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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, v. JOSEPH GEROMINI, Defendant.
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Civil Action No. 21-_____

Complaint for Violations of
the Federal Securities Laws

Jury Trial Demanded

COMPLAINT

Plaintiff Securities and Exchange Commission (the “SEC”), One Penn Center, 1617 JFK Boulevard, Suite 520, Philadelphia, Pennsylvania 19103, alleges as follows against the following defendant, whose name and last known address are set forth below:

Joseph Geromini
209 Arlington Avenue
Linwood, NJ 08221

SUMMARY

1. Defendant Joseph Geromini (“Geromini” or “Defendant”) defrauded investors and misappropriated investors’ proceeds while employed at Group K Diagnostics, Inc. (“Group K”), an early-stage medical devices company. Between August 2018 and May 2019, Geromini lied and stole more than \$200,000 from Group K investors and used the funds for personal

expenses, including a car, cosmetic surgery, a vacation, and other entertainment.

2. Geromini misappropriated the Group K investors' money predominantly by wiring funds to a bank account he controlled in the District of New Jersey; making unauthorized ATM cash withdrawals; issuing company checks for cash; and charging personal expenses to Group K debit and credit cards.

3. While he was misappropriating Group K's investor proceeds, Geromini disseminated false and misleading securities offering documents and financial models to existing and prospective Group K investors that failed to account for his ongoing theft.

4. In connection with his misappropriation, Geromini also made materially false and misleading statements about Group K's use of proceeds and cash "burn rate" during communications with investors. These false and misleading statements induced certain investors to participate, or increase their participation, in Group K's offering of common stock.

5. Geromini even told investors—falsely—that "every penny" of their money would be used in a meaningful, productive manner, when the opposite was true.

6. By engaging in the conduct described in this Complaint, Defendant Geromini violated Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)] and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

JURISDICTION AND VENUE

7. The SEC brings this action pursuant to Sections 20(b) and 20(d) of the Securities Act [15 U.S.C. §§ 77t(b) and 77t(d)] and Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)], to enjoin such acts, transactions, practices, and courses of business, and to obtain

disgorgement, civil monetary penalties, and such other and further relief as the Court may deem just and appropriate.

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

9. Venue is proper in the District of New Jersey pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Section 27 of the Exchange Act [15 U.S.C. § 78aa]. Defendant Geromini resides and conducts business within the District of New Jersey. In addition, certain of the acts, transactions, practices, and courses of business constituting the violations of the federal securities laws charged herein occurred within the District of New Jersey.

10. In connection with the conduct alleged in this Complaint, Geromini, directly or indirectly, made use of the means or instruments of transportation or communication in, or instrumentalities of, interstate commerce, or the mails, or the facilities of a national securities exchange.

DEFENDANT

11. **Joseph Geromini**, age 54, is a resident of Linwood, New Jersey, and was a resident of New Jersey at all times relevant to the facts alleged herein. In July 2018, Geromini, through Xanitos Marketing, LLC (“Xanitos Marketing”), acted as a consultant to Group K. From August 2018 until his termination in May 2019, Geromini served as Group K’s Chief Operating Officer.

OTHER RELEVANT ENTITIES

12. Xanitos Marketing was a New Jersey limited liability company with its principal place of business in Linwood, New Jersey. At all times relevant to the facts alleged herein, Geromini solely owned Xanitos Marketing and served as its managing member.

13. Group K is a Delaware corporation with its principal place of business in Philadelphia, Pennsylvania. Group K develops tests and other diagnostics related to metabolic functions.

FACTS

I. Geromini Served as Group K's Chief Operating Officer

14. Founded as a start-up in 2017, Group K is a small company that is developing point-of-care liver tests and other diagnostics related to metabolic functions. From 2018 through at least May 2019, Group K had no revenue, and relied solely on investor proceeds to fund its operations.

15. Group K initially contracted with Geromini to provide consulting services, and later hired him as an employee to serve as the company's Chief Operating Officer.

16. By an agreement effective July 2, 2018, Group K retained Joseph Geromini to provide consulting services through his company, Xanitos Marketing. Pursuant to the agreement, Group K paid \$15,960 to Xanitos Marketing in exchange for Geromini's consulting services.

17. By an agreement effective August 3, 2018, Group K hired Geromini as Chief Operating Officer. The employment agreement terminated the compensation provisions of the July 2018 consulting agreement, and provided for the payment to Geromini of a base salary in the amount of \$200,000, with the possibility of performance bonuses based on achievement of goals expressly defined in the employment agreement.

