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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

-against-

MARK P. FRISSORA,

Defendant.

COMPLAINT

20 Civ. _____ ()

Plaintiff Securities and Exchange Commission (“Commission”), whose New York Regional Office is located at Brookfield Place, 200 Vesey Street, Suite 400, New York, New York 10281-1022, for its Complaint against Defendant Mark P. Frissora (“Frissora”), whose address is 4251 Gulf Shore Blvd. North, Unit 5A, Naples, Florida 34103, alleges as follows:

SUMMARY

1. In at least 2013 and 2014, Hertz Global Holdings, Inc. (“Hertz Holdings”), the publicly-traded parent company of its car-rental subsidiary, The Hertz Corporation (“Hertz Corp.” and, together with Hertz Holdings, “Hertz”) violated certain reporting and books-and-records provisions of the federal securities laws by materially overstating its pretax income, failing to disclose certain business

practice changes with a material financial impact, and re-affirming earnings guidance that Hertz knew was inaccurate. Defendant Frissora—then the chairman and chief executive officer of Hertz Holdings -aided and abetted those violations.

2. Throughout 2013, Hertz faced financial and operational challenges that resulted in quarterly gaps between its budget forecasts and actual financial results. Frissora pressed subordinates to find ways to close these gaps.

3. One such gap-closing target was Hertz's reserve accounts, which together totaled over \$1 billion and were calculated in part using management estimates. Frissora asked subordinates to "find money" for the company through re-analyses of its reserves. In response to these general requests and the financial pressures on Hertz, various Hertz finance and business personnel used inappropriate accounting methodologies that rendered the company's financial reports materially inaccurate.

4. Also during 2013, Frissora led Hertz to extend the planned holding periods— estimates of how long Hertz would hold cars in its rental fleet before replacing them—of a significant portion of its U.S. car rental fleet. Because the planned holding periods factored into Hertz's calculation of the depreciation of its car rental assets, the planned holding period extensions lowered Hertz's expenses in the short-term. Hertz did not adequately disclose its decision to extend the holding periods to investors.

5. In the last quarter of 2013, after Hertz had revised its earnings guidance downward to a range of \$1.68 to \$1.78 per share for the year, Frissora learned with two months remaining in the year that Hertz's performance would likely result in earnings falling below that range. Yet Frissora approved Hertz's re-affirmance of this earnings forecast range. Hertz's actual earnings ended up below the re-affirmed range.

6. On July 16, 2015, after Frissora had left the company, Hertz restated its financial results for 2013 and prior periods (the “Restatement”). The Restatement identified seventeen areas with material accounting errors, including the company’s reserves. As a result, the Restatement concluded that Hertz’s financial statements for the affected periods had not conformed to generally accepted accounting principles (“GAAP”) and had overstated the company’s GAAP pretax income by \$235 million. The Restatement also belatedly disclosed Hertz’s prior extension of planned holding periods.

7. Frissora has not reimbursed the company for any portion of the incentive-based compensation he received during the relevant period, as the federal securities laws require.

VIOLATIONS

8. By virtue of the conduct alleged herein, Frissora aided and abetted (a) Hertz Holdings’ violations of Sections 13(a) and 13(b)(2)(A) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. §§ 78m(a) and 78m(b)(2)(A)] and Rules 12b-20 [17 C.F.R. § 240.12b-20], 13a-1 [17 C.F.R. § 240.13a-1], 13a-11 [17 C.F.R. § 240.13a-11], and 13a-13 [17 C.F.R. § 240.13a-13] thereunder; and (b) Hertz Corp.’s violations of Exchange Act Sections 13(b)(2)(A) and 15(d) [15 U.S.C. §§ 78m(b)(2)(A) and 78o(d)] and Rules 12b-20 [17 C.F.R. § 240.12b-20], 15d-1 [17 C.F.R. § 240.15d-1], 15d-11 [17 C.F.R. § 240.15d-11], and 15d-13 [17 C.F.R. § 240.15d-13] thereunder. In addition, Frissora violated Section 304 of the Sarbanes-Oxley Act of 2002 (“Sarbanes-Oxley Act”) [15 U.S.C. § 7243] by failing to reimburse Hertz for the requisite amount of incentive-based compensation.

