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9 **UNITED STATES DISTRICT COURT**  
10 **CENTRAL DISTRICT OF CALIFORNIA**

11  
12 **SECURITIES AND EXCHANGE**  
13 **COMMISSION,**

14 **Plaintiff,**

15 **vs.**

16 **STEVEN FITZGERALD BROWN,**

17 **Defendant.**  
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Case No.

**COMPLAINT**

1 Plaintiff Securities and Exchange Commission (“SEC”) alleges:

2 **JURISDICTION AND VENUE**

3 1. The Court has jurisdiction over this action pursuant to Sections 21(d)(1),  
4 21(d)(3)(A), 21(e) and 27(a) of the Securities Exchange Act of 1934 (“Exchange  
5 Act”), 15 U.S.C. §§ 78u(d)(1), 78u(d)(3)(A), 78u(e) & 78aa(a), and Sections 209(d),  
6 209(e)(1) and 214 of the Investment Advisers Act of 1940 (“Advisers Act”), 15  
7 U.S.C. §§ 80b-9(d), 80b-9(e)(1) & 80b-14.

8 2. Defendant has, directly or indirectly, made use of the means or  
9 instrumentalities of interstate commerce, of the mails, or of the facilities of a national  
10 securities exchange in connection with the transactions, acts, practices and courses of  
11 business alleged in this complaint.

12 3. Venue is proper in this district pursuant to Section 27(a) of the Exchange  
13 Act, 15 U.S.C. § 78aa(a), and Section 214 of the Advisers Act, 15 U.S.C. § 80b-14,  
14 because certain of the transactions, acts, practices and courses of conduct constituting  
15 violations of the federal securities laws occurred within this district. In addition,  
16 venue is proper in this district because Defendant Steven Fitzgerald Brown resides in  
17 this district.

18 **SUMMARY**

19 4. Defendant Steven Fitzgerald Brown (“Brown” or “Defendant”)  
20 conducted a Ponzi-like scheme and engaged in other fraudulent conduct in violation  
21 of the federal securities laws. From at least February 2015 through March 2018,  
22 Brown operated Alpha Trade Analytics, Inc. (the “Alpha Fund”), a pooled investment  
23 vehicle. He raised at least \$7.5 million from about 75 investors, promising them  
24 guaranteed monthly returns from the Alpha Fund. Brown, while serving as the  
25 investment adviser to the Alpha Fund, claimed the Alpha Fund would invest money  
26 in financial markets including trading securities. Brown promised these investors  
27 they would receive a fixed-rate payout from the Alpha Fund’s trading activities  
28 ranging from 8-12% per month of the total amount of the investor’s initial cash

1 contribution, and that all losses would be borne by the Alpha Fund, thereby making  
2 the investment safe and risk-free. Instead, Brown used less than 3% of investors'  
3 money for investing in financial markets, and operated the Alpha Fund as a Ponzi-  
4 like scheme, using new investor funds to pay existing investors their promised returns  
5 and the return of their principal. Moreover, Brown misappropriated and/or misused  
6 investor money for his own benefit.

7 5. Brown perpetrated this fraud by holding himself out as an experienced  
8 and knowledgeable trader, but neither was true. After investors invested in the Alpha  
9 Fund, Brown lulled investors by sending them false account statements with ever-  
10 increasing account balances, ostensibly from the Alpha Fund's profitable trading. In  
11 fact, the Alpha Fund engaged in unprofitable securities with investor funds.

12 6. By engaging in this conduct, Defendant has violated the antifraud  
13 provisions of Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5  
14 thereunder, 17 C.F.R. 240.10b-5; Section 17(a) of the Securities Act, 15 U.S.C. § 15  
15 U.S.C. § 77q(a); and Sections 206(1), (2), and (4) of the Advisers Act, 15 U.S.C. §§  
16 80b-6(1), (2) and (4), and Rule 206(4)-8 thereunder, 17 CFR § 275.206(4)-8. The  
17 SEC seeks a finding that Defendant violated the federal securities laws, the  
18 imposition of permanent injunctions, disgorgement with prejudgment interest, and  
19 civil penalties.

