

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 100698 / August 14, 2024

INVESTMENT ADVISERS ACT OF 1940
Release No. 6649 / August 14, 2024

ADMINISTRATIVE PROCEEDING
File No. 3-21994

In the Matter of

Piper Sandler & Co.,

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE AND
CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO SECTIONS 15(b) AND 21C OF
THE SECURITIES EXCHANGE ACT OF 1934
AND SECTIONS 203(e) AND 203(k) OF THE
INVESTMENT ADVISERS ACT OF 1940,
MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS AND A CEASE-AND-
DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) and Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”) against Piper Sandler & Co. (“Piper Sandler” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (“Offer”) that the Commission has determined to accept. Respondent admits the facts set forth in Section III below, acknowledges that its conduct violated the federal securities laws, admits the Commission’s jurisdiction over it and the subject matter of these proceedings, and consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934, and Sections 203(e) and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that:

Summary

1. The federal securities laws impose recordkeeping requirements on broker-dealers and registered investment advisers to ensure that they responsibly discharge their crucial role in our markets. The Commission has long said that compliance with these requirements is essential to investor protection and the Commission's efforts to further its mandate of protecting investors, maintaining fair, orderly, and efficient markets, and facilitating capital formation.

2. These proceedings arise out of the widespread and longstanding failure of Piper Sandler personnel throughout the firm, including at senior levels, to adhere to certain of these essential requirements and the firm's own policies. Using their personal devices, these personnel communicated both internally and externally by text messages, and/or other unapproved written communications platforms ("off-channel communications").

3. From at least August 2019, Piper Sandler personnel sent and received off-channel communications that related to its broker-dealer business and, with respect to its investment advisory business, off-channel communications related to recommendations made or proposed to be made and advice given or proposed to be given. Respondent did not maintain or preserve the substantial majority of these written communications. Respondent's failures were firm-wide and involved personnel at various levels of authority. As a result, Piper Sandler violated Section 17(a) of the Exchange Act and Rule 17a-4(b)(4) thereunder and Section 204 of the Advisers Act and Rule 204-2(a)(7) thereunder.

4. Piper Sandler's supervisors, who were responsible for supervising junior personnel, routinely communicated off-channel using their personal devices. In fact, senior leadership, managing directors, and department heads responsible for supervising junior personnel themselves failed to comply with Piper Sandler's policies by communicating using non-Piper Sandler approved methods on their personal devices about Piper Sandler's broker-dealer and/or investment adviser business, as applicable.

5. Piper Sandler's widespread failure to implement a system reasonably expected to determine whether personnel were following its policies and procedures that prohibit such communications led to its failure to reasonably supervise its personnel within the meaning of Section 15(b)(4)(E) of the Exchange Act and Section 203(e)(6) of the Advisers Act.

6. During the time period that Piper Sandler failed to maintain and preserve off-channel communications that its personnel sent and received related to Piper Sandler's broker-dealer business as such and investment adviser business, Piper Sandler received and responded to Commission subpoenas for documents and/or records requests in numerous Commission investigations. As a result, Piper Sandler's recordkeeping failures likely impacted the

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and is not binding on any other person or entity in this or any other proceeding.

Commission's ability to carry out its regulatory functions and investigate violations of the federal securities laws across these investigations.

7. Commission staff uncovered Piper Sandler's misconduct after commencing a risk-based initiative to investigate the use of off-channel and unpreserved communications at broker-dealers. Piper Sandler has initiated a review of its recordkeeping failures and begun a program of remediation. As set forth in the Undertakings below, Piper Sandler will retain an independent compliance consultant to review and assess Piper Sandler's remedial steps relating to Piper Sandler's recordkeeping practices, policies and procedures, related supervisory practices, and employment actions.

Respondent

8. **Piper Sandler & Co.** is a Delaware corporation with its principal office in Minneapolis, Minnesota, and is registered with the Commission as a broker-dealer and investment adviser.

Recordkeeping Requirements under the Exchange and Advisers Acts

9. Section 17(a)(1) of the Exchange Act and Section 204 of the Advisers Act authorize the Commission to issue rules requiring, respectively, broker-dealers and investment advisers to make and keep for prescribed periods, and furnish copies of, such records as necessary or appropriate in the public interest, for the protection of investors or, with respect to the Exchange Act, otherwise in furtherance of the purposes of the Exchange Act.

