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9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF ARIZONA**

<p>12 Securities and Exchange Commission,</p> <p>13 Plaintiff,</p> <p>14 vs.</p> <p>15 Raymond J. DiMuro,</p> <p>16 Defendant.</p>	<p>Case No.</p> <p>COMPLAINT</p>
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18 Plaintiff Securities and Exchange Commission (“SEC”) alleges:

19 **JURISDICTION AND VENUE**

20 1. The Court has jurisdiction over this action pursuant to Sections 20(b),
21 20(d)(1) and 22(a) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C.
22 §§ 77t(b), 77t(d)(1) & 77v(a), Sections 21(d)(1), 21(d)(3)(A), 21(e) and 27(a) of
23 the Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. §§ 78u(d)(1),
24 78u(d)(3)(A), 78u(e) & 78aa(a), and Sections 209(d), 209(e)(1) and 214 of the
25 Investment Advisers Act of 1940 (“Advisers Act”), 15 U.S.C. §§ 80b-9(d), 80b-
26 9(e)(1) & 90b-14.

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

4 3. Venue is proper in this district pursuant to Section 22(a) of the
5 Securities Act, 15 U.S.C. § 77v(a), Section 27(a) of the Exchange Act, 15 U.S.C.
6 § 78aa(a), and Section 214(a) of the Advisers Act, 15 U.S.C. § 80b-14, because
7 certain of the transactions, acts, practices and courses of conduct constituting
8 violations of the federal securities laws occurred within this district. In addition,
9 venue is proper in this district because defendant Raymond J. DiMuro (“DiMuro”)
10 resides in this district.

11 SUMMARY

12 4. This government enforcement action concerns a “cherry-picking”
13 scheme perpetrated by DiMuro. At the time of the scheme, DiMuro was an
14 investment adviser representative and principal of Your Source Financial, PLC
15 (“Your Source”), an Arizona company that was then registered with the SEC as an
16 investment adviser.

17 5. From at least January 2018 to January 2022, DiMuro traded securities
18 for Your Source clients as their investment adviser. DiMuro had discretionary
19 authority over the clients’ accounts, meaning he had the authority to make
20 investment decisions and execute trades on the clients’ behalf. He executed most
21 of the client trades through a block trading account, which allowed him to place
22 securities trades and later allocate the trades to various clients. Because he was
23 able to allocate after placing the block trades, DiMuro began to “cherry-pick” – he
24 disproportionately allocated winning trades to some favored accounts (the
25 “Favored Clients”) and losing trades to other disfavored accounts (the “Unfavored
26 Clients”). As a result of DiMuro’s trade allocations, the Favored Clients received
27 substantial trading profits and the Unfavored Clients suffered substantial trading
28 losses.

1 99% of all his option trades and 65% of all his equity trades.

2 13. When used properly, a block trading account allows an adviser to treat
3 all clients fairly when executing trades. For example, if an adviser separately
4 purchases the same security for several clients on the same day, the adviser might
5 obtain different prices on each transaction as result of normal market fluctuation.
6 Rather than placing individual orders in each client account, the adviser can place
7 one aggregated order, or “block trade,” and subsequently allocate the trade among
8 multiple accounts using an average price. Using a block account properly helps
9 ensure that all clients receive the same price and that none receives preferential
10 treatment over the other.

11 14. Using the block trading account, DiMuro placed large securities trades
12 and then later allocated portions of the block trades among Your Source’s advisory
13 clients. DiMuro placed the block trades throughout the trading day but did not
14 allocate most of them until the last two hours before market close. This delay
15 allowed DiMuro to consider whether the traded security had gone up or down in
16 price from the time the block trade was executed to the time he was determining
17 how to allocate the block trade.

18 15. During the Relevant Period, DiMuro misused the block trading
19 account to disproportionately allocate profitable trades to three Favored Clients
20 and losing trades to the Unfavored Clients. As a result of DiMuro’s cherry-
21 picking, the Favored Clients received \$785,381 in day-of-trade profits from the
22 allocated trades, and the Unfavored Clients suffered \$1,007,248 in day-of-trade
23 losses from the allocated trades, as further shown on the chart below.

	Allocated Option Trades		Allocated Equity Trades		All Allocated Trades	
	Profit/Loss	Return	Profit/Loss	Return	Profit/Loss	Return
Favored Clients	\$597,211	0.73%	\$188,169	0.37%	\$785,381	0.59%
Unfavored Clients	-\$917,002	-3.69%	-\$130,993	-0.18%	-\$1,047,994	-1.06%

1 16. However, absent cherry-picking, and assuming the Favored and
2 Unfavored Clients would have received the average returns of all clients, the
3 Favored Clients would have instead sustained \$221,867 in day-of-trade losses (not
4 \$785,381 in day-of-trade profits), and the Unfavored Clients would have suffered
5 only \$40,746 (not \$1,047,994) in day-of-trade losses.

6 17. As an investment adviser, DiMuro owed a fiduciary duty to each of
7 the Your Source advisory clients for whom he placed trades in the block trading
8 account.

9 18. By engaging in the cherry-picking scheme described above, DiMuro
10 violated the fiduciary duty he owed to the Unfavored Clients.

11 19. The cherry-picking scheme, by its very nature, was deceptive because
12 it was virtually impossible for DiMuro's advisory clients to detect this fraud on
13 their own. Advisory clients are generally unable to see how their adviser allocates
14 trades, and thus rely on their adviser to meet his fiduciary duty of care to provide
15 investment advice that is in their best interest. Instead, each allocation of a trade
16 based on the security's performance was an inherently deceptive act in furtherance
17 of the scheme that created the false appearance the Unfavored Clients' day-of-trade
18 losses were attributable to market forces rather than DiMuro's fraudulent trade
19 allocation practices.