9. Unless Frissora is restrained and enjoined, he will engage in the acts, practices, transactions, and courses of business set forth in this Complaint or in acts, practices, transactions, and courses of business of similar type and object.

NATURE OF THE PROCEEDINGS AND RELIEF SOUGHT

10. The Commission brings this action pursuant to the authority conferred upon it by Exchange Act Section 21(d) [15 U.S.C. § 78u(d)].

11. The Commission seeks a final judgment: (a) permanently enjoining Frissora from violating the federal securities laws and rules this Complaint alleges he has violated; (b) ordering Frissora to pay civil money penalties pursuant to Exchange Act Section 21(d)(3) [15 U.S.C. § 78u(d)(3)]; (c) ordering Frissora to reimburse Hertz for the requisite amount of incentive-based compensation; and (d) ordering any other and further relief the Court may deem just and proper.

JURISDICTION AND VENUE

12. This Court has jurisdiction over this action pursuant to Exchange Act Section 27 [15 U.S.C. § 78aa].

13. Frissora, directly and indirectly, has made use of the means or instrumentalities of interstate commerce or of the mails in connection with the transactions, acts, practices, and courses of business alleged herein.

14. Venue lies in this District under Exchange Act Section 27 [15 U.S.C. § 78aa]. Certain of the acts, practices, transactions, and courses of business alleged in this Complaint occurred in Park Ridge, New Jersey, where Hertz's headquarters were located until at least mid-2013.

DEFENDANT¹

15. **Frissora**, age 64, currently resides in Naples, Florida and, from at least 2012 through mid-2013, resided partly in New Jersey. From July 2006 until September 2014, Frissora was the chief executive officer and chairman of the Board of Directors of Hertz Holdings. From July 2015 until April 2019, he was the president and chief executive officer of an unrelated public company with a

¹ Frissora has entered into a series of tolling agreements that together toll the running of the applicable statute of limitations from October 20, 2017 through August 30, 2020.

large market capitalization.

RELEVANT ENTITIES

16. **Hertz Holdings** is a Delaware corporation that, from at least 2012 through mid-2013, had its headquarters in Park Ridge, New Jersey, after which it gradually moved its headquarters to Estero, Florida over approximately the next year. At all relevant times, Hertz served as a holding company for its wholly-owned subsidiary, Hertz Corp. At all relevant times, Hertz Holdings' securities were registered with the Commission pursuant to Exchange Act Section 12(b), its common stock traded on the New York Stock Exchange, and it filed periodic reports, including on Forms 10-K and 10-Q, with the Commission pursuant to Exchange Act Section 13(a) and related rules. At all relevant times, Hertz Holdings' fiscal year coincided with the calendar year. On approximately June 30, 2016, Hertz Holdings spun off its car rental business to a company with the same name and designated that new company as the accounting successor to Hertz Holdings, while renaming itself HERC Holdings, Inc.

17. **Hertz Corp.** is a Delaware corporation that, from at least 2012 through mid-2013, had its headquarters in Park Ridge, New Jersey, after which it gradually moved its headquarters to Estero, Florida over approximately the next year. At all relevant times, Hertz Corp. was a wholly-owned subsidiary of Hertz Holdings. Hertz Corp. filed registration statements with the Commission on Form S-4, which became effective in February and October 2013, and was therefore required by Exchange Act Section 15(d) to file periodic reports, including on Forms 10-K and 10-Q, for at least fiscal year 2013. At all relevant times, Hertz Corp.'s fiscal year coincided with the calendar year. On approximately June 30, 2016, Hertz Corp. became the wholly-owned operating subsidiary of Hertz Holdings' successor company of the same name.

FACTS

I. Background: Hertz's Gaps Between Projected and Actual Financial Results

18. Before and during 2013, Hertz regularly issued earnings guidance, a forecast of its estimated earnings-per-share range, based on its projection of its net income for a certain period, divided by the number of shares of stock the company had outstanding.

19. Earnings per share are an important measure of a company's profitability from the perspective of investors and equity analysts who cover a company's stock.

20. In February 2013, Hertz issued earnings guidance for the year 2013 in the range of earnings of \$1.78 to \$1.88 per share.