10. The Commission adopted Rule 17a-4 under the Exchange Act and Rule 204-2 under the Advisers Act pursuant to this authority. These rules specify the manner and length of time that the records created in accordance with Commission rules, and certain other records produced by broker-dealers, or investment advisers, must be maintained and produced promptly to Commission representatives.

11. The rules adopted under Section 17(a)(1) of the Exchange Act, including Rule 17a-4(b)(4), require that broker-dealers preserve in an easily accessible place originals of all communications received and copies of all communications sent relating to the broker-dealer's business as such. These rules impose minimum recordkeeping requirements that are based on standards a prudent broker-dealer should follow in the normal course of business.

12. The Commission previously has stated that these and other recordkeeping requirements "are an integral part of the investor protection function of the Commission, and other securities regulators, in that the preserved records are the primary means of monitoring compliance with applicable securities laws, including antifraud provisions and financial responsibility standards." Commission Guidance to Broker-Dealers on the Use of Electronic Storage Media under the Electronic Signatures in Global and National Commerce Act of 2000 with Respect to Rule 17a-4(f), 17 C.F.R. Part 241, Exchange Act Rel. No. 44238 (May 1, 2001).

13. The rules adopted under Advisers Act Section 204, including Advisers Act Rule 204-2(a)(7), require that investment advisers preserve in an easily accessible place originals of all

communications received and copies of all written communications sent relating to, among other things: (a) any recommendation made or proposed to be made and any advice given or proposed to be given; (b) any receipt, disbursement or delivery of funds or securities; (c) the placing or execution of any order to purchase or sell any security; or (d) predecessor performance and the performance or rate of return of any or all managed accounts, portfolios, or securities recommendations.

Piper Sandler's Policies and Procedures

14. Piper Sandler maintained certain policies and procedures designed to ensure the retention of business-related records, including electronic communications, in compliance with the relevant recordkeeping provisions.

15. Starting in 2015, Piper Sandler issued to personnel corporate devices with mobile device management technology. Piper Sandler personnel were advised that they were required to use the corporate issued devices for business communications, that the use of unapproved electronic communication methods, including on personal devices, was not permitted.

16. Messages sent through Piper Sandler-approved communication methods were monitored, subject to review, and, when appropriate, archived. Messages sent through unapproved communication methods, such as on personal devices, were not monitored, subject to review or, in most circumstances, archived.

17. Piper Sandler's policies were designed to address supervisors' supervision of personnel training in Piper Sandler's communications policies and adherence to Piper Sandler's books and recordkeeping requirements. Supervisory policies notified personnel that electronic communications were subject to surveillance by Piper Sandler. Piper Sandler had procedures for all personnel, including supervisors, requiring annual self-attestations of compliance. Piper Sandler also issued periodic policy reminders to personnel that covered a variety of topics such as electronic communications and social media policies.

18. Piper Sandler, however, failed to implement a system to determine that all personnel, including supervisors, were reasonably following its policies. Starting in 2015, Piper Sandler required personnel to use only corporate devices and approved communications methods for business communications. However, Piper Sandler failed to implement sufficient monitoring to ensure that its recordkeeping and communications policies were being followed.

Piper Sandler's Recordkeeping Failures Across Its Businesses

19. In September 2021, the Commission staff commenced a risk-based initiative to investigate whether broker-dealers were properly retaining business-related messages sent and received on personal devices. Piper Sandler cooperated with the investigation by voluntarily gathering and reviewing written communications from the personal devices of a sampling of senior personnel. These personnel included senior leadership at Piper Sandler, including Piper Sandler advisory personnel and individuals in senior leadership, such as managing directors and department heads.

20. The Commission staff's investigation uncovered pervasive off-channel communications at various seniority levels of Piper Sandler's broker-dealer and investment adviser businesses. At the Staff's request, Piper Sandler reviewed off-channel communications data from a sampling of its personnel and found that most individuals had engaged in at least some level of off-channel communications activity. Overall, personnel sent and received numerous off-channel communications, involving other more junior Piper Sandler personnel, Piper Sandler clients, and other external contacts in the securities industry. Within Piper Sandler, senior leadership participated in off-channel communications.

21. From at least August 2019, Piper Sandler personnel sent and received off-channel communications that concerned the business of the broker-dealer.

22. For example, from January 4, 2021 through December 31, 2021, a Piper Sandler department head exchanged numerous off-channel communications with at least twenty Piper Sandler colleagues and at least nine external contacts in the securities industry. These messages related to the broker-dealer's business as such.

