

**MARK K. SCHONFELD (MS-2798)**  
**REGIONAL DIRECTOR**  
**Attorney for Plaintiff**  
**SECURITIES AND EXCHANGE COMMISSION**  
**Northeast Regional Office**  
**3 World Financial Center**  
**Room 4300**  
**New York, New York 10281**  
**(212) 336-1020**

**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF NEW YORK**

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SECURITIES AND EXCHANGE COMMISSION, :  
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 **Plaintiff,** :  
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 :  
 **-against-** :  
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 :  
 **PETER J. DAWSON,** :  
 **BMG ADVISORY SERVICES, LTD, and** :  
 **ETHAN THOMAS CO., INC.,** :  
 :  
 **Defendants.** :  
 :  
 :  
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06 Civ. ( )

**COMPLAINT**

Plaintiff Securities and Exchange Commission, for its Complaint against defendants Peter J. Dawson (“Dawson”), BMG Advisory Services, Ltd. (“BMG”) and Ethan Thomas Co., Inc. (“Ethan Thomas”) (collectively the “Defendants”) alleges:

**SUMMARY**

1. The Commission brings this emergency action to halt the misappropriation by the Defendants of more than \$2 million from at least seven investment advisory clients. Dawson, the president and sole shareholder of BMG and Ethan Thomas, targeted primarily elderly investors living on Long Island, and advised these clients to surrender

existing variable annuity policies, mortgage their residences, and transfer the proceeds to Ethan Thomas for Dawson to manage through BMG, his investment advisory firm.

2. In connection with Dawson's advisory services, Dawson made materially false and misleading statements to his clients about their investments and the use of their funds. Dawson promised between a 12 and 15 percent guaranteed return on each investment, and he assured clients that he would arrange to pay their mortgages and/or pay monthly "returns" on the investments. To the extent that the 12 to 15 percent return exceeded the client's mortgage obligation, Dawson promised that excess return would be accrued in the client's account. As recently as October 25, 2006, Dawson (through BMG) assured investors in writing that their accounts contained a "certified balance" of the initial funds entrusted to him plus the guaranteed return.

3. Rather than investing the money as promised, Dawson abused his clients' trust and misappropriated, and is continuing to misappropriate, their funds for his own use. Dawson withdrew over \$100,000 of his clients' funds for his own benefit. At the same time, Dawson failed to make investors' mortgage payments as he had promised. During the past month, because some investors received notices that their mortgages were not being paid, they complained to Dawson, who has since refused to return their calls, attempted suicide and closed BMG's office.

4. By this action, the Commission seeks to terminate this ongoing fraudulent activity, prevent the dissipation of any remaining assets, and compel an accounting of the missing funds.

### **VIOLATIONS**

5. By virtue of the conduct alleged in this Complaint:

- a. Defendants, directly or indirectly, singly or in concert, have engaged and are engaging in acts, practices and course of business that constitute violations of Section 17(a) of the Securities Acts of 1933 (“Securities Act”) [15 U.S.C. § 77q(a)] and Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5]; and
- b. Dawson and BMG, directly or indirectly, singly or in concert, have engaged and are engaging in violations of Section 206(1) and 206(2) of the Investment Advisers Act of 1940 (“Advisers Act”) [15 U.S.C. §§ 80b-6(1) and (2)].

6. Unless Defendants are temporarily restrained and preliminarily and permanently enjoined, they will continue to engage in the acts, practices, and course of business alleged herein, and in acts, practices, and courses of business of a similar type and object.

#### **JURISDICTION AND VENUE**

7. The Commission brings this action pursuant to the authority conferred by Section 20(b) of the Securities Act [15 U.S.C. § 77t(a)], Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)] and Section 209 of the Advisers Act [15 U.S.C. § 80b-9 and 80b-14], seeking a temporary restraining order and preliminary and permanent injunctions, asset freezes, verified accountings, expedited discovery, and an order prohibiting the Defendants from destroying or altering documents. The Commission also seeks a final judgment requiring the Defendants to disgorge any ill-gotten gains and to pay prejudgment interest thereon and ordering the Defendants to pay civil money

penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)], and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9].

8. This Court has jurisdiction over this action pursuant to Sections 22(a) of the Securities Act [15 U.S.C. § 77v(a)], Sections 21(e) and 27 of the Exchange Act [15 U.S.C. §§ 77u(e) and 78aa], and Section 214 of the Advisers Act [15 U.S.C. § 80b-14].

9. Venue lies in this District pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)], Section 27 of the Exchange Act [15 U.S.C. § 78aa], and Section 214 of the Advisers Act [15 U.S.C. § 80b-14]. The Defendants, directly or indirectly, singly or in concert, made use of the means or instruments of transportation or communication in, or the means or instrumentalities of, interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the transactions, acts, practices, and courses of business alleged herein. A substantial part of the events and omissions giving rise to the Commission's claims occurred in the Eastern District of New York, such as: the offices of BMG and Ethan Thomas are located in the Eastern District of New York; the Defendants received and solicited investor funds in this District; and Dawson and several victims reside in this District.