## 20 DEFENDANT

21 7. **Steven Fitzgerald Brown**, age 52, is a resident of Marina del Rey,  
22 California. He was the CEO, president, and sole owner and director of the Alpha  
23 Fund. As the "fund manager," Brown served as the investment adviser to the Alpha  
24 Fund. He also worked as an accountant and bookkeeper for a nonprofit organization.  
25 Brown holds a bachelors' degree in economics and a masters' degree in business  
26 administration. Brown was a registered representative with a broker-dealer registered  
27 with the SEC from December 2010 to November 2011. Brown was not registered  
28 with the SEC in any capacity.

1 **RELATED ENTITY**

2 8. **Alpha Trade Analytics, Inc.**, is a California corporation, based in Los  
3 Angeles, California, incorporated on February 11, 2014, that is currently suspended  
4 as a corporation by the state tax authorities. Brown was its sole owner. The Alpha  
5 Fund was not registered with the SEC in any capacity. The Alpha Fund operated as  
6 an unregistered private fund, which constituted a pooled investment vehicle under  
7 Rule 206(4)-8(b) of the Advisers Act, 17 C.F.R. 17 CFR § 275.206(4)-8. At all  
8 relevant times, the Alpha Fund was managed and controlled by Brown. The Alpha  
9 Fund was not and is not registered with the SEC in any capacity.

10 **DEFENDANT’S FRAUDULENT ACTIONS**

11 **A. Background**

12 9. Brown incorporated Alpha as an entity 2014 as a vehicle through which  
13 he could raise money from investors and engage in trading in financial markets  
14 including securities and foreign currency. At the time, Brown had little or no  
15 experience in trading securities or foreign currency. To get started trading foreign  
16 currency, a friend who professed to have experience trading foreign currency showed  
17 Brown how to do it.

18 10. Brown used programs to engage in practice or demonstration foreign  
19 trading, which spurred his interest to engage in live trading. At first, Brown’s trading  
20 involved less than \$5,000.

21 11. Brown traded from his residence. After friends saw his computer screen  
22 filled with charts and graphs showing foreign currency trading, he decided to sell  
23 interests in the Alpha Fund starting in about February 2015.

24 **B. Solicitation of Investors for the Alpha Fund**

25 12. From at least February 2015 through March 2018, Brown solicited  
26 investors to invest in the Alpha Fund through word of mouth, and by referral from  
27 existing investors. Prior to starting the Alpha Fund, Brown did not have existing  
28 investors and to lure new investors he paid investors a “finder’s fee” for bringing in

1 new investors in the Alpha Fund.

2 13. Brown raised at least \$7.5 million from more than 75 investors who  
3 invested in the Alpha Fund. Once the investors invested in the fund, which was a  
4 pooled investment vehicle, investors held proportional interests in the Alpha Fund.

5 14. Brown pooled investor funds into Alpha Fund bank accounts he  
6 controlled and then used only a minor portion of those funds, approximately  
7 \$212,000, to engage in securities trading in an Alpha Fund brokerage account he  
8 controlled, none of which was profitable. Brown engaged in risky securities trading  
9 including short sales and trading on margin.

10 15. Notwithstanding claims Brown made to the contrary, the Alpha Fund did  
11 not engage in profitable securities trading.

12 16. Brown did not segregate clients' assets from his own money (*i.e.*, he  
13 comingled his assets with Alpha Fund assets) and he made no effort to track any  
14 individual investor's ownership percentage in the Alpha Fund.

15 **1. Use of "Membership Agreement" Offering Materials**

16 17. Brown told prospective investors their funds would be used by the Alpha  
17 Fund to engage in trading in financial markets. Brown told at least one investor the  
18 Alpha Fund would engage in securities trading, but he typically told investors the  
19 Alpha Fund would engage in foreign currency trading.

20 18. In explaining how the Alpha Fund generated profits, Brown told  
21 investors he was both an experienced foreign currency trader and an expert in trading.