20 20. DiMuro knew, or was reckless for not knowing, that using the block
21 trading account to disproportionately allocate winning trades to the Favored
22 Clients and losing trades to the Unfavored Clients defrauded the Unfavored Clients
23 and violated the fiduciary duties that he owed to those clients.

24 21. DiMuro also acted negligently. He failed to act as a reasonable
25 person would under the circumstances when acting as an investment adviser,
26 including in the way he allocated trades in the block trading account.

27 22. As an investment adviser for Your Source's advisory clients, DiMuro
28 knew, or was reckless in not knowing, that he had to comply with Your Source's

1 Compliance Manual, which stated that block trades “must be allocated in the best
2 interests of all participating clients.” Further, DiMuro’s conduct in failing to
3 comply with this requirement of Your Source’s Compliance Manual was
4 unreasonable under the circumstances and therefore negligent.

5 23. Based on a statistical analysis of the subject trades, trade allocations,
6 and day-of-trade investment returns, the likelihood that the Favored Clients’ and
7 Unfavored Clients’ disparate investment returns resulted from random chance, as
8 opposed to DiMuro’s knowing, reckless, and negligent conduct, is, at best, less
9 than one in a million.

10 24. DiMuro ceased his cherry-picking only after the broker-dealer
11 contacted Your Source’s other principal and expressed concern that DiMuro was
12 engaging in cherry-picking.

13 **FIRST CLAIM FOR RELIEF**

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

15 **Violations of Section 10(b) of the Exchange Act**

16 **and Rules 10b-5(a) and 10b-5(c) thereunder**

17 25. The SEC realleges and incorporates by reference paragraphs 1
18 through 25 above.

19 26. By engaging in the conduct alleged above, DiMuro, directly or
20 indirectly, in connection with the purchase or sale of a security, and by the use of
21 means or instrumentalities of interstate commerce, of the mails, or of the facilities
22 of a national securities exchange: (a) employed devices, schemes, or artifices to
23 defraud; and (b) engaged in acts, practices, or courses of business which operated
24 or would operate as a fraud or deceit upon other persons.

25 27. DiMuro acted knowingly or recklessly in disproportionately allocating
26 profitable trades to the Favored Clients and unprofitable trades to the Unfavored
27 Clients as alleged above.

28 28. By engaging in the conduct described above, DiMuro violated, and

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

4 **SECOND CLAIM FOR RELIEF**

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

6 **Violations of Sections 17(a)(1) and (3) of the Securities Act**

7 29. The SEC realleges and incorporates by reference paragraphs 1
8 through 25 above.

9 30. By engaging in the conduct described above, DiMuro, directly or
10 indirectly, in the offer or sale of securities, and by the use of means or instruments
11 of transportation or communication in interstate commerce or by use of the mails
12 directly or indirectly: (a) employed devices, schemes, or artifices to defraud; and
13 (b) engaged in transactions, practices, or courses of business which operated or
14 would operate as a fraud or deceit upon the purchaser.

15 31. DiMuro acted knowingly, recklessly, and negligently in
16 disproportionately allocating profitable trades to the Favored Clients and
17 unprofitable trades to the Unfavored Clients as alleged above.

18 32. By engaging in the conduct described above, DiMuro violated, and
19 unless restrained and enjoined will continue to violate, Sections 17(a)(1) and
20 17(a)(3) of the Securities Act, 15 U.S.C. §§ 77q(a)(1) & 77q(a)(3).

21 **THIRD CLAIM FOR RELIEF**

22 **Fraud by an Investment Adviser**

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

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

26 34. By engaging in the conduct described above, DiMuro, directly or
27 indirectly, by use of the mails or means and instrumentalities of interstate
28 commerce: (a) employed devices, schemes, or artifices to defraud clients or

1 prospective clients; and (b) engaged in transactions, practices, or courses of
2 business which operated as a fraud or deceit upon clients or prospective clients.

3 35. DiMuro was an investment adviser and therefore owed a fiduciary
4 duty to each of the Your Source advisory clients for whom he traded. He acted
5 knowingly, recklessly, and negligently when violating that fiduciary duty by
6 disproportionately allocating profitable trades to the Favored Clients and
7 unprofitable trades to the Unfavored Clients as alleged above.

8 36. By engaging in the conduct described above, defendant DiMuro
9 violated, and unless restrained and enjoined, is reasonably likely to continue to
10 violate, Sections 206(1) and (2) of the Advisers Act, 15 U.S.C. §§ 80b-6(1) & 80b-
11 6(2).

12 **PRAYER FOR RELIEF**

13 WHEREFORE, the SEC respectfully requests that the Court:

14 **I.**

15 Issue findings of fact and conclusions of law that DiMuro committed the
16 alleged violations.

17 **II.**

18 Issue judgments, in forms consistent with Rule 65(d) of the Federal Rules of
19 Civil Procedure, permanently enjoining DiMuro and his officers, agents, servants,
20 employees and attorneys, and those persons in active concert or participation with
21 any of them, who receive actual notice of the judgment by personal service or
22 otherwise, and each of them, from violating Sections 17(a)(1) and 17(a)(3) of the
23 Securities Act, 15 U.S.C. §§ 77q(a)(1) & 77q(a)(3), Section 10(b) of the Exchange
24 Act, 15 U.S.C. § 78j(b), and Rules 10b-5(a) and 10b-5(c) thereunder, 17 C.F.R.
25 §§ 240.10b-5(a) & 240.10b-5(c), and Sections 206(1) and 206(2) of the Advisers
26 Act, 15 U.S.C. §§ 80b-6(1) & 80b-6(2) by committing or engaging in specified
27 actions or activities relevant to such violations.

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III.

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

IV.

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

V.

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

Dated: September 18, 2024

/s/ Daniel O. Blau

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