft dollars.

129. Under those arrangements, Archer could direct the broker to use a large percentage of the trade commissions generated in those accounts to pay for third-party research that was provided to Archer and which benefitted the Funds. The "soft" dollars were the percentage of commission dollars available for such use.

130. Markusen and Cope regularly traded securities on behalf of the Funds in those accounts. They dictated the commission on each trade they placed with the soft-dollar brokers. Those commissions, typically 5 cents per share, were paid by the Funds. That is, the commissions were netted out of each trade when the trade settled.

131. The soft-dollar brokers did not retain the entire commission paid by the Funds. Instead, the brokers only retained a 1.5 cent execution charge on each trade.

132. The soft-dollar brokers then credited Archer the difference between the commission paid by the Funds, typically 5 cents, and the 1.5 cent execution charge.

133. Markusen and Cope knew that the more they traded on behalf of the Funds, the more soft dollars they would generate. Cope repeatedly checked with the soft-dollar brokers to make sure the balance of available soft dollars was high enough to pay his monthly "research" invoices. For example, in January 2012, he sent an e-mail to one of the soft-dollar brokers, stating that Archer traded "99,000 shares today at [a commission of] .05/share so we should have enough to cover my bill."

134. Archer itself could not draw on the soft-dollar balance. The soft dollars were supposed to be used by the soft-dollar broker, at Archer's direction and authorization, to pay third parties who provided Archer research products services that benefitted the Funds.

135. The Funds were the beneficial owners of the soft dollars. The soft dollars were for the benefit of the Funds, not Archer, Markusen, or Cope.

136. From 2009 to 2013, Markusen authorized the soft-dollar brokers to pay Cope and others over $500,000 in "research" fees from the Funds' soft-dollar balances. Markusen and Cope generated the soft dollars underlying those payments by trading securities in the Funds' brokerage accounts.

Cope's Receipt of Fund Soft Dollars Was Undisclosed and Improper

137. The use of soft dollars creates conflicts of interest between an investment adviser, such as Archer, and its clients that must be disclosed under SEC rules and interpretative guidance.

138. Neither Archer, Markusen nor Cope disclosed to investors that Fund soft dollars were being paid to Cope. Fund investors would have wanted to know that Cope, an Archer insider, received $450,000 in Fund soft dollars. But these facts were not disclosed in the Funds' OMs, LLC agreements, investor newsletters, or audited financials.

139. The 2003 Equity Fund OM, which was provided to that Fund's first investors, did not mention soft dollars at all.

140. The 2008 OMs, which was provided to later investors, permitted Archer to use soft dollars to pay third parties for "research products or services" that benefitted the Funds. Cope was not a third party to Archer. He was an Archer officer, employee, and insider who held

himself out to investors, brokers, and others as an agent, officer, and managing member of Archer.

141. The 2008 OMs stated that Archer would use Fund soft dollars consistent with the "safe harbor" provision in Section 28(e) of the Exchange Act. That safe harbor allows a money manager like Archer to pay above-market trade commissions without breaching its fiduciary duty to clients, provided the manager uses those commissions (*i.e.*, Fund soft dollars) to purchase research or brokerage services that provide the manager with lawful and appropriate assistance in making investment decisions.

142. The Section 28(e) safe harbor only protects a manger who spends soft dollars on eligible research or brokerage services. Other costs incurred by the manager, such as marketing costs or non-research overhead costs, fall outside the safe harbor.

143. Consistent with the Section 28(e) safe harbor, the 2008 OMs barred Archer from using Fund soft dollars to pay for "non-research" assistance. In fact, however, Archer secretly used Fund soft dollars to pay Cope's monthly Archer salary from 2009 to 2013. Cope was paid a salary to market the funds, place trades, and provide other "non-research" assistance.

144. For example, in or around October 2012, Cope sent an e-mail to his accountant in which he stated that the soft-dollar payments he received in 2011 included reimbursement for an Archer marketing trip. None of the "research" invoices Cope sent to the soft-dollar brokers in 2011 listed a marketing trip. A marketing trip constitutes "non-research" assistance that should not have been paid for with Fund soft dollars.

145. The soft-dollar brokers would not have paid soft dollars to Cope for non-research tasks such as marketing and placing trades because such tasks were not soft-dollar eligible under the 2008 OMs or the Section 28(e) safe harbor.

Defendants Used False Pretenses to Divert Soft Dollars to Cope

146. Markusen and Cope disguised Cope's work for Archer as "research" to make him appear eligible to receive Fund soft dollars. Each of them submitted Cope's misleading "research" invoices to the soft-dollar brokers. Markusen further represented to the brokers that the invoices were for "investment research consulting services."

147. Markusen told the Funds' soft-dollar brokers that Cope was an independent research consultant. Markusen's statement was false because Cope was not independent from Archer or the Funds, and he performed little, if any, "research" for the Funds.