22 19. Brown represented that the Alpha Fund's trading was profitable,  
23 returning as much as 36%, which he claimed "exceeded industry averages."

24 20. Brown gave some, but not all, Alpha Fund investors offering materials in  
25 the form of a "Membership Agreement." Although the language within the  
26 membership agreement varied from investor to investor, they all represented that the  
27 purpose of the Alpha Fund was to "carry on and undertake the business of investing  
28 in the financial markets" and to "raise funds by means of loans or other legal forms

1 for the purposes of the Fund’s business.”

2 21. Brown drafted the membership agreement and signed it on behalf of the  
3 Alpha Fund.

4 22. The membership agreement specified that investors were “members” of  
5 a “fund” managed by Brown that was used to pool their monies in order for the Alpha  
6 Fund to engage in its investing business.

7 23. As fund manager, Brown was the “sole decision maker on all of the  
8 various aspects of operating the Fund,” he was responsible for the “day to day  
9 business of this [F]und,” and the “bank accounts that shall be opened in the name of  
10 the Fund shall be managed and operated by the Fund Manager who is specifically  
11 authorized in this respect.”

12 24. The membership agreement guaranteed investors a monthly return. It  
13 stated that investors would receive a “recurring payout of ten percent (10%) of the  
14 total amount of the Member’s initial cash contribution, per month.”

15 25. In certain instances Brown changed the agreement to promise certain  
16 investors recurring payouts of 8% or 12% per month. There was no basis or  
17 methodology for computing this rate of return; in effect, Brown simply made it up.

18 26. The membership agreement stated that an investment in the Alpha Fund  
19 was safe and risk-free and that “all losses will be borne by the Fund. As security for  
20 loss of Member capital, the Fund will grant the Member a perfected security interest  
21 up to the total amount of funds invested by the Member.”

22 27. The membership agreement represented that the specific amount of the  
23 investor’s “security interest” in the “Fund’s Assets, Profits and Revenues” was noted  
24 in the agreement, which reflected the amount the investor invested.

25 28. The membership agreement further represented that should it be  
26 necessary for the investor to enforce his or her security interest, the investor “will  
27 have a first priority perfected security interest on the remainder of the Funds tangible  
28 assets (including, without limitation, cash and marketable securities) and intangible

1 assets.”

2 29. The membership agreement required little of investors other than their  
3 investment. It represented that the term of the investor’s “membership” in the Alpha  
4 Fund was “at the will” of the member, but no shorter than one year, and the member’s  
5 capital belonged to the member “at all times.”

6 30. The membership agreement specified that the one-year term was “non  
7 negotiable” [sic] but if an investor wished to leave the fund the investor “must give at  
8 least 1 months notice inadvance [sic] to the Fund Manager.”

9 31. Brown thus operated the Alpha Fund as a pooled investment vehicle as  
10 defined in Advisers Act Rule 206(4)-8(b), because he held the Alpha Fund out as an  
11 investment company engaged primarily in the business of investing, reinvesting, or  
12 trading in securities.

## 13 2. Use of Different or No Offering Materials

14 32. With certain investors Brown used no offering materials at all to solicit  
15 funds, or he used offering materials that were different than the Alpha Fund  
16 “Membership Agreement.”

17 33. In at least one instance, Brown gave an investor a promissory note issued  
18 by the Alpha Fund in exchange for an investment in the Alpha Fund.

19 34. When Brown did not give investors a membership agreement, he made  
20 oral representations that were the same or similar to those contained in the agreement.

## 21 3. Securities Trading With Investor Funds

22 35. Brown opened a brokerage account in the Alpha Fund’s name, which he  
23 controlled. Using a small portion of investor funds, estimated to be around \$212,000,  
24 the Alpha Fund purchased and sold securities in that account including short sales  
25 and trading on margin. The Alpha Fund traded securities in 2015 using investor  
26 money, but the trading was not profitable. The Alpha Fund traded securities until  
27 2015.