21. Over the course of 2013, Hertz faced increasing financial and operational challenges.

22. For each quarter in 2013, Hertz faced existing or projected gaps between its higher budget forecasts and its lower actual financial results.

23. Indeed, by September 2013, business and financial setbacks had made it clear to Frissora and other senior management at Hertz that the company's earnings per share for 2013 were in danger of falling below the range Hertz had announced earlier that year.

24. Throughout 2013, Frissora pressed his subordinates to find ways to close the gaps between projected and actual financial results. Frissora created a corporate environment where, at least in certain instances, he and Hertz placed an inappropriate emphasis on meeting forecasted budgets, business plans, and earnings estimates.

II. Hertz's Improper Accounting for Its Reserve Accounts

25. As one of the means to meet budget and earnings estimates, Frissora asked the finance department to review Hertz's reserve accounts, which together totaled over \$1 billion and were calculated in part based on management estimates.

26. In successive quarters during 2013, Frissora pressed for savings in reserve accounts

to “find money” to meet Hertz’s forecasted earnings.

27. For example, in September 2013, Frissora reviewed a staff summary of all Hertz reserve accounts and, the next month, instructed Hertz’s interim chief financial officer by email: “[Y]our biggest value added is finding methodology discrepancies to book income [J]ust want to make sure you are meeting with reserve owners to find money.”

28. Hertz staff responded by making accounting changes that did not accord with GAAP.

29. One part of the U.S. business that the Hertz team targeted in their reserve efforts was subrogation: an offset of the expenses Hertz incurred for vehicle damage during rental periods based on Hertz’s anticipated recovery of all or a portion of the damage expenses from car renters and other third parties, based on insurance or credit card coverage or renters’ purchase of a loss damage waiver when renting a car. Hertz accounted for subrogation by recording income and a receivable for amounts subject to recovery, partially offset by an associated expense and allowance for the possibility that some percentage of those amounts might not be recovered. Amounts ultimately uncollected would be written off against the allowance.

30. Among other improper subrogation accounting changes, in May 2013 Hertz reduced the percentage rate for reserving for subrogation receivables over 360 days old. In doing so, Hertz ignored historical data pointing to low recoveries for such aged receivables and improperly avoided booking \$6 million in subrogation allowance expenses. This had the effect of increasing Hertz’s pretax income by a like amount.

31. Likewise, in April and May 2013, Hertz headquarters personnel directed the staff with primary responsibility for the subrogation accounts to make post-closing adjustments for the previous quarter to the subrogation unbilled receivable account. Each of these adjustments departed from Hertz’s historical methodology for calculating subrogation reserves and increased Hertz’s

reported results by approximately \$1 million.

32. In early November 2013, after Hertz staff had scrutinized reserve accounts in prior quarters, Hertz's senior management team, led by Frissora, pressed for opportunities to "lower the reserve" in parts of the U.S. rental car business to try to increase Hertz's earnings for 2013.

33. In response, Hertz staff revised certain reserve methodologies. This yielded \$3 million in short-term, gap-closing savings, but several of the methodology changes did not satisfy GAAP, were not based on historical experience, and were not reviewed with Hertz's auditor.

34. Hertz's former controller knowingly or recklessly approved some of the accounting methodology changes that were not in accordance with GAAP. Those changes contributed to errors that overstated Hertz's pretax income by approximately \$21 million.

35. As Hertz's controller knew, Hertz implemented these methodology changes without uniform and consistent procedures documenting reviews and approvals of accrual and amortization methodologies and at times Hertz's practices with respect to subrogation accruals did not follow what Hertz's controller understood to be the company's own prescribed methodology.

36. As a result of these and other improper accounting changes, Hertz Holdings' Form 10-K for the year ended December 31, 2013 (the "Hertz Holdings 2013 10-K"), Forms 10-Q for the quarters ending March 31, 2013 (the "Hertz Holdings Q1 2013 10-Q"), June 30, 2013 (the "Hertz Holdings Q2 2013 10-Q"), and September 30, 2013 (the "Hertz Holdings Q3 2013 10-Q") (together, the "Hertz Holdings 2013 10-Qs"), and earnings reports on Forms 8-K dated April 29, July 29, and November 5, 2013 and March 18, 2014 (together, the "Hertz Holdings 2013 Earnings Reports") materially overstated Hertz Holdings' pretax income.

