

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

CASE NO.: 22-cv-715

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

JURY TRIAL DEMANDED

MARGUERITE CASSANDRA TOROIAN and
BELL ROCK CAPITAL, LLC,

Defendants.

COMPLAINT

Plaintiff Securities and Exchange Commission (“SEC”) hereby files its Complaint against Defendants Marguerite Cassandra Toroian (“Toroian”) and Bell Rock Capital, LLC (“Bell Rock”), and alleges as follows:

SUMMARY OF ALLEGATIONS

1. Defendants Toroian and Bell Rock engaged in a long-running fraudulent trade allocation scheme—commonly referred to as “cherry picking.” Bell Rock is an investment advisory firm and Toroian was its founder, sole owner, Chief Investment Officer, and Chief Compliance Officer at all relevant times.

2. From January 1, 2011 through December 31, 2015 (the “Relevant Period”), Toroian traded for herself and her family alongside her clients, often through Bell Rock’s master trading account.

3. Toroian abused her ability to control trading at Bell Rock and to allocate trades from Bell Rock’s master trading account in order to maximize her own short-term profits and to minimize her losses. She bought securities through Bell Rock’s master account in the morning, saw how they

performed throughout the day, and then disproportionately allocated securities that increased in value to herself and overwhelmingly allocated securities that decreased in value to her unwitting clients.

4. This cherry-picking scheme funneled illicit profits to accounts held by Toroian and her family members and negatively impacted her clients' accounts.

5. During the Relevant Period, the securities that Bell Rock traded through the master trading account collectively lost a total of just over -0.1% in value between the time Bell Rock bought them and the time Bell Rock allocated them to an individual account. But Toroian allocated that first-day loss in value unfairly. The securities that Toroian allocated from the master trading account to individual accounts held by Toroian and her family increased in value by over +2% after Toroian purchased them and before she allocated them. By contrast, the securities that Toroian allocated to her clients' accounts decreased in value by over -1.3% after Toroian purchased them and before she allocated them.

6. During the Relevant Period, the securities that Toroian allocated from the master trading account to the accounts held by Toroian and her family had collectively increased in value by over \$1 million between the time Toroian purchased them and when she allocated them.

7. During the Relevant Period, the securities that Toroian allocated to her clients' accounts from the master trading account had collectively decreased in value by over \$1 million between the time Toroian purchased them and when she allocated them.

SUMMARY OF VIOLATIONS

8. By engaging in the fraudulent conduct described herein, Defendants violated Section 17(a) of the Securities Act of 1933 ("Securities Act"), Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), Exchange Act Rule 10b-5, and Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 ("Advisers Act").

9. Bell Rock also violated Section 206(4) of the Advisers Act and Advisers Act Rule 206(4)-7. Toroian aided and abetted Bell Rock's violations of Section 206(4) of the Advisers Act and Advisers Act Rule 206(4)-7.

10. The SEC seeks, among other things, permanent injunctions against the Defendants; disgorgement of Toroian's ill-gotten gains from the unlawful activity set forth in this Complaint, and prejudgment interest thereon; and civil penalties against each Defendant pursuant to 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)]. Unless Defendants are restrained and enjoined, they will again 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.

JURISDICTION AND VENUE

11. The Court has jurisdiction over this action pursuant to Sections 20(d)(1) and 22(a) of the Securities Act [15 U.S.C. §§ 77t(d)(1) and 77v(a)], Section 27 of the Exchange Act [15 U.S.C. § 78aa], and Sections 209(d) and 214(a) of the Advisers Act [15 U.S.C. §§ 80b-9(d) and 80b-14(a)].

12. The Court has personal jurisdiction over Defendants. Defendants transact business in the Eastern District of Pennsylvania and many of the acts and transactions constituting violations of the Securities Act, Exchange Act, and Advisers Act occurred in this District, where some of Bell Rock's harmed clients reside.

13. In connection with the conduct alleged in this Complaint, Defendants, directly or indirectly, singly or in concert with others, made use of the means or instrumentalities of interstate commerce, the means and instruments of transportation or communication in interstate commerce, or the mails, or any facility of any national securities exchange, including placing trades using the facilities of any national securities exchange, to carry out their cherry-picking scheme. Wire transfers were also used to place trades and make allocations to further that scheme.