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1           **4.     Fabricated Alpha Fund Account Statements**

2           36.    After investors invested in the Alpha Fund, Brown sent them fabricated  
3 account statements by email with ever-increasing account balances for the individual  
4 investor, ostensibly from profitable securities undertaken by the Alpha Fund.

5           37.    Brown did not send investors the same kind of statements and they  
6 varied from investor to investor and the time period covered by the statement. The  
7 statements did not indicate what kind of trading the Alpha Fund had engaged in.  
8 Sometimes statements showed “trade profits” for the investor, the percentage share of  
9 the Alpha Fund owned by the investor, a management fee, investor “drawdowns,”  
10 and the investor’s ending account balance called “adjusted balance” or “total all.”

11           38.    In other instances statements showed the investor’s beginning balance,  
12 “interest earned,” and “ending balance.”

13           39.    As an example of the statements Brown sent investors, Brown prepared  
14 and sent an investor who invested \$40,000 in the Alpha Fund an account statement  
15 for the period from October 2017 through March 2018 that included weekly “Trade  
16 Profits,” the “%Share,” a “Mgmt Fee” of \$2,178, and an ending “Balance” of  
17 \$42,712. This statement also set forth the dates and amounts of the investor’s  
18 “Account Drawdowns,” presumably representing payments to the investor, with an  
19 “Adjusted Balance” of \$29,578, but Brown made up these amounts.

20           **C.     Brown Conducted a Ponzi-like Scheme through the Alpha Fund and**  
21           **Misused Investor Funds**

22           40.    Brown raised at least \$7.5 million from investors and used at least \$5.3  
23 million in investor funds to pay returns he promised to the Alpha Fund investors or to  
24 return their principal.

25           41.    Brown misused at least \$1.4 million in Alpha Fund money by  
26 commingling investor funds with his own and using Alpha Fund money to pay his  
27 personal expenses. For example, between February 2015 and March 2018, Brown  
28 paid personal expenses of at least \$295,000 for student loan debt, travel costs,



1 automobile loans, and at retail stores.

2 **D. The Alpha Fund Investments Were Securities**

3 42. The investments in the Alpha Fund were securities.

4 43. Investors provided monies to Brown for the fund, with the understanding  
5 their money would be pooled in the Alpha Fund and would appreciate due to Brown's  
6 exclusive efforts as the fund manager and the investment adviser to the fund.

7 44. Brown used means and instrumentalities of interstate commerce to  
8 facilitate the offer and sale of securities issued by the Alpha Fund.

9 **E. Misrepresentations and Omissions**

10 45. Brown made misrepresentations and omissions to Alpha Fund investors  
11 by falsely telling them that the purpose of the Alpha Fund was to invest in the  
12 financial markets. Brown specifically represented that he was an experienced foreign  
13 currency expert and was successful at generating substantial rates of return for  
14 investors through foreign currency trading. In fact, Brown had little or no experience  
15 trading foreign currency, and whatever securities trading the Alpha Fund engaged in  
16 was not profitable. As a result, Brown's promises to investors that they would  
17 receive a "recurring payout" of 8 to 12% per month from the Alpha Fund were false.

18 46. Likewise, Brown falsely represented that investor funds were safe and  
19 risk-free as they were backed by substantial Alpha Fund assets designed to guard  
20 against loss.

21 47. Brown also failed to disclose to investors that he was operating the  
22 Alpha Fund as a Ponzi-like scheme and that the Alpha Fund was not bearing the loss  
23 of investor funds.

24 48. Brown knew the Alpha Fund's securities trading was not profitable  
25 when he prepared and sent Alpha Fund investors false statements showing fictitious  
26 profitable trading. The investor's percentage share of the "fund" owned by the  
27 investor shown on the statements was also false because Brown kept no record of  
28 how much each member invested and had no basis for providing any ownership

1 percentage in the Alpha Fund, and it was false to indicate that the investor had a  
2 percentage share of profitable trading by the Alpha Fund when there were no profits.  
3 Brown fabricated the numbers on the statements.