148. The soft dollar brokers would not have paid soft dollars to Cope if they knew Cope was an Archer officer or employee. The brokers knew, that under the Section 28(e) safe harbor, soft dollars were supposed to be paid to third parties, not Archer officers or employees.

149. Cope failed to disclose to the soft-dollar brokers that he was an Archer officer and employee.

Cope Paid Markusen a Kickback from the Soft-Dollar Payments

150. Nearly every month from late 2009 through the end of 2012, Cope wrote Markusen a check for $1,000. In total, Cope paid Markusen $42,000.

151. Cope's payments to Markusen were funded from the same soft dollars that Markusen was funneling to Cope.

152. In other words, as Markusen orchestrated the payment of $450,000 in Fund soft dollars to Cope for phony research fees, Cope turned around and kicked $42,000 of those payments back to Markusen

153. Cope's payments to Markusen were purportedly to cover Cope's share of the $2,400 in rent Archer paid each month for its office space. Some of Cope's checks listed "rent"

on the memo line, and in 2012 Cope told his accountant that the $95,505 of Fund soft dollars he received in 2011 included $12,000 he (*i.e.*, Cope) received as reimbursement for rent payments.

154. But the checks from Cope to Markusen were made out to Markusen personally, not to Archer, even though the rent was paid from Archer's checking account. Moreover, Markusen deposited the checks from Cope into his (Markusen's) personal checking account, not into Archer's account. And, Markusen stated on his 2011 tax return that Archer incurred $28,800 in rent expenses (*i.e.*, 12 months at $2,400 per month); he did not reduce Archer's claimed rent expense to reflect the $12,000 in purported rent payments he received from Cope.

Markusen and Cope Traded Excessively to Create More Soft Dollars

155. In or around April 2013, the soft-dollar broker informed Cope and Markusen that the balance of soft dollars had dipped well below zero. The balance was negative because Archer had spent more Fund soft dollars than it had generated in trade commissions.

156. If that balance got too far below zero, the broker could cease paying soft dollars to Cope and others until Archer generated enough trade commissions to bring the balance closer to or above zero.

157. On or before April 5, 2013, a managing director for the soft-dollar broker told Markusen and Cope that, with the April 2013 "research" invoices submitted by Archer, the soft-dollar balance would dip to negative $44,800. Markusen replied via e-mail on April 5 that "we will work on getting [the soft-dollar balance] paid back up."

158. Later on April 5, Markusen and Cope started "day-trading" securities in the Funds' brokerage accounts by buying and then selling a position on the same trading day.

159. Day trading was inconsistent with the Funds' stated investment strategy.

160. Markusen's investment strategy in managing the Funds was to take large positions in under followed companies whose share price he believed could double in two or three years. His strategy purportedly focused on identifying which companies to take long positions in, not the timing of trades. In describing Archer's investment strategy, the OMs stated that Archer sought to acquire long positions in stock that have characteristics such as low valuations, strong or improving growth prospects, and stable management. The OMs did not state that day trades or short-term trades were part of Archer's investment strategy.

161. Day trading was also inconsistent with Markusen and Cope's prior trading on behalf of the Funds.

162. Before April 5, 2013 Markusen and Cope rarely, if ever, day-traded securities on behalf of the Funds. Between July 1, 2012 and April 4, 2013, Markusen and Cope placed over 225 trades in the Funds' soft-dollar accounts, none of which were day trades. In the 25 days between April 5 and April 30, however, they placed over 100 trades, almost all of which were day trades. As shown in the chart below, that pattern continued through July 2013.

Archer 2013 Soft-Dollar Account Activity							
	Jan.	Feb.	Mar.	Apr.	May	June	July
Commissions	$5,005	$8,642	$5,204	$35,825	$23,461	$19,340	$19,025
Day Trades	0	0	0	88	78	80	56
Soft-Dollar Balance	($7,865)	($14,851)	($23,360)	($21,389)	($15,357)	(12,359)	($12,111)
Soft-Dollar Payments to Cope	$10,000	$12,697	$12,110	$10,000	$10,000	$10,000	$10,000

163. After April 5, 2013, Cope and Markusen's day trading increased the trade commissions paid by the Funds by over 600%, from $5,204 in March 2013 to $35,825 in April 2013.

164. The increased commissions generated enough soft dollars to raise the Funds' soft-dollar balance while simultaneously allowing the soft-dollar "research" payments to Cope to continue.

165. Markusen and Cope's sole purpose in day trading was to create soft dollars to pay Cope and other Archer expenses. They did not engage in day trading for the benefit of the Funds. In fact, after factoring in commissions, Markusen and Cope's day trading from April to July 2013 cost the Funds over $50,000 in realized losses.

The Excessive Trading Continued After Markusen Announced He Was Closing the Funds

166. On August 24, 2013, Markusen announced to Cope that he would be closing the Funds at the end of October 2013 due to poor performance.

167. Markusen and Cope continued to day trade the Funds' soft-dollar accounts until October 25, 2013, days before the Funds closed.