14. Venue is proper in this District pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)], Section 27(a) of the Exchange Act [15 U.S.C. § 78aa(a)], and Section 214 of the Advisers Act [15 U.S.C. § 80b-14], because certain of the transactions, acts, practices and courses of conduct constituting violations of the federal securities laws occurred within this District, where some of Bell Rock's harmed clients reside.

DEFENDANTS

15. Bell Rock is a Delaware Limited Liability Company based in Rehoboth Beach, Delaware, and has been registered as an investment adviser with the SEC since it was founded in 2006. At all relevant times, Bell Rock's investor clients included individuals, family trusts, and pension and profit-sharing plans.

16. During the Relevant Period, Bell Rock provided investment advice to clients in exchange for fees.

17. During the Relevant Period, Bell Rock had between 100 and 200 investor clients, and between \$175 million and \$220 million in assets under management.

18. Toroian is a resident of Rehoboth Beach, Delaware. She held at all relevant times, and continues to hold, a Series 65 investment adviser license.

19. Toroian founded Bell Rock in 2006 and was Bell Rock's sole owner, Managing Member, President, Chief Investment Officer ("CIO") and Chief Compliance Officer ("CCO") at all relevant times.

20. As such, Toroian controlled Bell Rock during the Relevant Period.

21. Toroian and Bell Rock were investment advisers, as defined by Section 202(a)(11) of the Advisers Act, during the Relevant Period. Toroian provided investment advice to clients in exchange for fees.

FACTS

A. Background

22. During the Relevant Period, Bell Rock managed nearly all of its clients' assets on a discretionary basis, meaning it had authorization to trade securities on behalf of its clients.

23. Toroian managed all, or substantially all, of her clients' investments on a discretionary basis during the Relevant Period. Toroian's clients accordingly authorized her to make investment decisions on their behalf.

24. As investment advisers, Bell Rock and Toroian owed their advisory clients a fiduciary duty to act in their clients' best interests, an affirmative duty of utmost good faith and full disclosure of all material facts, and a duty to avoid misleading their advisory clients.

25. Throughout the Relevant Period, Bell Rock traded through the brokerage platform of a certain registered broker-dealer (the "Broker").

26. During the Relevant Period, Toroian managed her own investments through accounts she held at Bell Rock. She also managed the investments of certain close family members through accounts they held at Bell Rock. Toroian's personal and family accounts are collectively referred to as the "Toroian Accounts."

27. In addition to the Toroian Accounts, some 100 to 200 clients held accounts at Bell Rock during the Relevant Period (collectively, the "Client Accounts").

28. In addition to managing the Toroian Accounts, Toroian was the primary investment adviser making investment decisions for the majority of the Client Accounts.

29. Day trading is an investment strategy in which an investor opens an investment position (e.g., buys a stock) hoping to exit the position (e.g., sell the stock) the same day for a quick profit.

30. Day trading generally involves a high degree of risk, with potential for significant profits and significant losses, because of the unpredictable short-term volatility of individual securities and the market as a whole.

31. A buy-and-hold investment strategy is generally less risky than day trading because the stock market as a whole has historically appreciated in value over the long term.

32. Toroian and many of her clients agreed that she would pursue a long-term buy-and-hold strategy for their investments. A long-term buy-and-hold strategy involves acquiring a security with the intention of holding it for a long period of time and the expectation that it will ultimately appreciate in value. Accordingly, the Client Accounts frequently held securities for a long period of time before Toroian sold them.

B. Trading at Bell Rock During the Relevant Period

33. Toroian traded for herself and/or her clients either by making trades for herself and/or specific clients directly through her own or the clients' individual accounts, or by using a master trading account and later allocating trades from the master account into the Toroian Accounts or the Client Accounts.

34. A master trading account, also referred to as a "block" or "omnibus" trading account, generally allows an investment adviser to buy and sell securities on behalf of multiple clients simultaneously, without identifying to the broker in advance the specific accounts for which a trade is intended.