37. Similarly, Hertz Corp.'s Form 10-K for the year ended December 31, 2013 (the "Hertz Corp. 2013 10-K"), Forms 10-Q for the quarters ending March 31, 2013 (the "Hertz Corp. Q1 2013 10-Q"), June 30, 2013 (the "Hertz Corp. Q2 2013 10-Q"), and September 30, 2013 (the

“Hertz Corp. Q3 2013 10-Q”)(together, the “Hertz Corp. 2013 10-Qs”), and earnings reports on Forms 8-K dated April 29, July 29, and November 5, 2013 and March 18, 2014 (together, the “Hertz Corp. 2013 Earnings Reports”) materially overstated Hertz Corp.’s pretax income.

38. Frissora signed and certified the Hertz Holdings 2013 10-K and the Hertz Corp. 2013 10-K (together, the “Hertz 2013 10-Ks”), certified the Hertz Holdings 2013 10-Qs and Hertz Corp. 2013 10-Qs (together, the “Hertz 2013 10-Qs”) and approved the Hertz Holdings 2013 Earnings Reports and Hertz Corp. 2013 Earnings Reports, described in paragraphs 36 and 37 above.

III. Hertz’s Failure to Adequately Disclose Its Extension of Planned Holding Periods

39. During the second through fourth quarters of 2013, Frissora caused Hertz to extend the planned holding periods for a significant portion of its U.S. rental car fleet without properly disclosing the change and its positive short-term and potentially negative long-term financial impact.

40. Prior to this period, most of the cars in Hertz’s U.S. rental fleet had planned holding periods of 20 months. In other words, Hertz had estimated that it would maintain these cars in its rental fleet for 20 months before replacing them.

41. During the second through fourth quarters of 2013, Frissora decided to extend the planned holding periods for a large part of Hertz’s U.S. car rental fleet to either 24 or 30 months.

42. Frissora’s extensions resulted in Hertz’s having longer planned holding periods for portions of its rental fleet than those of many other major car rental companies.

43. For Hertz, these extended holding periods had a short-term accounting benefit: the extensions spread out the required depreciation expense Hertz would incur on its cars over a longer time period, thus lowering the depreciation expense overall for each quarter.

44. At the same time, extended holding periods had long-term business risks, including that older cars were likely to require more costly maintenance and could negatively impact Hertz’s premium brand.

45. Under the Financial Account Standards Board (“FASB”) Accounting Standards, which Hertz was required to comply with in order to have its financial statements accord with GAAP, a reporting company during the relevant time should have disclosed this type of planned holding period extension to investors in the company’s financial statements.

46. Specifically, FASB Accounting Standards Codification Topic 250-10-50-4, provides in relevant part that a company must disclose the effect on net income of a change in an accounting estimate that affects several future periods, such as a change in service lives for depreciable assets. That standard further requires that, if a change in an estimate does not have a material effect in the period of the estimate change but is reasonably certain to have a material effect in later periods, the company’s financial statements for the period in which the estimate change occurred must describe that estimate change.

47. In 2013, Hertz did not adequately disclose its decision to extend the planned holding periods for substantial portions of its fleet.

48. On July 29, 2013, Frissora held an earnings conference call with analysts who covered Hertz Holdings’ stock. At the time, Hertz had already extended holding periods on many of its top models.

49. When an analyst asked Frissora on the call how long the company was planning to hold its cars and “if that assumption has changed relative to the beginning of the year,” Frissora answered: “I don’t think there has been any assumption changes. I think we’re in pretty good shape on length, in terms of how long we’re holding cars.”

50. This earnings call was followed by a series of Hertz filings, signed and/or certified by Frissora.

51. On August 2, 2013, Hertz Holdings and Hertz Corp. filed, respectively, the Hertz Holdings Q2 2013 10-Q and the Hertz Corp. Q2 2013 10-Q (together, the “Hertz Q2 2013 10-Qs”).