4 49. Brown provided investors with statements in order to induce them to  
5 invest additional funds in the Alpha Fund. The statements showed Brown earning a  
6 “management fee” from profitable trading, and were false because he failed to  
7 disclose that neither the Alpha Fund nor he were entitled to claim a management  
8 commission or fee and, moreover, there were no trading profits.

9 50. When investors sought the return of their principal, Brown gave them  
10 excuses why he could not return their funds. For example, he falsely blamed market  
11 conditions and volatility. Brown also failed to disclose to investors they did not have  
12 a perfected security interest or first priority interest in the Alpha Fund or any other  
13 asset.

#### 14 **F. Defendant Engaged in a Scheme to Defraud**

15 51. Brown engaged in a scheme to defraud investors. Brown used the  
16 services purportedly offered by the Alpha Fund to entice investors to rely on his  
17 services and advice.

18 52. Brown used his ownership and control of the Alpha Fund to hold himself  
19 out as an experienced and knowledgeable trader.

20 53. Brown used the Alpha Fund to promote himself and his purported  
21 expertise in the financial industry, and he created the false appearance that he was  
22 operating a trustworthy business.

#### 23 **G. Brown’s Fiduciary Duty to the Alpha Fund**

24 54. Brown acted as an investment adviser to the Alpha Fund, which  
25 purchased and sold securities on behalf of investors when they invested in the Alpha  
26 Fund.

27 55. As an investment adviser, Brown had a fiduciary duty to the Alpha Fund  
28 to provide investment advice for the benefit of the fund’s investors.

1           56. When Brown provided investment advice to the Alpha Fund, Brown  
2 received compensation for his investment advice, either as a percentage of assets  
3 under management or fixed fees.

4           57. Brown also held himself out as the Alpha Fund's representative, who  
5 could answer questions about the Alpha Fund investment.

6           58. When Brown advised the Alpha Fund, in view of Brown's knowledge  
7 that the Alpha Fund was not, except for about 3% of Alpha Fund assets, making  
8 investments with money provided by investors, Brown breached his fiduciary duty to  
9 the Alpha Fund by operating it as a Ponzi-like scheme, by failing to inform investors  
10 that their funds were being used to pay returns promised to other investors or the  
11 return of their principal, and by failing to inform investors that money in Alpha Fund  
12 accounts were commingled with Brown's own funds.

13 **H. Defendant Acted with a High Level of Scienter, or in the Alternative, was**  
14 **Negligent**

15           59. Brown acted with a high level of scienter.

16           60. Brown knew, or recklessly disregarded the truth, when he made  
17 representations to investors that the Alpha Fund was a safe and secure investment that  
18 made guaranteed monthly payments. Such statements were false and misleading, and  
19 omitted material information.

20           61. Brown knew, or recklessly disregarded the truth, when he failed to  
21 disclose to investors that he was operating the Alpha Fund as a Ponzi-like scheme, he  
22 was using money from new investors to make payments to earlier investors, and that  
23 the Alpha Fund was not investing in the financial markets to generate promised  
24 monthly returns or to repay principal.

25           62. Brown knew, or recklessly disregarded the truth, when he made  
26 misrepresentations about the Alpha Fund investment and omitted material  
27 information concerning commingling funds between the Alpha Fund and himself.

28           63. Brown knowingly generated statements to Alpha Fund investors

1 showing a positive account value and interest earned. Brown knew, or recklessly  
2 disregarded the truth, because he had no basis for the interest generated or the  
3 account value represented on the statements given his Ponzi-like scheme activities  
4 and that the Alpha Fund had no assets other than investor funds.

5 64. Brown knew, or was reckless in not knowing, that he was deceiving the  
6 Alpha Fund. Brown's conduct in offering and selling securities issued by the Alpha  
7 Fund, without disclosing that the Alpha Fund was a Ponzi-like scheme, that investor  
8 funds were being misused and misappropriated, and that he was providing false  
9 statements to investors, was an extreme departure from ordinary care. He was also  
10 negligent and did not exercise reasonable care in ensuring that the truth was disclosed  
11 to these investors.