II. Geromini Communicated with Investors about Group K's Offerings of Notes and Common Stock

18. While he was Chief Operating Officer of Group K, Geromini regularly communicated with prospective investors in Group K's securities offerings through email correspondence, phone calls, and in-person meetings.

19. In one such securities offering, in August 2018, Group K raised over \$400,000 through the offer and sale of convertible promissory notes (the "Notes"), which were convertible into Group K common stock.

20. Geromini provided prospective investors with an offering document for Group K's Notes and communicated with them regarding the terms of the offering and Group K's business. He also furnished wiring instructions and coordinated the logistics of receiving investor funds and subscription materials.

21. In a second securities offering, in October 2018, Group K raised nearly \$2 million through the offer and sale of Group K common stock (the "Common Stock").

22. Geromini reviewed and approved offering documents for the Common Stock, and he communicated with Group K investors about the offering.

23. On some occasions, Geromini emailed Common Stock subscription agreement packages to prospective investors. On other occasions, he prepared or reviewed slide decks, financial models, and other materials that were disseminated to prospective investors along with the Common Stock offering documents.

24. Group K's Notices of Exempt Offering of Securities on Form D dated September 5, 2018 and November 29, 2018, which were filed with the SEC, identified Geromini as a promoter of both the Notes and Common Stock offerings.

III. Geromini Misrepresented the Use of Offering Proceeds to Group K's Investors

25. During the course of his scheme, Geromini made a variety of material misrepresentations and omissions to several investors and prospective investors—including, but not limited to, two of Group K's largest investors—which induced certain investors to participate, or increase their participation in, Group K's Common Stock offering, and to recommend to others that they consider investing in Group K.

26. Geromini concealed from all investors that he planned to and did use some of their money for his own benefit.

27. Orally, and in writing, Geromini deceived investors and prospective investors by representing that money raised in the Notes and Common Stock offerings—about \$2.4 million, in total—would be used to implement Group K's business plan.

28. For example, from at least August 2018 through October 2018, Geromini prepared or reviewed slide decks, financial models, and other materials that were disseminated to prospective investors along with the Common Stock offering documents.

29. These materials were false and misleading, because they failed to account for Geromini's ongoing theft of investor proceeds, described more fully below.

30. At about the same time, in October 2018, Geromini also emailed subscription agreement packages to prospective investors in Group K's offer of Common Stock. The packages informed investors that Group K was seeking to raise up to \$2.5 million needed to further fund its substantial expenses related to “product development, marketing, and operations.”

31. None of the information distributed to prospective investors in the slide decks, financial models, subscription agreement, or other materials accounted for Geromini's ongoing

misappropriation of investor proceeds and its impact on the company's finances.

32. Furthermore, Geromini made materially false and misleading statements about Group K's cash "burn rate"—the rate at which cash raised from investors remained available to subsidize the company's operating costs—during communications with investors and prospective investors in the Common Stock offering.

33. Group K's cash burn rate was important to investors given the company's status as a pre-revenue startup whose only source of cash was from investors. The faster the company "burned" through its cash, the more investor capital it would need to sustain operations, which would in turn dilute existing shareholders.

34. According to his cash burn model disseminated to investors, Geromini projected that Group K's Notes and Common Stock offerings would enable the company to pay for various budgeted operating costs for the next two years, without disclosing that he had been—and would continue to be—using investor funds for his own personal expenses. Because of this, Geromini knew, or was reckless in not knowing, that the burn rate was false.

35. Further, the cash burn model falsely assumed that Group K would incur costs of only \$15,600 a month to pay Geromini, failing to take into account the higher amounts that he paid himself from Group K investor funds.

36. Geromini made an additional false statement to investors in a press release. Specifically, he authorized the issuance of a November 5, 2018 press release quoting him as stating, with respect to the Common Stock offering: "The operations efficiencies our team has been able to achieve will ensure that *every penny of this funding will be used in a meaningful, productive manner* that helps to bring our technology closer to fruition" (emphasis added).

37. After the Notes and Common Stock offerings, Geromini continued to misrepresent the cash burn rate and failed to account for his personal use of investor proceeds in communications with Group K investors, including, but not limited to, a 2019 conference call with investors concerning Group K's operational and financial developments.