52. On November 7, 2013, Hertz Holdings and Hertz Corp. filed, respectively, the Hertz Holdings Q3 2013 10-Q and the Hertz Corp. Q3 2013 10-Q (together, the “Hertz Q3 2013 10-Qs”).

53. The Hertz Q2 2013 10-Qs and the Hertz Q3 2013 10-Qs failed to disclose the holding period extensions and their impact on depreciation.

54. In March 2014, Hertz filed the Hertz 2013 10-Ks, which claimed that “our approximate average holding period for a rental car was eighteen months in the United States.”

55. During 2013, the weighted average of all planned holding periods across Hertz’s U.S. fleet had increased from 21 to almost 25 months.

56. Hertz’s statement about the 18-month average failed to explain that Hertz had calculated that average by using the age of the cars Hertz had disposed of—not from the planned holding periods that Hertz had extended for portions of the fleet.

57. The MD&A portion of the same Form 10-Ks made some references to longer holding periods—generally listing “extended holding periods” as one of several factors causing an increase in maintenance costs and stating that the “holding periods” for Hertz’s cars ranged from 4 to 36 months, a broader range than the 4 to 28 months disclosed in its Form 10-K for the prior year. But the 10-Ks failed to disclose that Hertz had made a business decision to extend planned holding periods or the scale of the shift to longer planned holding periods.

58. In late 2014, after Frissora had left Hertz, Hertz’s new management reverted back to shorter planned holding periods.

IV. Hertz’s Inaccurate Earnings Guidance

59. In late September 2013, Hertz’s internal analysis projected the company’s 2013 earnings results at \$1.72 per share, below the earnings per share forecast of \$1.78 to \$1.88 per share Hertz had announced in February 2013.

60. On September 26, 2013, Hertz issued a press release and publicly filed a slide deck

revising the company's prior earnings guidance. The new guidance reduced Hertz's projected 2013 earnings to a range ten cents lower than the prior guidance: \$1.68 to \$1.78 per share.

61. Over the next two weeks, Frissora learned that new internal analyses and data forecasted Hertz's earnings performance to fall below the low end of the revised guidance range.

62. Frissora then led an initiative to try to enable the Company to "claw" its way back to its previously projected earnings performance.

63. By the end of October 2013, Frissora learned that, despite certain identified savings (often through reduced expenses) from that initiative, a Hertz internal estimate for 2013 still projected earnings per share at \$1.66, two cents below the low end of the revised guidance range.

64. That month, Frissora directed subordinates to determine why Hertz's internal estimates of earnings-per-share had changed so quickly.

65. One analysis Frissora received determined that the September 2013 revision had been flawed in part and that methodological errors had occurred.

66. With Frissora's approval, Hertz filed a Form 8-K report on November 5, 2013, which reaffirmed Hertz's guidance range of \$1.68 to \$1.78 earnings per share.

67. Also, on November 5, 2013, Frissora held an earnings call.

68. On the call, an analyst asked Frissora about Hertz's reaffirmation of its earnings guidance range. The analyst sought clarification as to whether the company might be "tracking at the low end of guidance" or whether there is something "that maybe you can talk about in the call that maybe upside to where you thought?"

69. Frissora responded:

Yes, we gave you a balanced message, and every comment was weighted, so the best thing I can tell you is it is what it is. What I gave you [the earnings range] is – there's no conservative. There's no aggression. It's kind of where we see the lay of the land right now.

70. In early 2014, Hertz reported actual 2013 earnings of \$1.63 per share.

V. Hertz's 2015 Restatement

71. On July 16, 2015, Hertz Holdings and Hertz Corp. filed their respective Form 10-Ks for the year ending December 31, 2014, which included the Restatement of the companies' financial results for 2012, 2013, and certain prior periods. Through the Restatement and prior financial revisions made in early 2014, Hertz reduced its previously reported GAAP pretax income by a total of \$235 million for the restated periods.

72. The Restatement identified seventeen areas with material accounting errors across the company's business units, and it identified eleven separate material weaknesses in Hertz's internal controls over financial reporting.

73. One of the largest Restatement items by amount concerned Hertz's internal subrogation accounts, which accounted for a cumulative pre-tax misstatement of \$48 million. The Restatement made clear that Hertz's 2013 methodology changes for determining the subrogation allowance or the amounts of aged debt to be written off did not accord with GAAP and resulted in overstatements of the company's pre-tax income.