35. After an investment adviser executes a trade using a master trading account, the adviser must then allocate the securities to individual accounts.

36. Trading using a master trading account can, when used appropriately, have certain advantages for both investment advisers and their clients.

37. Trading using a master trading account can ensure that different clients for which the adviser intends to purchase the same security on the same day wind up paying the same price. Rather

than placing individual orders in each client account, the adviser can place an aggregated order, or “block trade,” in the master account and allocate the trade among multiple accounts using an average price. When using a master trading account properly, an adviser will fairly and equitably allocate the block trade among client accounts, ensuring that no account receives preferential treatment over another.

38. Trading using a master trading account can also reduce fees and costs in certain circumstances, such as by allowing the adviser to execute a single trade for a security rather than executing separate trades for each client.

39. However, investment advisers can abuse master trading accounts, including by waiting to see how a security purchased through the master trading account performs during the trading day before deciding how to allocate it.

40. “Cherry picking” occurs when an investment adviser unfairly allocates securities that have performed well to favored accounts and/or allocates securities that have performed poorly to disfavored accounts.

C. Toroian’s and Bell Rock’s Cherry-Picking Scheme

41. Bell Rock and Toroian breached their fiduciary duties to their advisory clients by engaging in a cherry-picking scheme that began no later than January 1, 2011 and continued through at least December 31, 2015.

42. During the Relevant Period, Bell Rock mostly invested in securities that Bell Rock obtained by executing trades through its master trading account. Bell Rock subsequently allocated those trades to individual Toroian Accounts or individual Client Accounts.

43. Bell Rock obtained its other investments by placing trades directly through individual Client Accounts or individual Toroian Accounts.

44. Toroian frequently traded the same securities for the Toroian Accounts and the Client Accounts at or around the same time.

45. The Toroian Accounts and the Client Accounts held many of the same securities during the Relevant Period. Nearly all of the securities that Toroian allocated to the Toroian Accounts from the master trading account during the Relevant Period were securities that she also allocated to the Client Accounts during the Relevant Period.

46. When Toroian executed block trades in the master trading account:

- a. She frequently allocated to the Toroian Accounts trades that proved to have performed well before allocation;
- b. She frequently allocated to the Client Accounts trades that proved to have performed poorly before allocation; and
- c. She sometimes allocated trades to a combination of Toroian Accounts and Client Accounts.

47. Toroian kept no formal logs or records of how she intended to allocate each block trade before she executed the trade. Nor did she regularly inform any other person at Bell Rock of how she intended to allocate each block trade before she executed the trade.

48. When Toroian traded using the master trading account, she typically purchased securities in the morning and allocated them later in the day. In fact, the majority of her allocations occurred after 3pm. Many of her allocations occurred after 4pm, which is when many of the markets close.

49. By waiting to make allocations from the master trading account until late in the day, Toroian was able to know—and did know—which securities had increased in value and which had decreased in value between the time she purchased the security in the master trading account and the time she allocated the trade to an individual account.

50. Toroian allocated a disproportionate number of trades that had a positive performance between the time of the trade and the time of allocation (“favorable trades”) from the master trading account to the Toroian Accounts.

51. Toroian allocated a disproportionate number of trades that had a negative performance between the time of the trade and the time of allocation (“unfavorable trades”) to the Client Accounts.

52. Specifically, during the Relevant Period, Toroian allocated: (i) a disproportionately high number of favorable trades to the Toroian Accounts; (ii) a disproportionately low number of favorable trades to the Client Accounts; (iii) a disproportionately low number of unfavorable trades to the Toroian accounts; and (iv) a disproportionately high number of unfavorable trades to the Client Accounts.

53. When Toroian allocated a favorable trade to a Toroian Account, she often sold the security the same day or the following day, locking in a day trading profit.

54. These trades yielded risk-free profits because Toroian was able to, and in fact did, determine the profitability of the trades before deciding to keep these trades for herself or her family members.

55. When Toroian allocated an unfavorable trade to a Client Account, she did not liquidate that position on the same day and incur a loss. Rather, Toroian had the Client Account hold the security for a long period of time; thus, the negative first-day performance of that security did not appear on any account statement.