### 12 **FIRST CLAIM FOR RELIEF**

#### 13 **Fraud in the Connection with the Purchase and Sale of Securities**

#### 14 **Violations of Section 10(b) of the Exchange Act and Rule 10b-5(b)**

15 65. The SEC realleges and incorporates by reference paragraphs 1 through  
16 64 above.

17 66. As set forth above, Brown made several material misrepresentations, and  
18 omitted material information, to Alpha Fund investors, including regarding the safety  
19 of their investment, the use of their funds, potential rates of investment returns, and  
20 Brown's qualifications.

21 67. By engaging in the conduct described above, Brown, directly or  
22 indirectly, in connection with the purchase or sale of a security, and by the use of  
23 means or instrumentalities of interstate commerce, of the mails, or of the facilities of  
24 a national securities exchange, knowingly and recklessly, made untrue statements of a  
25 material fact or omitted to state a material fact necessary in order to make the  
26 statements made, in the light of the circumstances under which they were made, not  
27 misleading.

28 68. By engaging in the conduct described above, Brown violated, and unless

1 restrained and enjoined will continue to violate, Section 10(b) of the Exchange Act,  
2 15 U.S.C. § 78j(b), and Rule 10b-5(b) thereunder, 17 C.F.R. § 240.10b-5(b).

3 **SECOND CLAIM FOR RELIEF**

4 **Fraud in Connection with the Purchase or Sale of Securities**

5 **Violations of Section 10(b) of the Exchange Act and Rule 10b-5(a) and (c)**

6 69. The SEC realleges and incorporates by reference paragraphs 1 through  
7 64 above.

8 70. As set forth above, by perpetrating a Ponzi-like scheme, Brown engaged  
9 in a scheme to defraud investors through the offer and sale of securities issued by the  
10 Alpha Fund.

11 71. By engaging in the conduct described above, Brown, directly or  
12 indirectly, in connection with the purchase or sale of a security, and by the use of  
13 means or instrumentalities of interstate commerce, of the mails, or of the facilities of  
14 a national securities exchange, knowingly and recklessly: (a) employed devices,  
15 schemes, or artifices to defraud; and (b) engaged in acts, practices, or courses of  
16 business which operated or would operate as a fraud or deceit upon other persons.

17 72. By engaging in the conduct described above, Brown violated, and unless  
18 restrained and enjoined will continue to violate, Section 10(b) of the Exchange Act,  
19 15 U.S.C. § 78j(b), and Rules 10b-5(a) and 10b-5(c) thereunder, 17 C.F.R. §§  
20 240.10b-5(a) & 240.10b-5(c).

21 **THIRD CLAIM FOR RELIEF**

22 **Fraud in the Offer or Sale of Securities**

23 **Violations of Section 17(a)(1) and 17(a)(3) of the Securities Act**

24 73. The SEC realleges and incorporates by reference paragraphs 1 through  
25 64 above.

26 74. By engaging in the conduct described above, Brown engaged in a  
27 scheme to defraud investors by falsely portraying Brown as a trusted adviser, and the  
28 Alpha Fund as a safe and secure investment that provided guaranteed returns, when in

1 fact the Defendant knew that the Alpha Fund was a Ponzi-lie scheme.

2 75. By engaging in the conduct described above, Brown, directly or  
3 indirectly, in the offer or sale of securities, and by the use of means or instruments of  
4 transportation or communication in interstate commerce or by use of the mails  
5 directly or indirectly: employed devices, schemes, or artifices to defraud; and  
6 engaged in transactions, practices, or courses of business which operated or would  
7 operate as a fraud or deceit upon the purchaser.

8 76. Brown, with scienter, employed devices, schemes and artifice to defraud,  
9 and engaged in acts, practices, or courses of conduct that operated as a fraud by the  
10 conduct described in detail above. In the alternative, Brown was negligent.