74. The Restatement also disclosed that Hertz had extended planned holding periods for its U.S. rental fleet and that the reduction in the company's 2013 depreciation expense had resulted from the longer holding periods.

75. The same Form 10-K filings further disclosed that Hertz's "[f]leet related expenses" in 2014 "increased \$182 million" due to increases in vehicle maintenance expenses, vehicle damage expenses, and damage-related liability, which resulted from the "age and mileage" of the company's fleet and having an "older fleet compared with the prior year," among other factors. In other words, Hertz disclosed for the first time the costs of its 2013 extensions of planned holding periods.

FIRST CLAIM FOR RELIEF
Aiding and Abetting Violations of Exchange Act Section 13(a)
and Rules 12b-20, 13a-1, 13a-11 and 13a-13

76. The Commission re-alleges and incorporates by reference here the allegations in paragraphs 1 through 75.

77. Hertz Holdings, as an issuer of securities registered pursuant to Exchange Act Section 12 [15 U.S.C. § 78l], filed one or more periodic reports with the Commission that were materially false or misleading.

78. By reason of the foregoing, Hertz Holdings violated Exchange Act Section 13(a) [15 U.S.C. § 78m(a)] and Rules 12b-20 [17 C.F.R. § 240.12b-20], 13a-1 [17 C.F.R. § 240.13a-1], 13a-11 [17 C.F.R. § 240.13a-11], and 13a-13 [17 C.F.R. § 240.13a-13] thereunder.

79. Frissora recklessly provided substantial assistance to Hertz Holdings with respect to its violations of Exchange Act Section 13(a) [15 U.S.C. § 78m(a)] and Rules 12b-20 [17 C.F.R. § 240.12b-20], 13a-1 [17 C.F.R. § 240.13a-1], 13a-11 [17 C.F.R. § 240.13a-11], and 13a-13 [17 C.F.R. § 240.13a-13] thereunder.

80. By reason of the foregoing, Frissora is liable pursuant to Exchange Act Section 20(e) [15 U.S.C. § 78t(e)] for aiding and abetting Hertz Holdings' violations of Exchange Act Section 13(a) [15 U.S.C. § 78m(a)] and Rules 12b-20 [17 C.F.R. § 240.12b-20], 13a-1 [17 C.F.R. § 240.13a-1], 13a-11 [17 C.F.R. § 240.13a-11], and 13a-13 [17 C.F.R. § 240.13a-13] thereunder and, unless enjoined, Frissora will again aid and abet these violations.

SECOND CLAIM FOR RELIEF
Aiding and Abetting Violations of Exchange Act Section 15(d)
and Rules 12b-20, 15d-1, 15d-11 and 15d-13

81. The Commission re-alleges and incorporates by reference here the allegations in paragraphs 1 through 80.

82. Hertz Corp., which as a filer of registration statements with the Commission on

Form S-4 was required by Exchange Act Section 15(d) [15 U.S.C. § 78o(d)] to file periodic reports with the Commission respecting 2013, filed one or more periodic reports that were materially false or misleading.

83. By reason of the foregoing, Hertz Corp. violated Exchange Act Section 15(d) [15 U.S.C. § 78o(d)] and Rules 12b-20 [17 C.F.R. § 240.12b-20], 15d-1 [17 C.F.R. § 240.15d-1], 15d-11 [17 C.F.R. § 240.15d-11], and 15d-13 [17 C.F.R. § 240.15d-13] thereunder.

84. Frissora recklessly provided substantial assistance to Hertz Corp. with respect to its violations of Exchange Act Section 15(d) [15 U.S.C. § 78o(d)] and Rules 12b-20 [17 C.F.R. § 240.12b-20], 15d-1 [17 C.F.R. § 240.15d-1], 15d-11 [17 C.F.R. § 240.15d-11], and 15d-13 [17 C.F.R. § 240.15d-13] thereunder.