56. During the Relevant Period, the securities Bell Rock obtained through the master trading account collectively lost a total of just over -0.1% in value between the time Bell Rock bought them and the time Bell Rock allocated them to an account.

57. However, Toroian did not proportionally allocate that -0.1% first-day loss in value between the Toroian Accounts and the Client Accounts.

58. During the Relevant Period, the securities that Toroian allocated from the master trading account to the Toroian Accounts had increased in value by over +2% between the time Toroian purchased them and when she allocated them.

59. This equates to a first-day increase in value for the Toroian Accounts exceeding \$1 million.

60. During the Relevant Period, the securities that Toroian allocated to the Client Accounts from the master trading account decreased in value by over -1.3% between the time Toroian purchased them and when she allocated them.

61. This equates to a first-day loss in value for the Client Accounts exceeding \$1 million.

62. Toroian invested approximately \$60 million in securities for the Toroian Accounts and approximately \$115 million in securities for the Client Accounts during the Relevant Period.

63. Even though Toroian invested nearly twice as much money for the Client Accounts as she did for the Toroian Accounts during the Relevant Period, and even though she traded in the same securities for the Toroian Accounts as she did for the Client Accounts, the Toroian Accounts outperformed the Client Accounts in allocated trades on the day of purchase and allocation by earning over \$1 million dollars in value on the day of the trade while the Client Accounts lost over \$1 million in value on the day of the trade.

64. During the Relevant Period, the 50 trades that Bell Rock made in the master trading account that increased in value the most on the day of the trade (the “50 best” first-day trades) increased in value by over \$1.5 million on the day of the trade.

65. Toroian allocated trades representing approximately 75% of those first-day gains from the 50 best first-day trades to the Toroian Accounts and usually sold them that day to lock in instant day trading profits.

66. Conversely, during the Relevant Period, the 50 trades that Bell Rock made in the master trading account that decreased in value the most on the day of the trade collectively decreased in value by the time of allocation by approximately \$1.9 million.

67. Toroian allocated securities representing only about 6% of those first-day losses to the Toroian Accounts, and allocated 94% of such losses to Client Accounts.

68. While some of the securities that Toroian allocated to the Client Accounts due to their poor first-day performance eventually turned a profit for the harmed investors, the investors' returns were reduced because Toroian disproportionately allocated to Client Accounts trades that had performed poorly on the first day and disproportionately allocated to Toroian Accounts trades that had performed well on the first day.

69. Toroian knew, or was reckless in not knowing, that she disproportionately allocated favorable trades to the Toroian Accounts and disproportionately allocated unfavorable trades to the Client Accounts.

70. Alternatively, Toroian was negligent in not knowing that she disproportionately allocated profitable trades to the Toroian Accounts and disproportionately allocated non-profitable trades to the Client Accounts.

71. Toroian failed to act reasonably when determining how to allocate trades.

72. Toroian failed to maintain records of how she intended to allocate trades at the time she executed trades in the master trading account.

73. Toroian failed to inform any other Bell Rock employee, or anyone else, of how she intended to allocate trades at the time she executed trades in the master trading account.

74. Upon information and belief, Toroian expected that her clients would not notice the poor first-day performance of the securities she allocated to them because her clients were not focused on first-day performance and did not receive any records or statements that would reflect first-day performance.

75. Certain clients did nevertheless notice that Toroian had apparently allocated unfavorable trades to their Client Accounts, including in instances where the value of the securities Toroian allocated to those clients had dropped shortly after Toroian purchased them. Those clients had not asked Toroian to allocate such poorly-performing trades to their accounts.

Representative Examples

76. The Toroian Accounts and the Client Accounts traded many of the same securities during the Relevant Period.

77. On August 3, 2011, for example, Toroian used the master trading account to execute a series of trades to acquire 15,000 shares of an exchange traded fund called Direxion Large Cap Bull 3X Shares (traded under the ticker “BGU”). BGU’s price dropped by -2.8% before Toroian allocated it, representing a one-day loss in value of approximately \$30,000. Toroian allocated all of the BGU shares she acquired that day to Client Accounts.