11 77. By engaging in the conduct described above, Brown violated, and unless  
12 restrained and enjoined will continue to violate, Sections 17(a)(1) and 17(a)(3) of the  
13 Securities Act, 15 U.S.C. §§ 77q(a)(1) & 77q(a)(3).

14 **FOURTH CLAIM FOR RELIEF**

15 **Fraud in the Offer or Sale of Securities**

16 **Violations of Sections 17(a)(2) of the Securities Act**

17 78. The SEC realleges and incorporates by reference paragraphs 1 through  
18 64 above.

19 79. By engaging in the conduct described above, Brown obtained money or  
20 property by means of false statements to investors in connection with the offer or sale  
21 of securities of the Alpha Fund, and omitted to disclose material information about  
22 the Alpha Fund and Brown.

23 80. By engaging in the conduct described above, Brown, directly or  
24 indirectly, in the offer or sale of securities, and by the use of means or instruments of  
25 transportation or communication in interstate commerce or by use of the mails  
26 directly or indirectly, obtained money or property by means of untrue statements of a  
27 material fact or by omitting to state a material fact necessary in order to make the  
28 statements made, in light of the circumstances under which they were made, not

1 misleading.

2 81. Brown, with scienter, obtained money or property by means of untrue  
3 statements of material fact or by omitting to state a material fact necessary in order to  
4 make the statements made, in light of the circumstances under which they were made,  
5 not misleading. In the alternative, Brown was negligent.

6 82. By engaging in the conduct described above, Brown violated, and unless  
7 restrained and enjoined will continue to violate, Section 17(a)(2) of the Securities  
8 Act, 15 U.S.C. § 77q(a)(2).

9 **FIFTH CLAIM FOR RELIEF**

10 **Fraud by an Investment Adviser**

11 **Violations of Sections 206(1) and 206(2) of the Advisers Act**

12 83. The SEC realleges and incorporates by reference paragraphs 1 through  
13 64 above.

14 84. As set forth above, Brown acted as investment adviser to the Alpha  
15 Fund. He received compensation in exchange for his investment advice. He  
16 defrauded the Alpha Fund and its investors by making material misrepresentations  
17 regarding the use of funds, safety of the investment, potential rates of returns, the  
18 ability to withdraw funds at their request, and Brown's professional qualifications.

19 85. By engaging in the conduct described above, Brown, directly or  
20 indirectly, by use of the mails or means and instrumentalities of interstate commerce,  
21 knowingly, recklessly and negligently: (a) employed or are employing devices,  
22 schemes or artifices to defraud investors or prospective investors; and (b) engaged in  
23 or are engaging in transactions, practices, or courses of business which operated as a  
24 fraud or deceit upon investors or prospective investors.

25 86. By engaging in the conduct described above, Brown has violated, and  
26 unless restrained and enjoined, will to continue to violate, Sections 206(1) and (2) of  
27 the Advisers Act, 15 U.S.C. §§ 80b-6(1), 80b-6(2).

28

1 **SIXTH CLAIM FOR RELIEF**

2 **Fraud Involving a Pooled Investment Vehicle**

3 **Violations of Section 206(4) of the Advisers Act and Rule 206(4)-8 thereunder**

4 87. The SEC realleges and incorporates by reference paragraphs 1 through  
5 64 above.

6 88. Through the acts alleged above, Brown violated Section 206(4) of the  
7 Advisers Act, 15 U.S.C. § 80b-6(4), and Rule 206(4)-8(a)(1) and (2) thereunder, 17  
8 C.F.R. § 275.206(4)-8(a)(1) and (2).

9 89. Brown operated the Alpha Fund as a pooled investment vehicle.

10 90. Brown, by engaging in the conduct described above, while acting as an  
11 investment adviser to a pooled investment vehicle, directly or indirectly, by use of the  
12 mails or means or instrumentalities of interstate commerce:

13 (a) made untrue statements of a material fact or omitted to state a  
14 material fact necessary in order to make the statements made, in the light  
15 of the circumstances under which there were made, not misleading, to  
16 any investor or prospective investor in the pooled investment vehicle;  
17 and

18 (b) engaged in acts, practices, or courses of business that were  
19 fraudulent, deceptive, or manipulative with respect to any investor or  
20 prospective investor in the pooled investment vehicle.