168. By day trading and liquidating positions through the soft-dollar brokers, as shown in the chart below, Markusen and Cope generated enough commission dollars to bring the soft-dollar balance to zero. Archer would have had to pay any deficit when it closed the soft-dollar accounts.

169. Markusen and Cope generated enough commission dollars during this period to continue paying soft dollars to Cope. As shown in the chart below, Cope received a $5,000 "research" payment from the soft-dollar broker in each of September and October 2013.

Archer Soft-Dollar Account Activity Post July 2013 Closing Announcement			
	Aug.	Sept.	Oct. (Funds closed Oct. 31)
Commissions	$20,278	$15,543	$13,676
Day Trades	at least 22	36	18
Soft-Dollar Balance	($8,446)	($2,566)	$2,007
Soft-Dollar Payments to Cope	$10,095	$5,000	$5,000

170. Because the Funds were winding down after August 2013, there was no legitimate purpose for day trades or Cope's "research" in September and October 2013.

THE MANIPULATIVE TRADING AND PORTFOLIO PUMPING

171. From 2010 to June 2013, Markusen and Cope repeatedly manipulated the market price of the common stock of CyberOptics Corp. The stock is traded on the NASDAQ exchange under the ticker symbol CYBE.

172. On the last trading day of at least 28 months during that period, Markusen and Cope, on behalf of Archer, "marked the close" in CYBE. That is, they sought to drive up CYBE's closing price by placing multiple buy orders at or near the close of trading. CYBE was by far the Funds' largest holding.

173. The Funds' portfolios were valued at the end of the month. Those values were used to calculate both the monthly returns Archer reported to Fund investors and the monthly management fees Archer charged the Funds.

174. Markusen and Cope improperly marked the close in CYBE to artificially inflate the Funds' monthly returns and extract additional management fees.

CYBE Was the Funds' Largest Holding

175. CYBE was the largest holding in the Funds' portfolios after 2009. By the end of 2012, CYBE comprised over 87% and 74% of the net assets of the Equity Fund and Focus Fund, respectively.

176. The Funds' CYBE position after 2009 ranged between 400,000 and 1,000,000 shares.

177. The share price of CYBE declined by about 25% between August 2011 and August 2012. While the share price declined, Markusen and Cope continued to buy CYBE and increased the Funds' overall CYBE concentration, that is, the percentage of the Funds' net assets held in CYBE.

Archer Was CyberOptics's Largest Shareholder and Failed to Disclose Its 10% Stake

178. At the end of 2011 and 2012, Archer, through the Funds, controlled more than 10% of the outstanding common stock of CyberOptics. In 2012, Archer became the company's largest shareholder.

179. The federal securities laws prohibit 10% owners of an issuer's security from retaining any short-term trading profits in that security. Markusen knew that if Archer disclosed that it owned more than 10% of CYBE, CyberOptics could recover any short-term profits that Archer made trading in CYBE.

180. Archer underreported its CYBE holdings to the SEC in 2011 and 2012. For each of those years, Archer disclosed a 9% stake in CYBE when, in fact, its stake exceeded 10%.

181. In February 2012, Markusen, on behalf of Archer, filed a Schedule 13G – a form for reporting the filer's ownership stake in an issuer – with the SEC falsely claiming that Archer beneficially owned 625,566 shares, or 9.1%, of CyberOptics common stock at the end of 2011. In fact, Archer beneficially owned over 860,000 shares, or over 10%, of common stock at the end of 2011. Markusen signed the Schedule 13G; he knew it was false when he filed it with the SEC.

182. In February 2013, Markusen, on behalf of Archer, filed a Schedule 13G with the SEC falsely claiming that Archer beneficially owned 609,755 shares, or 8.8%, of CyberOptics common stock at the end of 2012. In fact, Archer beneficially owned over 970,000 shares, or over 10%, of CYBE common stock at the end of 2012. Markusen signed the Schedule 13G; he knew it was false when he filed it with the SEC.

183. As a 10% owner of CyberOptics in 2011 and 2012, Archer was required to disclose its ownership stake to the SEC on Forms 3, 4, and 5. Archer did not file a Form 3, 4, or 5 with the SEC for those years, nor did it file an amended or accurate Schedule 13G.

Markusen and Cope Knew CYBE Was Thinly Traded

184. The daily average trading volume for CYBE was less than 10,000 shares between January 2010 and September 2013.

185. CYBE's average daily volume was low for a publicly traded security.

186. Markusen and Cope knew CYBE was thinly traded. Markusen and Cope knew that, given the thin market for CYBE and the Funds' large CYBE position, Archer's trading in CYBE could impact the share price of CYBE.

187. In an August 2012 draft letter to the chairman of the board of CyberOptics urging a share buyback, Markusen wrote that it "is hard to imagine [CYBE] shares being more illiquid."

Markusen and Cope Marked the Close in CYBE at Least 28 Times

188. Archer purchased CYBE in the closing minutes of at least 28 month-end trading days between 2010 and June 2013. Markusen placed most of those purchase orders, but Cope placed the purchase orders on at least 5 of those days.