78. On August 9, 2011, Toroian used the master account to acquire another 5,000 shares of BGU. BGU’s price dropped by -15.1% before she allocated it, representing a loss in value of approximately \$42,000. Again, Toroian allocated all of the BGU shares she acquired that day to Client Accounts.

79. Just two weeks later, on August 23, 2011, Toroian used the master trading account to acquire another 5,000 shares of BGU. BGU’s price increased by 5.2% before Toroian allocated it that day, representing a gain in value of approximately \$12,500. This time Toroian allocated all of the BGU shares that she had acquired that day to the Toroian Accounts.

80. In another example, on April 16, 2013, Toroian used the master trading account to acquire 4,000 shares of an exchange traded fund called Direxion Daily Gold Miners Bear 3X Shares (traded under the ticker “DUST”). The price of DUST increased by 5.5% before Toroian allocated or sold it. She allocated the entire favorable trade to the Toroian Accounts and sold it as a day trade, netting a profit of approximately \$20,000.

81. Six days later, on April 22, 2013, Toroian used the master trading account to acquire 6,000 shares of DUST. The price of DUST fell by -3.6% before Toroian allocated or sold it. This time she allocated all of the DUST shares she acquired that day to the Client Accounts. The DUST

shares that Toroian acquired on April 22, 2013 had lost approximately \$22,000 in value by the time Toroian allocated them to the Client Accounts.

82. In another example, on the morning of September 17, 2015, Toroian used the master trading account to acquire 20,000 shares of an exchange traded fund called ProShares Ultra New ETF Short Term Futures (traded under the ticker “UVXY”) at an average price of just under \$43 per share. At 4:06pm, she allocated 15,000 shares to a Toroian Account and 5,000 shares to a Client Account. Between 4:11pm and 4:24pm she sold off the 15,000 shares that she had allocated to the Toroian Account at a price of over \$46 per share for a nearly \$50,000 profit. At 4:30pm the same day, she bought another 15,000 shares of UVXY for Client Accounts, but for the increased price of over \$46 per share.

83. Thus, instead of allocating to her clients the 15,000 shares of UVXY that she acquired at under \$43 dollars per share, she allocated those shares to herself for a day trading profit of approximately \$50,000. Within 30 minutes, she bought another 15,000 shares of UVXY for her clients at the higher price of \$46.22 per share.

Trading Around Earnings

84. On dozens of occasions during the Relevant Period, Toroian used the master trading account to purchase the stock of a company on a day the company was scheduled to announce its quarterly earnings after the market closed.

85. On the great majority of occasions on which Toroian made such a trade on an earnings day and the stock price decreased following the earnings announcement, she allocated the entire unfavorable trade to the Client Accounts.

86. Conversely, on the great majority of occasions on which Toroian made such a trade on an earnings day and the stock price increased following the earnings announcement, she allocated trades accounting for all or most of the total combined increased value to the Toroian Accounts.

87. A substantial percentage of all profits, and few of the losses, realized by the Toroian Accounts during the Relevant Period arose from trades Toroian made hours before the issuing company announced earnings, and which she then allocated to the Toroian Accounts after the earnings announcement.

88. For example, Toroian used the master trading account to purchase stock in Apple, Inc. (traded under the ticker “APPL”) on the day leading up to an APPL quarterly earnings announcement on numerous occasions between 2011 and 2014.

89. Four of the 50 best first-day trades Toroian made through the master trading account during the Relevant Period were trades she made in APPL stock on the day of an APPL earnings announcement: January 18, 2011, April 20, 2011, July 19, 2011, and April 23, 2014. Toroian allocated 100% of all four favorable trades to the Toroian Accounts, for a combined gain exceeding \$80,000.

90. Four of the 50 worst first-day trades that Toroian made through the master trading account during the Relevant Period were also trades she made in APPL stock on the day of an APPL earnings announcement: October 18, 2011, October 25, 2012, January 23, 2013, and January 27, 2014. Toroian allocated approximately 80% of the October 18, 2011 unfavorable trade to Client Accounts and 100% of the other three unfavorable trades to Client Accounts. These trades had a collective first-day loss exceeding \$160,000.