21 91. Brown, through Alpha, provided investors in the Alpha Fund with  
22 materially false and misleading information about the actual uses, safety, and  
23 liquidity of their investment monies, and the performance of their fund accounts.  
24 Brown failed to disclose to investors in the Alpha Fund that its investment strategy  
25 was not the strategy described in the Membership Agreement, but was, instead, a  
26 Ponzi-like scheme.

27 92. Brown knew of or recklessly disregarded his own role in these violations  
28 of Section 206(4) and Rule 206(4)-8 thereunder or, in the alternative, he was



1 negligent and did not exercise reasonable care.

2 93. By reason of the actions alleged herein, Brown, unless enjoined, will  
3 continue to violate of Section 206(4) and Rule 206(4)-8(a)(1) and (2) thereunder.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, the SEC respectfully requests that the Court:

6 **I.**

7 Issue findings of fact and conclusions of law that Defendant committed the  
8 alleged violations.

9 **II.**

10 Issue judgments, in forms consistent with Rule 65(d) of the Federal Rules of  
11 Civil Procedure, permanently enjoining the Defendant, and their officers, agents,  
12 servants, employees and attorneys, and those persons in active concert or  
13 participation with any of them, who receive actual notice of the judgment by personal  
14 service or otherwise, and each of them, from violating Section 10(b) of the Exchange  
15 Act [15 U.S.C. §§ 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5],  
16 Section 17(a) of the Securities Act [15 U.S.C. §77q(a)], and Sections 206 (1), (2) and  
17 (4) of the Advisers Act [15 U.S.C. §§ 15 U.S.C. § 80b-6(1) and 80b-6(2) and 80b-  
18 6(4)], and Rule 206(4)-8 thereunder 17 CFR § 275.206(4)-8.

19 **III.**

20 Order Defendant to disgorge all funds received from his illegal conduct,  
21 together with prejudgment interest thereon.

22 **IV.**

23 Order Defendant to pay civil penalties under Section 21(d)(3) of the Exchange  
24 Act [15 U.S.C. § 78u(d)(3)], Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)],  
25 and Section 209(e)(1) of the Advisers Act [15 U.S.C. § 80b-9(e)(1)].

26 **V.**

27 Retain jurisdiction of this action in accordance with the principles of equity and  
28 the Federal Rules of Civil Procedure in order to implement and carry out the terms of

1 all orders and decrees that may be entered, or to entertain any suitable application or  
2 motion for additional relief within the jurisdiction of this Court.

3 **VI.**

4 Grant such other and further relief as this Court may determine to be just and  
5 necessary.

6  
7 Dated: September 3, 2020

8 */s/ David S. Brown*

9 \_\_\_\_\_  
10 Amy J. Longo  
11 David S. Brown  
12 Attorneys for Plaintiff  
13 Securities and Exchange Commission  
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# Complaints and Other Initiating Documents

[2:20-cv-08058 Securities and Exchange Commission v. Brown](#)

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

## Notice of Electronic Filing

The following transaction was entered by Brown, David on 9/3/2020 at 8:02 AM PDT and filed on 9/3/2020

**Case Name:** Securities and Exchange Commission v. Brown

**Case Number:** [2:20-cv-08058](#)

**Filer:** Securities and Exchange Commission

**Document Number:** [1](#)

### Docket Text:

**COMPLAINT No Fee Required - US Government, filed by Plaintiff Securities and Exchange Commission. (Attorney David Stuart Brown added to party Securities and Exchange Commission(pty:pla))(Brown, David)**

**2:20-cv-08058 Notice has been electronically mailed to:**

David Stuart Brown    browndav@sec.gov, LAROFiling@sec.gov, thomasj@sec.gov

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**Document description:**Main Document

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