189. Markusen and Cope's purpose in placing those orders was to drive up the closing price of CYBE on the month's last day. On 22 of the 28 days, CYBE closed higher than the previous day.

190. On those 28 days, Markusen or Cope placed a sequence of buy orders in the last 10 to 20 minutes of trading. The orders were generally "limit" orders in which Archer agreed to buy at or below a certain price limit. On most of those 28 days, Markusen or Cope increased the limit on their buy orders as the close drew nearer.

191. On many of those 28 days, Markusen or Cope placed limit orders at or above prevailing market prices. On over half those days, Markusen or Cope bought CYBE at prices that matched or set the stock's intraday high.

192. Markusen or Cope placed at least one order in the last minute of trading on 22 of those 28 days. On 5 of the other 6 days, they placed at least one order in the last three minutes of trading.

193. On those 28 month-end trading days, Archer's trading in CYBE often represented more than 75% – and in some cases 100% – of the total market volume for CYBE in the session's last 15 minutes.

194. Markusen and Cope only engaged in such last-minute trading in CYBE on the last trading day of the month.

Marking the Close Examples

195. On May 28, 2010, the last trading day that month, Markusen placed 32 buy orders starting at 3:39:04 p.m. EDT and ending at 3:59:59 p.m. EDT, one second before the market closed at 4:00 p.m. EDT. These were limit orders that increased from a $9.59 limit per share at 3:39:04 p.m. to a $10.04 limit per share at 3:59:59 p.m. Most orders were filled within

seconds. Markusen's last order, which was executed at $10.04, set the CYBE closing price for the day, up from $9.77 the prior trading day. Markusen's $10.04 order, which was above the prevailing market prices at the time, also set the intraday high for CYBE. Markusen's trading that day constituted over 90% of the overall CYBE volume during the session's last 15 minutes.

196. On July 30, 2010, the last trading day that month, Cope placed 12 buy orders starting at 3:55:39 p.m. EDT and ending at 3:59:40 p.m. EDT, 20 seconds before the market closed. Most of these were limit orders ranging from $9.70 per share at 3:56:30 p.m. to $9.79 per share at 3:58:31 p.m. Before Cope placed the orders, CYBE was trading between $9.52 and $9.69 per share. Cope's $9.78 limit order at 3:59:12, which was filled in seconds, set both the intraday high and closing price for CYBE. The previous day's closing price was $9.72. Cope's trading on July 30, 2010 represented 100% of the overall CYBE volume during the session's last 15 minutes.

197. Markusen marked the close in 2010 on January 29, February 26, May 28, June 30, September 30, November 30; in 2011 on February 28, March 31, June 30, August 31, October 31, and November 30; in 2012 on February 29, March 30, April 30, May 31, June 29, July 31, August 31, and September 28; and in 2013 on February 28, March 28 and April 30.

198. Cope marked the close in 2010 on July 30 and August 31; in 2011 on May 31 and September 30; and in 2013 on June 28.

Marking the Close Inflated the Funds' Performance

199. From 2010 to 2013, Markusen drafted and sent monthly newsletters and updates to investors regarding the Funds' performance. Cope sent the newsletters and updates to certain Focus Fund investors, and he sometimes sent those investors his own written analysis of the Funds' performance.

200. In those newsletters and updates, Markusen typically listed the percentage by which the Funds were up or down for the previous month. Those percentages were based on the value of the Funds at month end, which in turn was based on the month-end closing prices of the stocks in the Funds' portfolio, including CYBE.

201. Markusen and Cope knew that CYBE's month-end closing price had a significant impact on the Funds' monthly returns. Because CYBE was the Funds' largest holding, a small change in its share price had a significant impact on the Funds' performance.

202. By marking the close in CYBE on 28 month-end days, Markusen and Cope caused or attempted to cause CYBE to close at artificially high prices on those days.

203. Those artificially high month-end prices inflated the monthly returns Markusen reported to investors, sometimes by more than 20%. Markusen and Cope's manipulation of CYBE inflated the Funds' monthly returns and concealed the Funds' true performance. It also enabled Archer to extract additional monthly management fees from the Funds.

204. Cope used the inflated performance figures to solicit new capital from existing investors. In late 2010, he sent inflated Fund performance figures to existing investors shortly after marking the close in CYBE.

205. Cope marked the close in CYBE on August 31, 2010 by placing 16 buy orders in the closing minutes of trading. Cope's trading drove up the CYBE closing price, which in turn inflated the Equity Fund's August 2010 performance by over 20%.

206. In September 2010 Cope sent several existing investors the inflated Fund performance figures for August 2010. He also encouraged each of those investors to contribute additional capital into the Funds. Cope knew or should have known the August 2010 performance figures he sent those investors were inflated by his trading in CYBE on the last day

of August. One of those investors contributed new capital shortly thereafter in 2010. Cope received a portion of Archer's 2010 performance fee charged to that investor's account.