D. The Broker Terminated Bell Rock From Its Trading Platform On Suspicion of Cherry Picking

91. In late 2015, the Broker through which Bell Rock executed its trades identified abnormal trading and allocation activity in Bell Rock’s master trading account.

92. The Broker initiated an investigation to determine if Bell Rock was abusing the master trading account by cherry picking.

93. On or about January 8, 2016, representatives from the Broker interviewed Toroian to question her about Bell Rock's block trading and allocation procedures.

94. The Broker terminated its relationship with Bell Rock following its investigation.

95. In a letter dated February 16, 2016, the Broker notified Bell Rock that it was terminating Bell Rock from the Broker's platform as of May 19, 2016 in part due to concerns with trading activity at Bell Rock.

96. In the same February 16, 2016 letter, the Broker informed Bell Rock that it was terminating Bell Rock's access to block trading through the master trading account on its platform effective immediately.

97. Toroian sent a letter to Bell Rock clients, also dated February 16, 2016, stating that Bell Rock had experienced technical challenges with the Broker due to Bell Rock's growth and was negotiating with custodians that offered lower fees and better technology than the Broker.

98. Toroian's February 16, 2016 letter was materially false and misleading because it suggested that Bell Rock—not the Broker—had terminated the relationship. The letter also failed to disclose that the Broker terminated the relationship due to concerns about Bell Rock's trading activity.

99. Bell Rock began using a different broker (the "Second Broker") in 2016.

100. The Second Broker had restrictions on how its master trading accounts could be used that the Broker did not have. In particular, the Second Broker did not allow Toroian to link her personal accounts to the master trading account at the Second Broker. Accordingly, Toroian could not allocate trades placed through the master trading account into her own individual accounts.

101. Toroian substantially curtailed her trading through a master trading account after she lost the ability to preferentially allocate favorable trades to her own account and to avoid unfavorable trades by allocating them to clients.

102. Upon losing the ability to preferentially allocate favorable trades to her own account and to avoid unfavorable trades by allocating them to clients, Toroian also substantially reduced her trading around earnings announcements.

103. Upon losing the ability to preferentially allocate favorable trades to her own account and to avoid unfavorable trades by allocating them to clients, Toroian also substantially reduced how often she engaged in day trading for the Toroian Accounts.

104. The first-day performance of securities Toroian purchased for the Toroian Accounts and the Client Accounts became substantially similar after Toroian lost the ability to preferentially allocate favorable trades to her own account and to avoid unfavorable trades by allocating them to clients.

E. Bell Rock's and Toroian's Misrepresentations

105. A Form ADV is a document filed with the SEC by investment advisers registered with the SEC. The filing consists of two parts: Part 1 contains "check-the-box" information about the firm; and Part 2 is a brochure, in narrative form, which describes key information about the firm, including the types of services the firm provides. An investment adviser's Form ADV must be updated annually and made available to its clients.

106. Bell Rock was required to deliver its Form ADV, Part 2A brochure (the "Brochure") to clients at the time it entered into an advisory contract with them, and to provide clients annually with Bell Rock's current Brochure or a summary of any material changes to its existing Brochure.

107. As Bell Rock's owner, President, Managing Member and CCO, Toroian signed and approved Bell Rock's Brochure.

108. Toroian had ultimate authority for the statements contained in the Form ADV.

109. Bell Rock's Brochure stated at all relevant times that Bell Rock (a) "and its associated persons will not put their interests before your interest"; and (b) "has a fiduciary duty to you to act in your best interest and always place your interests first and foremost."

110. These statements were materially false and misleading because they indicated that Bell Rock and Toroian put clients' interests first and that trades in the master trading account were allocated fairly.

111. Toroian's cherry picking contradicted these representations.

112. There is a substantial likelihood that the false information would be viewed by a reasonable advisory client as significantly altering the total mix of information made available.