23. During this period, Piper Sandler's investment adviser personnel sent and received off-channel communications that were subject to the record-keeping requirements of Advisers Act Rule 204-2.

24. For example, in February and May 2021, Piper Sandler financial services personnel exchanged off-channel communications. These messages discuss investment advice given or proposed to be given to investment advisory clients.

**Piper Sandler's Failure to Preserve Required Records Potentially
Compromised and Delayed Commission Matters**

25. Between August 2019 through the present, Piper Sandler received and responded to Commission subpoenas for documents and/or records requests in numerous Commission investigations. By failing to maintain and preserve required records relating to its businesses, Piper Sandler likely deprived the Commission of these off-channel communications in various investigations.

Piper Sandler’s Violations and Failure to Supervise

26. As a result of the conduct described above, from at least August 2019 through the date of this Order, Piper Sandler willfully² violated Section 17(a) of the Exchange Act and Rule 17a-4(b)(4) thereunder.

27. As a result of the conduct described above, from at least August 2019 through the date of this Order, Piper Sandler willfully violated Section 204 of the Advisers Act and Rule 204-2(a)(7) thereunder.

28. As a result of the conduct described above, Piper Sandler failed reasonably to supervise its personnel with a view to preventing or detecting certain of its personnel’s aiding and abetting violations of Section 17(a) of the Exchange Act and Rule 17a-4(b)(4) thereunder, within the meaning of Section 15(b)(4)(E) of the Exchange Act.

29. As a result of the conduct described above, Piper Sandler failed reasonably to supervise its personnel with a view to preventing or detecting certain of its personnel’s aiding and abetting violations of Section 204 of the Advisers Act and Rule 204-2(a)(7) thereunder, within the meaning of Section 203(e)(6) of the Advisers Act.

Piper Sandler’s Remedial Efforts

30. In determining to accept the Offer, the Commission considered steps promptly undertaken by Piper Sandler before and after the Commission’s inquiry, and cooperation afforded the Commission staff. Beginning in January 2015, Piper Sandler began to issue corporate mobile devices to personnel, which did not allow unapproved messaging applications (including iMessage). The rollout of corporate mobile devices to U.S. personnel was largely complete by June 2017 and continues for new U.S. personnel.

Undertakings

31. Prior to this action, Respondent enhanced its policies and procedures, increased training concerning the use of approved communications methods, and began implementing changes to the technology available to personnel. In addition, Respondent has undertaken to:

Independent Compliance Consultant.

² “Willfully,” for purposes of imposing relief under Section 15(b) of the Exchange Act and Section 203(e) of the Advisers Act “means no more than that the person charged with the duty knows what he is doing.” See *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor “also be aware that he is violating one of the Rules or Acts.” *Tager v. SEC*, 344 F.2d 5, 8 (2d Cir. 1965). The decision in *The Robare Group, Ltd. v. SEC*, which construed the term “willfully” for purposes of a differently structured statutory provision, does not alter that standard. 922 F.3d 468, 478-79 (D.C. Cir. 2019) (setting forth the showing required to establish that a person has “willfully omit[ted]” material information from a required disclosure in violation of Section 207 of the Advisers Act).

a. Piper Sandler shall retain, within thirty (30) days of the entry of this Order, the services of an independent compliance consultant (“Compliance Consultant”) that is not unacceptable to the Commission staff. The Compliance Consultant’s compensation and expenses shall be borne exclusively by Piper Sandler.

b. Piper Sandler will oversee the work of the Compliance Consultant.

c. Piper Sandler shall provide to the Commission staff, within sixty (60) days of the entry of this Order, a copy of the engagement letter detailing the Compliance Consultant’s responsibilities, which shall include a comprehensive compliance review as described below. Piper Sandler shall require that, within ninety (90) days of the date of the engagement letter, the Compliance Consultant conduct:

i. A comprehensive review of Piper Sandler’s supervisory, compliance, and other policies and procedures designed to ensure that Piper Sandler’s electronic communications, including those found on personal electronic devices, including without limitation, cellular phones (“Personal Devices”), are preserved in accordance with the requirements of the federal securities laws.

ii. A comprehensive review of training conducted by Piper Sandler to ensure Piper Sandler’s personnel are complying with the requirements regarding the preservation of electronic communications, including those found on Personal Devices, in accordance with the requirements of the federal securities laws, including by ensuring that Piper Sandler’s personnel certify in writing on a quarterly basis that they are complying with preservation requirements.