Archer Stopped Marking the Close after Learning of the SEC's Investigation

207. Markusen or Cope marked the close in CYBE at the end of February, March, April, and June 2013.

208. Then, in or around July 2013, Markusen and Cope learned of the SEC's investigation in this matter.

209. Thereafter, Markusen and Cope ceased marking the close in CYBE.

COUNT I

Violations of Section 206(1) of the Advisers Act
Falsifying Expenses
(against Markusen and Archer)

210. The SEC realleges and incorporates by reference paragraphs 1 through 41, and 87 through 118, as if fully set forth herein.

211. The SEC alleges, among other things, that Markusen and Archer falsified expenses by seeking and receiving expenses reimbursement from the Funds for expenses Archer never incurred.

212. Markusen and Archer acted as investment advisers as defined under the Advisers Act.

213. Markusen and Archer, while acting as investment advisers, by use of the mails or the means and instrumentalities of interstate commerce, directly or indirectly employed devices, schemes or artifices to defraud their clients or prospective clients.

214. Markusen and Archer acted with scienter.

215. Through the conduct described above, Markusen and Archer violated Section 206(1) of the Advisers Act [15 U.S.C. § 80b-6(1)].

COUNT II

Violations of Section 206(2) of the Advisers Act
Falsifying Expenses
(against Markusen and Archer)

216. The SEC realleges and incorporates by reference paragraphs 1 through 41, and 87 through 118, as if fully set forth herein.

217. The SEC alleges, among other things, that Markusen and Archer falsified expenses by seeking and receiving expenses reimbursement from the Funds for expenses Archer never incurred.

218. Markusen and Archer acted as investment advisers as defined under the Advisers Act.

219. Markusen and Archer, while acting as investment advisers, by use of the mails or the means and instrumentalities of interstate commerce, directly or indirectly engaged in transactions, practices, or courses of business which operated as a fraud or deceit upon clients or prospective clients.

220. Through the conduct described above, Markusen and Archer violated Section 206(2) of the Advisers Act [15 U.S.C. § 80b-6(2)].

COUNT III

Violations of Section 10(b) of the Exchange Act
and Rule 10b-5 Thereunder
Misappropriation of "Research" Expenses and Fees
(against Markusen, Cope, and Archer)

221. The SEC realleges and incorporates by reference paragraphs 1 through 86, and 119 through 170, as if fully set forth herein.

222. The SEC alleges, among other things, that defendants misappropriated Fund assets under the guise of "research" expenses and fees. The SEC alleges defendants carried out their misappropriation by, among other things, disguising Cope's monthly salary payments as legitimate and permissible "research" expenses and fees, creating misleading "research" invoices, charging the Funds twice for the same phony expenses, misrepresenting Cope's relationship with Archer, misrepresenting how Fund soft dollars were used, misrepresenting the source of the Funds' research expenses in the Funds' audited financials, failing to disclose that the Funds, via both expense reimbursements and soft-dollar payments, were paying Cope's monthly salary, and engaging in undisclosed and excessive purchases and sales of securities to benefit themselves at the expense of the Funds.

223. Markusen, Cope, and Archer, in connection with the purchase or sale of securities, by the use of the means or instrumentalities of interstate commerce or of the mails or of any facility of any national securities exchange, directly or indirectly: (1) employed a device, scheme, or artifice to defraud, (2) made an untrue statement of material fact or omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, and (3) engaged in an act, practice, or course of business which operated or would operate as a fraud and deceit upon other persons.

224. Markusen, Cope, and Archer acted with scienter.

225. Through the conduct described above, Markusen, Cope, and Archer 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].

COUNT IV

Violations of Section 17(a)(1) of the Securities Act
Misappropriation of "Research" Expenses and Fees
(against Markusen, Cope, and Archer)

226. The SEC realleges and incorporates by reference paragraphs 1 through 86, and 119 through 170, as if fully set forth herein.

227. The SEC alleges, among other things, that defendants misappropriated Fund assets under the guise of "research" expenses and fees. The SEC alleges defendants carried out their misappropriation by, among other things, disguising Cope's monthly salary payments as legitimate and permissible "research" expenses and fees, creating misleading "research" invoices, charging the Funds twice for the same phony expenses, misrepresenting Cope's relationship with Archer, misrepresenting how Fund soft dollars were used, misrepresenting the source of the Funds' research expenses in the Funds' audited financials, failing to disclose that the Funds, via both expense reimbursements and soft-dollar payments, were paying Cope's monthly salary, and engaging in undisclosed and excessive purchases and sales of securities to benefit themselves at the expense of the Funds.

228. Markusen, Cope, and Archer, in the offer or sale of securities, by the use of the means or instruments of transportation or communication, in interstate commerce, directly or indirectly, employed a device, scheme, or artifice to defraud.

229. Markusen, Cope, and Archer acted with scienter.

230. Through the conduct described above, Markusen, Cope, and Archer violated Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)].