#### **THE DEFENDANTS**

10. **Peter J. Dawson**, age 49 and a resident of Huntington, New York, is, and was at all relevant times, BMG's President and sole shareholder. From August 2004 through October 2005, Dawson was a registered representative with a Commission-registered broker-dealer.

11. **BMG Advisory Services Ltd.** is a private New York corporation with its principal place of business in Uniondale, New York. BMG is registered as a New York State investment adviser. Dawson is BMG's President and sole shareholder.

12. **Ethan Thomas Co., Inc.** is a private New York corporation located at the same address as BMG. Dawson is the sole officer and shareholder of Ethan Thomas.

### **FACTS**

#### **A. The Scheme**

13. Beginning in at least 2004, Dawson began to misappropriate assets of elderly investors, some of whom had been his clients for numerous years. Dawson advised his clients to surrender existing variable annuity policies, mortgage their residences, and transfer the proceeds to one of the Defendants for Dawson to manage.

14. To persuade these clients to take these actions, Dawson made materially false and misleading statements. Dawson promised his clients that they would receive a guaranteed return on their investment of between twelve to fifteen percent. Dawson also stated that he would reimburse the clients for any surrender fees incurred as a result of the surrender of their variable annuity policies, and that he would not charge these clients any fees for managing their funds. Dawson further assured the clients that the returns on their investments would be sufficient to meet their newly-incurred mortgage obligations, and that the amount of returns that exceeded the mortgage obligations would be credited to his clients' accounts.

15. For example, in late 2004, Dawson solicited Investor A, a 64-year old who currently resides in Florida. Dawson recommended that Investor A, who then lived on Long Island and had been Dawson's client for approximately ten years, refinance his

New York home. Dawson advised Investor A to transfer the proceeds from the refinancing (less a portion that Investor A was using as a down payment on a Florida house) to a “special account” at one of the Defendants. Dawson guaranteed Investor A a 15% return on his investment and promised to make the mortgage payments on Investor A’s New York residence from the investment returns of the “special account.” In 2005, when Investor A sold his New York home, Dawson told Investor A to transfer the proceeds from the sale to the Defendants for Dawson to manage. In total, Investor A transferred approximately \$700,000 to the Defendants for Dawson to manage.

16. Similarly, in October 2005, Dawson solicited Investor B – a 68-year old Episcopalian priest who currently resides in North Carolina. Dawson recommended that Investor B liquidate his investment in a variable annuity worth approximately \$200,000 and invest the money with BMG. Dawson promised Investor B a 12% return on his investment. Dawson also promised to credit Investor B any surrender charges he paid as a result of terminating his variable annuity. On Dawson’s instructions, Investor B endorsed a check to BMG for \$180,911.16, representing the value of his variable annuity minus surrender charges.

17. Dawson also made false and misleading statements to Investor C, a legally-blind retired New York City firefighter and Long Island resident who had been Dawson’s client since 2000. In approximately July 2005, Dawson advised Investor C to mortgage his Long Island home and invest the proceeds through Ethan Thomas and BMG. Dawson guaranteed Investor C that his return on investment would exceed the mortgage loan rate. As a result of Dawson’s statements, Investor C obtained a mortgage and invested the \$283,500 with the Defendants.

18. Dawson subsequently arranged for an automatic deduction from Investor C's bank account to fund the mortgage payments. Dawson, through the BMG disbursement account, transferred funds each month to Investor C's account to meet the monthly mortgage obligation. Dawson also periodically disbursed funds to Investor C, telling him that the disbursements represented interest earned on the investment through BMG that exceeded the monthly mortgage payments.

**B. The Scheme Begins to Unravel**

19. Dawson and BMG maintained a chart detailing the monthly mortgage obligations and monthly "returns" that had been promised to each investor. Each month, Dawson transferred funds from an account controlled by BMG to a disbursement account. Dawson then authorized payments from the disbursement account to the various mortgage companies and investors who had been promised a monthly return.

**1. Defendants' Cash Flow Problems**

20. By at least March 2006, Dawson and BMG began to experience cash flow problems. In March 2006, several checks to mortgage companies and investors were returned due to insufficient funds. Similarly, in August 2006, investor funds had been dissipated to the point where the Defendants could no longer pay the monthly "returns" and continue the mortgage payments. Between August 17 and 23, 2006, the bank servicing the disbursement account returned twenty-one checks for insufficient funds, totaling approximately \$172,176.09.

21. Dawson's failure to provide periodic account statements, despite numerous requests by investors, exacerbated the Defendants' cash flow problems, as some of the investors began to demand a return of their funds. For example, despite

numerous requests, Investor B never received monthly account statements documenting his investment. In early 2006 Investor B told Dawson that he needed access to the money he had invested. In April 2006, after several communications with Dawson, Investor B received a \$15,000 cash payment from BMG.