113. Toroian knew, or was reckless in not knowing, that Bell Rock's Forms ADV were false and misleading when they claimed that the trading of securities would be allocated fairly and equitably among client accounts.

114. Alternatively, Toroian was negligent in not knowing that Bell Rock's Forms ADV were false and misleading when they claimed that the trading of securities would be allocated fairly and equitably among client accounts.

115. Bell Rock knew, or was reckless in not knowing, that Bell Rock's Forms ADV were false and misleading when they claimed that the trading of securities would be allocated fairly and equitably among client accounts.

116. Alternatively, Bell Rock was negligent in not knowing that Bell Rock's Forms ADV were false and misleading when they claimed that the trading of securities would be allocated fairly and equitably among client accounts.

F. Bell Rock Failed to Adopt and Implement Adequate Compliance Policies

117. During the Relevant Period, Bell Rock's policies and procedures were memorialized in a manual entitled "Written Supervisory Policies and Procedures" (the "Bell Rock Procedures").

118. The Bell Rock Procedures included a section on block trading. It stated, among other things that "[t]he Chief Compliance Officer or the designee should conduct periodic reviews to insure [sic] no accounts are being systematically disadvantaged."

119. Toroian appointed herself to the role of Bell Rock's Chief Compliance Officer and stayed in that role throughout the Relevant Period.

120. Toroian never performed periodic reviews to ensure that no accounts were systematically disadvantaged through cherry picking during the Relevant Period.

121. Toroian never directed anyone else at Bell Rock to perform periodic reviews to ensure that no Bell Rock accounts were systematically disadvantaged through cherry picking during the Relevant Period.

122. No one at Bell Rock performed periodic reviews of Bell Rock's block trading to ensure that no accounts were being systematically disadvantaged through cherry picking during the Relevant Period.

123. Bell Rock did not maintain sufficient historic trading and allocation data from the master trading account for the Chief Compliance Officer or her designee to perform reviews to ensure that no accounts were systematically disadvantaged through cherry picking.

124. Nor did Toroian or any other Bell Rock employee request such data from the Broker at any time during the Relevant Period.

125. Instead, Toroian and her designees only performed random ad hoc reviews of individual trades for consistency with Bell Rock's investment strategy.

126. Bell Rock failed to implement policies designed to detect or prevent cherry picking.

127. Toroian aided and abetted Bell Rock's failure by failing to perform any reviews herself to detect or prevent cherry picking and by failing to instruct any designee to perform any reviews to detect or prevent cherry picking.

128. Toroian aided and abetted Bell Rock's failure by failing to maintain, or obtain from the Broker, historic trading and allocation data that would allow her or a designee to perform reviews to detect or prevent cherry picking.

129. Toroian aided and abetted Bell Rock's failure by herself engaging in improper cherry picking as alleged above.

FIRST CLAIM FOR RELIEF

Fraud in Connection with the Purchase or Sale of Securities

**Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder
(against Defendants Bell Rock and Toroian)**

130. The SEC realleges and incorporates by reference paragraphs 1 through 129 above.

131. By engaging in the conduct described above, Defendants Bell Rock and Toroian, and each of them, directly or indirectly, singly or in concert, in connection with the purchase or sale of securities, and by the use of means or instrumentalities of interstate commerce, of the mails, or of the facilities of a national securities exchange, knowingly or recklessly have: (a) employed one or more devices, schemes, or artifices to defraud; (b) made one or more untrue statements of material fact or omitted to state one or more material facts in order to make the statements made, in light of the circumstances under which they were made, not misleading, and (c) engaged in one or more acts, practices, or courses of business which operated or would operate as a fraud or deceit upon other persons.

132. By reason of the foregoing, Bell Rock and Toroian violated, and unless restrained and enjoined will again violate, Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

SECOND CLAIM FOR RELIEF

Fraud in the Offer or Sale of Securities

**Violation of Section 17(a) of the Securities Act
(against Defendants Bell Rock and Toroian)**

133. The SEC realleges and incorporates by reference paragraphs 1 through 132 above.

134. By engaging in the conduct described above, Defendants Bell Rock and Toroian, and each of them, directly or indirectly, singly or in concert, in the offer or sale of securities, and by the use of means or instruments of transportation or communication in interstate commerce or by use of

the mails (1) knowingly, recklessly, or negligently employed one or more devices, schemes, or artifices to defraud, (2) knowingly, recklessly, or negligently obtained money by means of untrue statements of material fact or omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, and (3) knowingly, recklessly, or negligently engaged in one or more transactions, practices or courses of business which operated or would operate as a fraud or deceit upon the purchaser.