COUNT V

Violations of Section 17(a)(2) and (a)(3) of the Securities Act
Misappropriation of "Research" Expenses and Fees
(against Markusen, Cope, and Archer)

231. The SEC realleges and incorporates by reference paragraphs 1 through 86, and 119 through 170, as if fully set forth herein.

232. The SEC alleges, among other things, that defendants misappropriated Fund assets under the guise of "research" expenses and fees. The SEC alleges defendants carried out their misappropriation by, among other things, disguising Cope's monthly salary payments as legitimate and permissible "research" expenses and fees, creating misleading "research" invoices, charging the Funds twice for the same phony expenses, misrepresenting Cope's relationship with Archer, misrepresenting how Fund soft dollars were used, misrepresenting the source of the Funds' research expenses in the Funds' audited financials, failing to disclose that the Funds, via both expense reimbursements and soft-dollar payments, were paying Cope's monthly salary, and engaging in undisclosed and excessive purchases and sales of securities to benefit themselves at the expense of the Funds.

233. Markusen, Cope, and Archer, in the offer or sale of securities, by the use of the means or instruments of transportation or communication, in interstate commerce, directly or indirectly, (1) obtained money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances in which they were made, not misleading, and (2) engaged in a business, transaction, or practice which operates or would operate as a fraud or deceit upon the purchaser.

234. Through the conduct described above, Markusen, Cope, and Archer violated Section 17(a)(2) and (a)(3) of the Securities Act [15 U.S.C. § 77q(a)(2)-(a)(3)].

COUNT VI

Violations of Section 206(1) of the Advisers Act
Misappropriation of "Research" Expenses and Fees
(against Markusen and Archer)

235. The SEC realleges and incorporates by reference paragraphs 1 through 86, and 119 through 170, as if fully set forth herein.

236. The SEC alleges, among other things, that defendants misappropriated Fund assets under the guise of "research" expenses and fees. The SEC alleges defendants carried out their misappropriation by, among other things, disguising Cope's monthly salary payments as legitimate and permissible "research" expenses and fees, creating misleading "research" invoices, charging the Funds twice for the same phony expenses, misrepresenting Cope's relationship with Archer, misrepresenting how Fund soft dollars were used, misrepresenting the source of the Funds' research expenses in the Funds' audited financials, failing to disclose that the Funds, via both expense reimbursements and soft-dollar payments, were paying Cope's monthly salary, and engaging in undisclosed and excessive purchases and sales of securities to benefit themselves at the expense of the Funds.

237. Markusen and Archer acted as investment advisers as defined under the Advisers Act.

238. Markusen and Archer, while acting as investment advisers, by use of the mails or the means and instrumentalities of interstate commerce, directly or indirectly employed devices, schemes or artifices to defraud their clients or prospective clients.

239. Markusen and Archer acted with scienter.

240. Through the conduct described above, Markusen and Archer violated Section 206(1) of the Advisers Act [15 U.S.C. § 80b-6(1)].

COUNT VII

Violations of Section 206(2) of the Advisers Act
Misappropriation of "Research" Expenses and Fees
(against Markusen and Archer)

241. The SEC realleges and incorporates by reference paragraphs 1 through 86, and 119 through 170, as if fully set forth herein.

242. The SEC alleges, among other things, that defendants misappropriated Fund assets under the guise of "research" expenses and fees. The SEC alleges defendants carried out their misappropriation by, among other things, disguising Cope's monthly salary payments as legitimate and permissible "research" expenses and fees, creating misleading "research" invoices, charging the Funds twice for the same phony expenses, misrepresenting Cope's relationship with Archer, misrepresenting how Fund soft dollars were used, misrepresenting the source of the Funds' research expenses in the Funds' audited financials, failing to disclose that the Funds, via both expense reimbursements and soft-dollar payments, were paying Cope's monthly salary, and engaging in undisclosed and excessive purchases and sales of securities to benefit themselves at the expense of the Funds.

243. Markusen and Archer acted as investment advisers as defined under the Advisers Act.

244. Markusen and Archer, while acting as investment advisers, by use of the mails or the means and instrumentalities of interstate commerce, directly or indirectly engaged in transactions, practices, or courses of business which operated as a fraud or deceit upon clients or prospective clients.

245. Through the conduct described above, Markusen and Archer violated Section 206(2) of the Advisers Act [15 U.S.C. § 80b-6(2)].

COUNT VIII

Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder Manipulative Trading – Marking the Close (against Markusen, Cope, and Archer)

246. The SEC realleges and incorporates by reference paragraphs 1 through 37, and 171 through 209, as if fully set forth herein.

247. The SEC alleges, among other things, that Markusen, Cope, and Archer marked the close at least 28 times in CYBE in order to inflate the Funds' performance to investors and extract additional management fees.

248. Markusen, Cope, and Archer, in connection with the purchase or sale of securities, by the use of the means or instrumentalities of interstate commerce or of the mails or of any facility of any national securities exchange, directly or indirectly: (1) employed a device, scheme, or artifice to defraud, (2) made an untrue statement of material fact or omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, and (3) engaged in an act, practice, or course of business which operated or would operate as a fraud and deceit upon other persons.