85. By reason of the foregoing, Frissora is liable pursuant to Exchange Act Section 20(e) [15 U.S.C. § 78t(e)] for aiding and abetting Hertz Corp.'s violations of Exchange Act Section 15(d) [15 U.S.C. § 78o(d)] and Rules 12b-20 [17 C.F.R. § 240.12b-20], 15d-1 [17 C.F.R. § 240.15d-1], 15d-11 [17 C.F.R. § 240.15d-11], and 15d-13 [17 C.F.R. § 240.15d-13] thereunder and, unless enjoined, Frissora will again aid and abet these violations.

THIRD CLAIM FOR RELIEF
Aiding and Abetting Violations of Exchange Act Section 13(b)(2)(A)

86. The Commission re-alleges and incorporates by reference here the allegations in paragraphs 1 through 85.

87. Both Hertz Holdings and Hertz Corp. failed to make and keep books, records and accounts, which, in reasonable detail, accurately and fairly reflected the transactions and dispositions of their respective assets.

88. By reason of the foregoing, Hertz Holdings and Hertz Corp. violated Exchange Act Section 13(b)(2)(A) [15 U.S.C. § 78m(b)(2)(A)].

89. Frissora recklessly provided substantial assistance to Hertz Holdings and Hertz

Corp. with respect to each of their respective violations of Exchange Act Section 13(b)(2)(A) [15 U.S.C. § 78m(b)(2)(A)].

90. By reason of the foregoing, Frissora is liable pursuant to Exchange Act Section 20(e) [15 U.S.C. § 78t(e)] for aiding and abetting Hertz Holdings' and Hertz Corp.'s violations of Exchange Act Section 13(b)(2)(A) [15 U.S.C. § 78m(b)(2)(A)] and, unless enjoined, Frissora will again aid and abet these violations.

FOURTH CLAIM FOR RELIEF
Violations of Sarbanes-Oxley Act Section 304

91. The Commission re-alleges and incorporates by reference here the allegations in paragraphs 1 through 90.

92. Section 304 of the Sarbanes-Oxley Act [15 U.S.C. § 7243] requires the chief executive officer of an issuer to reimburse that issuer, if it is required to prepare an accounting restatement due to the material noncompliance of the issuer with any financial reporting requirement under the securities laws as a result of misconduct, for (i) any bonus or other incentive-based or equity-based compensation received by the CEO from the issuer during the 12-month period following each false filing, and (ii) any profits realized from the CEO's sale of securities of the issuer during each such 12-month period.

93. To date, Frissora has not reimbursed Hertz for any portion of his incentive-based compensation received during the 12-month period following each filing of materially false financial statements alleged above.

94. By reason of the foregoing, Frissora violated Sarbanes-Oxley Act Section 304 [15 U.S.C. § 7243].

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that the Court enter a Final Judgment:

I.

Permanently enjoining Frissora and his agents, servants, employees and attorneys and all persons in active concert or participation with any of them from aiding and abetting violations, directly or indirectly, of Exchange Act Sections 13(a), 13(b)(2)(A) and 15(d) [15 U.S.C. §§ 78m(a), 78m(b)(2)(A) and 78o(d)], and Rules 12b-20 [17 C.F.R. § 240.12b-20], 13a-1 [17 C.F.R. § 240.13a-1], 13a-11 [17 C.F.R. § 240.13a-11], 13a-13 [17 C.F.R. § 240.13a-13], 15d-1 [17 C.F.R. § 240.15d-1], 15d-11 [17 C.F.R. § 240.15d-11], and 15d-13 [17 C.F.R. § 240.15d-13] thereunder.

II.

Ordering Frissora to pay civil monetary penalties under Exchange Act Section 21(d)(3) [15 U.S.C. § 78u(d)(3)];

III.

Ordering Frissora to reimburse Hertz Holdings and/or Hertz Corp. to the extent required by Section 304(a) of the Sarbanes-Oxley Act of 2002 [15 U.S.C. § 7243(a)], for all applicable bonuses and other incentive-based compensation or equity-based compensation he received from Hertz Holdings and/or Hertz Corp. and any applicable profits Frissora realized from his sale of Hertz Holdings and Hertz Corp. securities; and

IV.

Granting any other and further relief this Court may deem just and proper.

Dated: New York, New York
August 13, 2020

/s/ Marc P. Berger
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