IV. Geromini Misappropriated Investor Proceeds to Pay His Personal Expenses

38. Between August 21, 2018 and May 31, 2019, Geromini misappropriated over \$200,000 from money invested in Group K, while at the same time receiving a salary for his services.

39. Geromini began laying the foundation for his scheme leading up to the Notes offering.

40. Soon after he became Chief Operating Officer, Geromini convinced Group K's Chief Executive Officer to move Group K's banking relationship to a different institution. After the transition of the banking relationship, Geromini exercised control over Group K's primary operating bank account, which included his ability to initiate wire transfers.

41. On numerous occasions, under false pretenses, such as by claiming wire transfers were for the payment of salary or bonuses, Geromini initiated or approved wire transfers from Group K's bank account to a New Jersey bank account that Geromini controlled in the name of Xanitos Marketing.

42. Between at least August 21, 2018 and May 2, 2019, Geromini made unauthorized wire transfers amounting to more than \$180,000.

43. In one such unauthorized transfer, on January 14, 2019, Geromini took \$40,000 from Group K's investor proceeds.

44. Again, on May 2, 2019, Geromini took another \$50,000 from Group K's investor proceeds through an unauthorized wire transfer.

45. In addition to the unauthorized wire transfers, Geromini used Group K's debit card for personal expenses more than a half-dozen times between March 28, 2019 and May 17, 2019, amounting to more than \$20,000 in unauthorized charges that were not made for business purposes.

46. Geromini also made unauthorized cash withdrawals from Group K's accounts using ATMs at least five times between October 10, 2018 and April 25, 2019, withdrawing more than \$3,000 in cash from Group K's investor proceeds.

47. On more than half of these occasions, Geromini immediately deposited the cash into his personal bank account using the same ATM.

48. Geromini also wrote at least \$10,000 in unauthorized checks from Group K's bank account to pay for his own personal expenses in December 2018.

V. Geromini Lied to Group K Personnel about His Misappropriation

49. To facilitate his misappropriation, Geromini lied to Group K personnel about the nature of wire transfers, ATM withdrawals, checks, debit card transactions, and credit card transactions.

50. For example, for one of the unauthorized payments (of \$40,000), Geromini falsely stated to Group K that he had entered into an agreement with a hospital system whereby the hospital system would pay Group K for use of the liver function test, purportedly entitling him to a bonus payment under his employment contract.

51. To support his false assertion, Geromini forged a statement of work, purportedly countersigned by a principal from a hospital system, and presented it to Group K as a

justification. At no point did the principal of the hospital system or the principal's employer enter into any such agreement with Group K or Geromini.

52. In another example, Geromini falsely claimed to Group K personnel that he used a cash withdrawal to purchase lab equipment, when, in fact, he had increased the amount of the withdrawal to keep the extra cash for himself.

53. In still another example, Geromini falsely represented to Group K personnel that a certain payment was to a local hospital to establish a clinical trial, when, in reality, the payment was for his acquaintance's plastic surgery.

54. Additional, non-exhaustive examples of Geromini's unauthorized personal spending with Group K investors' funds, besides the cash withdrawals, include:

- a. Purchasing a Land Rover from a luxury-car dealership;
- b. Leasing a summer home for a month in Nantucket;
- c. Purchasing Philadelphia 76ers tickets, with suite access and an associated food and beverage package;
- d. Renting a hotel room in Woodlands, Texas, so that he could participate in the local Ironman competition;
- e. Paying the premium on a personal life insurance policy; and
- f. Paying a tax relief company to assist him with his unpaid tax issues.

55. Money that Geromini misappropriated from Group K's bank account came from proceeds raised from investors in connection with the Notes and Common Stock offerings.

VI. Geromini Violated the Federal Securities Laws

56. The Notes and Common Stock sold to investors by Group K Diagnostics, Inc. are securities within the meaning of Section 2(a)(1) of the Securities Act [15 U.S.C. § 77b(a)(1)] and

Section 3(a)(10) of the Exchange Act [15 U.S.C. § 78c(a)(10)], and the fraud and other misconduct described herein was in the offer of, and/or in connection with the purchase or sale of securities.

57. All of the misrepresentations and omissions set forth herein, individually and in the aggregate, are material. A reasonable investor would have considered the misrepresented facts and omitted information important in deciding whether or not to purchase Group K securities, and the disclosure of the omitted facts or accurate information would have altered the “total mix” of information available to investors. In particular, because Group K’s only source of cash was investor proceeds, Geromini’s misappropriation directly affected the company’s financial health and rendered the financial information he provided to investors materially misleading.