249. Markusen, Cope, and Archer acted with scienter.

250. Through the conduct described above, Markusen, Cope, and Archer 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].

COUNT IX

Violations of Section 17(a)(1) of the Securities Act
Manipulative Trading – Marking the Close
(against Markusen, Cope, and Archer)

251. The SEC realleges and incorporates by reference paragraphs 1 through 37, and 171 through 209, as if fully set forth herein.

252. The SEC alleges, among other things, that Markusen, Cope, and Archer marked the close at least 28 times in CYBE in order to inflate the Funds' performance to investors and extract additional management fees.

253. Markusen, Cope, and Archer, in the offer or sale of securities, by the use of the means or instruments of transportation or communication, in interstate commerce, directly or indirectly, employed a device, scheme, or artifice to defraud.

254. Markusen, Cope, and Archer acted with scienter.

255. Through the conduct described above, Markusen, Cope, and Archer violated Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)].

COUNT X

Violations of Section 17(a)(2) and (a)(3) of the Securities Act
Manipulative Trading – Marking the Close
(against Markusen, Cope, and Archer)

256. The SEC realleges and incorporates by reference paragraphs 1 through 37, and 171 through 209, as if fully set forth herein.

257. The SEC alleges, among other things, that Markusen, Cope, and Archer marked the close at least 28 times in CYBE in order to inflate the Funds' performance to investors and extract additional management fees.

258. Markusen, Cope, and Archer, in the offer or sale of securities, by the use of the means or instruments of transportation or communication, in interstate commerce, directly or indirectly, (1) obtained money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances in which they were made, not misleading, and (2) engaged in a business, transaction, or practice which operates or would operate as a fraud or deceit upon the purchaser.

259. Through the conduct described above, Markusen, Cope, and Archer violated Section 17(a)(2) and (a)(3) of the Securities Act [15 U.S.C. § 77q(a)(2)-(a)(3)].

COUNT XI

Violations of Section 206(1) of the Advisers Act Manipulative Trading – Marking the Close (against Markusen and Archer)

260. The SEC realleges and incorporates by reference paragraphs 1 through 37, and 171 through 209, as if fully set forth herein.

261. The SEC alleges, among other things, that Markusen, Cope, and Archer marked the close at least 28 times in CYBE in order to inflate the Funds' performance to investors and extract additional management fees.

262. Markusen and Archer acted as investment advisers as defined under the Advisers Act.

263. Markusen and Archer, while acting as investment advisers, by use of the mails or the means and instrumentalities of interstate commerce, directly or indirectly employed devices, schemes or artifices to defraud their clients or prospective clients.

264. Markusen and Archer acted with scienter.

265. Through the conduct described above, Markusen and Archer violated Section 206(1) of the Advisers Act [15 U.S.C. § 80b-6(1)].

COUNT XII

Violations of Section 206(2) of the Advisers Act
Manipulative Trading – Marking the Close
(against Markusen and Archer)

266. The SEC realleges and incorporates by reference paragraphs 1 through 36, and 171 through 209, as if fully set forth herein.

267. The SEC alleges, among other things, that Markusen, Cope, and Archer marked the close at least 28 times in CYBE in order to inflate the Funds' performance to investors and extract additional management fees.

268. Markusen and Archer acted as investment advisers as defined under the Advisers Act.

269. Markusen and Archer, while acting as investment advisers, by use of the mails or the means and instrumentalities of interstate commerce, directly or indirectly engaged in transactions, practices, or courses of business which operated as a fraud or deceit upon clients or prospective clients.

270. Through the conduct described above, Markusen and Archer violated Section 206(2) of the Advisers Act [15 U.S.C. § 80b-6(2)].

COUNT XIII

Aiding and Abetting
Violations of Section 10(b) of the
Exchange Act and Rule 10b-5 Thereunder
(against Markusen and Cope.)

271. The SEC realleges and incorporates by reference paragraphs 1 through 209 as if fully set forth herein.

272. As alleged in Counts III and VIII, Markusen and Archer violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

273. Markusen and Cope each knowingly or recklessly provided substantial assistance to Archer in connection with the violations alleged in Counts III and VIII. Further, Cope knowingly or recklessly provided substantial assistance to Markusen in connection with the violations alleged in Counts III and VIII.

274. Through the conduct described above, pursuant to Section 20(e) of the Exchange Act [15 U.S.C. § 78t(e)], Markusen and Cope are liable for Archer's violations alleged in Counts III and VIII to the same extent as Archer, and Cope is liable for Markusen's violations alleged in Counts III and VIII to the same extent as Markusen.

COUNT XIV

Aiding and Abetting
Violations of Section 206(1) and (2) of the Advisers Act
(against Markusen and Cope)

275. The SEC realleges and incorporates by reference paragraphs 1 through 209 as if fully set forth herein.

276. As alleged in Counts I, II, VI, VII, XI, and XII, Markusen and Archer violated Sections 206(1) and (2) of the Advisers Act, respectively.