135. By engaging in the conduct described above, Bell Rock and Toroian violated, and unless restrained and enjoined will again violate, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

THIRD CLAIM FOR RELIEF
Fraud by an Investment Adviser

**Violations of Sections 206(1) and 206(2) of the Advisers Act
(against Defendants Bell Rock and Toroian)**

136. The SEC realleges and incorporates by reference paragraphs 1 through 135 above.

137. At all relevant times, Toroian and Bell Rock were investment advisers under Advisers Act Section 202(11), 15 U.S.C. § 80b-2(11).

138. By engaging in the conduct described above, Bell Rock and Toroian, and each of them, directly or indirectly, by use of the mails or means or instrumentalities of interstate commerce: (a) knowingly or recklessly employed one or more devices, schemes or artifices to defraud clients or prospective clients, and (b) knowingly, recklessly, or negligently engaged in one or more transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon clients or prospective clients.

139. By engaging in the conduct described above, Bell Rock and Toroian, and each of them, violated, and unless restrained and enjoined will again violate, Sections 206(1) and (2) of the Advisers Act, 15 U.S.C. §§ 80b-6(1) & 80b-6(2).

FOURTH CLAIM FOR RELIEF

Fraud by an Investment Adviser

**Violations of Sections 206(4) of the Advisers Act and Rule 206(4)-7 thereunder
(against Defendant Bell Rock)**

140. The SEC realleges and incorporates by reference paragraphs 1 through 139 above.

141. Bell Rock failed to adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act, including policies and procedures concerning the use of master or block accounts and the prevention and detection of cherry picking.

142. By engaging in the conduct described above, Bell Rock violated, and unless restrained and enjoined will again violate, Section 206(4) of the Advisers Act [15 U.S.C. § 80b-6(4)] and Rule 206(4)-7 thereunder [17 C.F.R. § 275.206(4)-7].

FIFTH CLAIM FOR RELIEF

Aiding and Abetting Fraud by an Investment Adviser

**Aiding and Abetting Violations of Sections 206(4) of the Advisers Act
and Rule 206(4)-7 thereunder
(Against Defendant Toroian)**

143. The SEC realleges and incorporates by reference paragraphs 1 through 142 above.

144. As alleged above, Bell Rock violated Section 206(4) of the Advisers Act [15 U.S.C. § 80b-6(4)] and Rule 206(4)-7 thereunder [17 C.F.R. § 275.206(4)-7].

145. Toroian knowingly or recklessly provided substantial assistance to, and thereby aided and abetted, Bell Rock's violations.

146. Toroian is therefore liable pursuant to Advisers Act Section 209(f) for aiding and abetting Bell Rock's violations of Advisers Act Section 206(4), and Rule 206(4)-7 thereunder, and unless restrained and enjoined will again aid and abet violations of such provisions, as prohibited by Section 209(f) of the Advisers Act [15 U.S.C. § 80b-9(f)].

PRAYER FOR RELIEF

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

I.

Permanently enjoining defendants Bell Rock and Toroian, and their officers, agents, servants, employees and attorneys, and those persons in active concert or participation with any of them, who receive actual notice of the judgment by personal service or otherwise, and each of them, from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §§80b-6(1) & 80b-6(2)], and Section 206(4) of the Advisers Act [15 U.S.C. § 80b-6(4)] and Rule 206(4)-7 thereunder [17 C.F.R. § 275.206(4)-7].

II.

Ordering Toroian to disgorge all funds received, directly or indirectly, from her illegal conduct, together with prejudgment interest.

III.

Ordering Bell Rock and Toroian 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.

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

Dated: February 25, 2022

Respectfully submitted,

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