58. Geromini used the means or instrumentalities of interstate transportation, or communication, or of the mails, including, but not limited to, using the internet and interstate phone calls in communicating with investors and potential investors.

59. In connection with the conduct described herein, Geromini acted knowingly and/or recklessly. Among other things, Geromini knew or was reckless in not knowing that he was making material misrepresentations and omitting to state material facts necessary to make certain statements not misleading under the circumstances in connection with selling or offering to sell Group K securities to investors. Geromini knew or was reckless in not knowing, for example, that the financial information he was providing to, and discussing with, investors was misleading because it did not account of the funds he was misappropriating.

60. Geromini had ultimate authority for false and misleading statements and omissions made orally and in writing to current and prospective investors.

61. Through his material misrepresentations and omissions, Geromini knowingly, recklessly, or negligently obtained money or property.

62. Geromini used a device, scheme and/or artifice to defraud investors, and engaged in acts, transactions, practices, or courses of business that operated as a fraud or deceit upon offerees, purchasers and prospective purchasers of Group K securities.

63. As part of his fraud, Geromini misappropriated for his personal use more than \$200,000 raised from investors.

CLAIMS FOR RELIEF

FIRST CLAIM

Violations of Section 17(a) of the Securities Act

64. The SEC realleges and incorporates by reference each and every allegation in paragraphs 1 through 61, inclusive, as if they were fully set forth herein.

65. By engaging in the conduct described above, Defendant Geromini, in the offer or sale of securities, directly or indirectly, by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails:

- a. knowingly or recklessly employed devices, schemes, or artifices to defraud;
- b. knowingly, recklessly, or negligently obtained money or property by means of an untrue statement of a material fact or an omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and
- c. knowingly, recklessly, or negligently engaged in transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon the purchaser.

66. By engaging in the foregoing conduct, Defendant Geromini violated, and unless enjoined will continue to violate, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

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

67. The SEC realleges and incorporates by reference each and every allegation in paragraphs 1 through 64, inclusive, as if they were fully set forth herein.

68. By engaging in the conduct described above, Defendant Geromini knowingly or recklessly, in connection with the purchase or sale of securities, directly or indirectly, by the use of means or instrumentalities of interstate commerce, or the mails, or the facilities of a national securities exchange:

- a. employed devices, schemes, or artifices to defraud;
- b. made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and
- c. engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any person.

69. By engaging in the foregoing conduct, Defendant Geromini violated, and unless enjoined will continue to violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

PRAYER FOR RELIEF

WHEREFORE, the SEC respectfully requests that this Court enter a final judgment:

I.

Permanently restraining and enjoining Defendant Geromini from, directly or indirectly, violating Section 17(a) of the Securities Act, 15 U.S.C § 77q(a);

II.

Permanently restraining and enjoining Defendant Geromini from, directly or indirectly, 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];

III.

Pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)] and Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)], prohibiting Defendant Geromini from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)];

IV.

Ordering Defendant Geromini to disgorge all ill-gotten gains derived from the activities set forth in this Complaint pursuant to Section 21(d)(7) of the Exchange Act [15 U.S.C. § 78u(d)(7)], together with prejudgment interest thereon;

V.

Ordering Defendant Geromini to pay a civil penalty pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]; and


VI.

Granting such other and further relief as this Court may deem just, equitable, or necessary in connection with the enforcement of the federal securities laws.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands that this case be tried to a jury.

Respectfully submitted,

By:  _____

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**ATTORNEYS FOR PLAINTIFF
SECURITIES AND EXCHANGE COMMISSION**

Dated: June 23, 2021

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

JOSEPH GEROMINI,

Defendant.

**DESIGNATION OF
AGENT FOR SERVICE**

Pursuant to Local Rule 101.1(f), because the Securities and Exchange Commission (the “Commission”) does not have an office in this district, the United States Attorney for the District of New Jersey is hereby designated as eligible as an alternative to the Commission to receive service of all notices or papers in the captioned action. Therefore, service upon the United States or its authorized designee, David Dauenheimer, Deputy Chief, Civil Division, United States Attorney’s Office for the District of New Jersey, 970 Broad Street, 7th Floor, Newark, NJ 07102 shall constitute service upon the Commission for purposes of this action.

Respectfully submitted,



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