277. Markusen knowingly or recklessly aided, abetted, counseled, commanded, induced, or procured Archer's violations of Sections 206(1) and (2) of the Advisers Act as alleged in Counts I, II, VI, VII, XI, and XII. Further, Cope knowingly or recklessly aided, abetted, counseled, commanded, induced, or procured Archer and Markusen's violations of Section 206(1) and (2) of the Advisers Act as alleged in Counts VI, VII, XI, and XII.

278. Through the conduct described above, Markusen and Cope are liable for Archer's violations of Section 206(1) and (2) of the Advisers Act to the same extent as Archer. Cope is liable for Markusen's violations of Section 206(1) and (2) of the Advisers Act to the same extent as Markusen.

COUNT XV

Violation of Section 206(4) of the Advisers Act and Rule 206(4)-8 thereunder (against Markusen and Archer)

279. The SEC realleges and incorporates by reference paragraphs 1 through 209 as if fully set forth herein.

280. The Equity Fund and Focus Fund were each pooled investment vehicles for purposes of Rule 206(4)-8 [17 C.F.R. § 275.206(4)-8)].

281. Markusen and Archer acted as investment advisers to the Equity Fund and the Focus Fund.

282. Markusen and Archer (1) made an untrue statement of a material fact or omitted to state a material fact necessary to make the statements made, in the light of the circumstances in which they were made, not misleading, to any investor or prospective investor in a pooled investment vehicle, and (2) otherwise engaged in an act, practice, or course of business that is fraudulent, deceptive, or manipulative with respect to any investor or prospective investor in a pooled investment vehicle.

283. Through the conduct described above, Markusen and Archer violated Section 206(4) of the Advisers Act [15 U.S.C. § 80b-6(4)] and Rule 206(4)-8 thereunder [17 C.F.R. § 275.206(4)-8)].

COUNT XVI

Violation of Section 16(a) of the Exchange Act and Rule 16a-3 thereunder Reporting Violations (against Archer)

284. The SEC realleges and incorporates by reference paragraphs 1 through 37, and 178 through 183 as if fully set forth herein.

285. In or around 2011, 2012, and 2013, Archer was, for purposes of Section 16(a) of the Exchange Act [15 U.S.C. § 78(p)(a)] the beneficial owner of more than 10% of a registered class of equity securities issued by CyberOptics Corp.

286. Archer failed to disclose such beneficial ownership to the SEC in violation of Section 16(a) of the Exchange Act [15 U.S.C. § 78(p)(a)] and Rule 16a-3 thereunder [17 C.F.R. § 240.15a-3].

COUNT XVII

Control Person Liability for Exchange Act Violations (against Markusen)

287. The SEC realleges and incorporates by reference paragraphs 1 through 209 as if fully set forth herein.

288. As alleged in Counts III, VIII, and XVI, Archer violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and Section 16(a) of the Exchange Act and Rule 16a-3 thereunder.

289. At all times relevant to this Complaint, Markusen controlled Archer for purposes of Section 20(a) of the Exchange Act [15 U.S.C. § 78t(a)].

290. By reason of the foregoing, Markusen is liable for Archer's violations alleged in Counts III, VIII, and XVI as a control person under Section 20(a) of the Exchange Act [15 U.S.C. § 78t(a)].

PRAYER FOR RELIEF

WHEREFORE, the SEC respectfully requests that the Court:

A. Find that Markusen, Cope, and Archer committed the violations charged and alleged above;

B. Enter an Order permanently enjoining and restraining:

i. Markusen 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], Section 17(a) Securities Act [15 U.S.C. § 77q(a)], and Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §§ 80b-6(1) and 80b-6(2)], and from aiding and abetting violations of those Exchange Act and Advisers Act provisions;

ii. Cope 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], and Section 17(a) Securities Act [15 U.S.C. § 77q(a)], and from aiding and abetting violations of those Exchange Act provisions and Sections 206(1) and 206(2) of the Advisers Act;

iii. Archer 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], Section 17(a) Securities Act [15 U.S.C. § 77q(a)], and Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §§ 80b-6(1) and 80b-6(2)];

C. Enter an Order requiring Markusen, Cope, and Archer to disgorge all ill-gotten gains they have received as a result of the acts and conduct alleged herein, with prejudgment interest;

D. Enter an Order, pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)], Section 20(d) of the Securities Act [15 U.S.C. § 77t(d), and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)] requiring Markusen, Cope, and Archer to pay a civil penalty;

E. Retain jurisdiction over this action, in accordance with the principles of equity and the Federal Rules of Civil Procedure, in order to implement and carry out the terms of all orders that may be entered or to entertain any suitable application or motion for additional relief, within the jurisdiction of this Court; and

F. Grant such other relief as this Court deems just and proper.

JURY DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands that this case be tried to a jury on all issues so triable.

Dated: September 8, 2014

Respectfully submitted,

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