iii. An assessment of the surveillance program measures implemented by Piper Sandler to ensure compliance, on an ongoing basis, with the requirements found in the federal securities laws to preserve electronic communications, including those found on Personal Devices.

iv. An assessment of the technological solutions that Piper Sandler has begun implementing to meet the record retention requirements of the federal securities laws, including an assessment of the likelihood that Piper Sandler’s personnel will use the technological solutions going forward and a review of the measures employed by Piper Sandler to track personnel usage of any technological solutions.

v. An assessment of the measures used by Piper Sandler to prevent the use of unauthorized communications methods for business communications by personnel. This assessment should include, but not be limited to, a review of Piper Sandler’s policies and procedures to ascertain if they provide for any significant technology and/or behavioral restrictions that help prevent the risk of the use of unapproved communications methods on Personal Devices (e.g., trading floor restrictions).

vi. A review of Piper Sandler's electronic communications surveillance routines to ensure that electronic communications through approved communications methods found on Personal Devices are incorporated into Piper Sandler's overall communications surveillance program.

vii. A comprehensive review of the framework adopted by Piper Sandler to address instances of non-compliance by Piper Sandler's personnel with Piper Sandler's policies and procedures concerning the use of Personal Devices to communicate about Piper Sandler business in the past. This review shall include a survey of how Piper Sandler determined which personnel failed to comply with Piper Sandler's policies and procedures, the corrective action carried out, an evaluation of who violated policies and why, what penalties were imposed, and whether penalties were handed out consistently across business lines and seniority levels.

d. Piper Sandler shall require that, within forty-five (45) days after completion of the review set forth in sub-paragraphs 31.c.i. through 31.c.vii. above, the Compliance Consultant shall submit a detailed written report of its findings to Piper Sandler and to the Commission staff (the "Report"). Piper Sandler shall require that the Report include a description of the review performed, the names of the individuals who performed the review, the conclusions reached, the Compliance Consultant's recommendations for changes in or improvements to Piper Sandler's policies and procedures, and a summary of the plan for implementing the recommended changes in or improvements to Piper Sandler's policies and procedures.

e. Piper Sandler shall adopt all recommendations contained in the Report within ninety (90) days of the date of the Report; provided, however, that within forty-five (45) days after the date of the Report, Piper Sandler shall advise the Compliance Consultant and the Commission staff in writing of any recommendations that Piper Sandler considers to be unduly burdensome, impractical, or inappropriate. With respect to any recommendation that Piper Sandler considers unduly burdensome, impractical, or inappropriate, Piper Sandler need not adopt such recommendation at that time, but shall propose in writing an alternative policy, procedure, or disclosure designed to achieve the same objective or purpose.

f. As to any recommendation concerning Piper Sandler's, policies or procedures on which Piper Sandler and the Compliance Consultant do not agree, Piper Sandler and the Compliance Consultant shall attempt in good faith to reach an agreement within sixty (60) days after the date of the Report. Within fifteen (15) days after the conclusion of the discussion and evaluation by Piper Sandler and the Compliance Consultant, Piper Sandler shall require that the Compliance Consultant inform Piper Sandler and the Commission staff in writing of the Compliance Consultant's final determination concerning any recommendation that Piper Sandler considers to be unduly burdensome, impractical, or inappropriate. Piper Sandler shall abide by the determinations of the Compliance Consultant and, within sixty (60) days after final agreement between Piper Sandler and the Compliance Consultant or final determination by the Compliance Consultant,

whichever occurs first, Piper Sandler shall adopt and implement all of the recommendations that the Compliance Consultant deems appropriate.

g. Piper Sandler shall cooperate fully with the Compliance Consultant and shall provide the Compliance Consultant with access to such of Piper Sandler's files, books, records, and personnel as are reasonably requested by the Compliance Consultant for review.

h. Piper Sandler shall not have the authority to terminate the Compliance Consultant or substitute another compliance consultant for the initial Compliance Consultant, without the prior written approval of the Commission staff. Piper Sandler shall compensate the Compliance Consultant and persons engaged to assist the Compliance Consultant for services rendered under this Order at its reasonable and customary rates.

i. For the period of engagement and for a period of two years from completion of the engagement, Piper Sandler shall not (i) retain the Compliance Consultant for any other professional services outside of the services described in this Order; (ii) enter into any other professional relationship with the Compliance Consultant, including any employment, consultant, attorney-client, auditing or other professional relationship; or (iii) enter, without prior written consent of the Commission staff, into any such professional relationship with any of the Compliance Consultant's present or former affiliates, employers, directors, officers, employees, or agents acting in their capacity as such.

j. The Report submitted by the Compliance Consultant will likely include confidential financial, proprietary, competitive business or commercial information. Public disclosure of the Report could discourage cooperation, impede pending or potential government investigations or undermine the objectives of the reporting requirement. For these reasons, among others, the Report and the contents thereof are intended to remain and shall remain non-public, except (1) pursuant to court order, (2) as agreed to by the parties in writing, (3) to the extent that the Commission determines in its sole discretion that disclosure would be in furtherance of the Commission's discharge of its duties and responsibilities, or (4) as otherwise required by law.

32. One-Year Evaluation. Piper Sandler shall require the Compliance Consultant to assess Piper Sandler's programs for the preservation, as required under the federal securities laws, of electronic communications, including those found on Personal Devices, commencing one year after submitting the Report required by Paragraph 31.d above. Piper Sandler shall require this review to evaluate Piper Sandler's progress in the areas described in Paragraph 31.c.i-vii above. After this review, Piper Sandler shall require the Compliance Consultant to submit a report (the "One Year Report") to Piper Sandler and the Commission staff and shall ensure that the One Year Report includes an updated assessment of Piper Sandler's policies and procedures with regard to the preservation of electronic communications (including those found on Personal Devices), training, surveillance programs, and technological solutions implemented in the prior year period.

33. Reporting Discipline Imposed. For two years following the entry of this Order, Piper Sandler shall notify the Commission staff as follows upon the imposition of any discipline imposed by Piper Sandler, including, but not limited to, written warnings, loss of any pay, bonus, or incentive compensation, or the termination of employment, with respect to any personnel found to have violated Piper Sandler's policies and procedures concerning the preservation of electronic communications, including those found on Personal Devices: at least 48 hours before the filing of a Form U-5, or within ten (10) days of the imposition of other discipline.

34. Internal Audit. In addition to the Compliance Consultant's review and issuance of the One Year Report, Piper Sandler will also have its Internal Audit function conduct a separate audit(s) to assess Piper Sandler's progress in the areas described in Paragraph 31.c.i-vii above. After completion of this audit(s), Piper Sandler shall ensure that Internal Audit submits a report to Piper Sandler and to the Commission staff.

35. Recordkeeping. Piper Sandler shall preserve, for a period of not less than six (6) years from the end of the fiscal year last used, the first two (2) years in an easily accessible place, any record of compliance with these undertakings.

36. Deadlines. For good cause shown, the Commission staff may extend any of the procedural dates relating to the undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered to be the last day.

37. Certification. Piper Sandler shall certify, in writing, compliance with the undertakings set forth above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and Respondent agrees to provide such evidence. The certifications and supporting material shall be submitted to Amy S. Cotter, Assistant Director, Division of Enforcement, Chicago Regional Office, Securities and Exchange Commission, 175 W. Jackson Blvd., Suite 1450, Chicago, IL 60604, or such other person as the Commission staff may request, with a copy to the Office of Chief Counsel of the Enforcement Division, no later than sixty (60) days from the date of the completion of the undertakings.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent's Offer.

Accordingly, pursuant to Sections 15(b) and 21C of the Exchange Act and Sections 203(e) and 203(k) of the Advisers Act, it is hereby ORDERED that:

- A. Respondent cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Exchange Act and Rule 17a-4 thereunder.
- B. Respondent cease and desist from committing or causing any violations and any future violations of Section 204 of the Advisers Act and Rule 204-2 thereunder.

- C. Respondent is censured.
- D. Respondent shall comply with the undertakings enumerated in paragraphs 31 to 37 above.
- E. Respondent shall, within 14 days of the entry of this Order, pay a civil money penalty in the amount of \$14,000,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Piper Sandler as the Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Amy S. Cotter, Assistant Director, Division of Enforcement, Chicago Regional Office, Securities and Exchange Commission, 175 W. Jackson Blvd., Suite 1450, Chicago, IL 60604.

F. Amounts ordered to be paid as a civil money penalty pursuant to this Order shall be treated as a penalty paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be

deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a “Related Investor Action” means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Vanessa A. Countryman
Secretary