22. Concerned by the delay, Investor B requested that Dawson invest \$100,000 of the remaining \$165,000 initially entrusted to Dawson in an annuity. After several communications and delays, in June 2006, BMG sent \$100,000 to the annuity company to establish an annuity in Investor B's name. However, despite requests by Investor B, the Defendants have not returned the remaining \$65,000 of Investor B's initial investment.

23. In early 2006, Investor D, a 48 year-old New York resident who had invested approximately \$200,000 with Defendants as a result of Dawson's promise of a guaranteed return, similarly requested that Dawson return his funds. Dawson reminded Investor D that one of Dawson's corporations prepared Investor D's tax returns, and implied to Investor D that (unbeknownst to Investor D) the returns had been prepared fraudulently. Dawson warned Investor D that, if Investor D insisted upon a return of the funds, Dawson would report Investor D to the Internal Revenue Service for tax fraud. As a result, Investor D ceased his efforts to reclaim his money.

## **2. Defendants' Continued False Solicitations and Reassurances**

24. To stave off the mounting financial difficulties, Dawson continued to make false and misleading statements to clients, promising to invest their funds and obtain a guaranteed rate of return.



25. In March 2006, Dawson persuaded two clients to invest a total of approximately \$113,000 with the Defendants, thereby temporarily avoiding the cash flow problem caused by the Defendants' obligation to make mortgage payments and monthly "returns."

26. In October 2006, Dawson solicited another client – Investor E, an 85-year old New York resident. Dawson recommended that Investor E surrender existing variable annuity products totaling \$100,000 and deposit the money with Ethan Thomas. Dawson told Investor E that Ethan Thomas was a money market fund and guaranteed that Investor E would receive approximately \$500 per month in dividends. As a result of Dawson's statements, in late October 2006, Investor E surrendered her existing variable annuities and used the proceeds to fund a \$100,000 check to Ethan Thomas. Dawson went to Investor E's house on November 2, 2006 to personally receive the check, which was subsequently deposited into an Ethan Thomas bank account.

27. Dawson also continued to falsely assure his clients that their funds had not been dissipated. For example, on October 25, 2006, Investor A received a facsimile on the letterhead of BMG. The letter stated that "your certified balance of funds as of March 24, 2006 are \$884,522.14 (Eight Hundred Eighty Four Thousand, Five Hundred and Twenty Two Dollars and Fourteen Cents). The funds are managed by BMG Advisory Services, Ltd."

### **3. Dawson Enriched Himself at His Clients' Expense**

28. At the same time that he was delaying the return of Investor B's investment, effectively refusing to return Investor D's funds, and failing to make his clients' mortgage payments, Dawson paid himself and his wife. Between March 20,

2006 and April 4, 2006, Dawson authorized payments totaling \$17,378.08 to himself and his wife from the BMG disbursement account. Between May 23, 2006 and August 10, 2006, Dawson authorized BMG to pay himself an additional \$53,326, to pay his wife \$68,015, and to pay entities they controlled \$7,500.

**D. Dawson Attempted Suicide and Closed BMG's Offices**

29. By November 2006, several investors had received notices that their mortgages were not being paid. As a result, Investors A, B, C, D and E called Dawson inquiring about their unpaid mortgages and /or the status of their investments. On November 7, 2006, Dawson attempted to commit suicide. Thereafter, he was briefly hospitalized and released on approximately November 17, 2006.

30. Since November 7, 2006, BMG's offices have been closed. Dawson has not returned calls placed by clients inquiring about the status of funds they entrusted to the Defendants.

**FIRST CLAIM FOR RELIEF**

**Violations of Section 17(a) of the Securities Act  
[All Defendants]**

31. The Commission realleges and incorporates by reference the allegations contained in paragraphs 1 through 30, above.

32. The Defendants, directly and indirectly, singly and in concert, knowingly or recklessly, by the use of the means or instruments of transportation or communication in, and the means or instrumentalities of, interstate commerce, or by the use of the mails, in the offer or sale of securities: (a) have employed, are employing, or are about to employ devices, schemes or artifices to defraud; (b) have obtained, are obtaining, or are about to obtain money or property 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 (c) have engaged, are engaging, or are about to engage in transactions, acts, practices and courses of business which operated or would operate as a fraud or deceit upon purchasers of securities or other persons.

33. By reason of the foregoing, the Defendants, directly or indirectly, singly or in concert, have violated, are violating, and unless enjoined will again violate, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

### **SECOND CLAIM FOR RELIEF**

#### **Violations of Section 10(b) of the Exchange Act and Rule 10b-5 [All Defendants]**

34. The Commission realleges and incorporates by reference the allegations contained in paragraphs 1 through 30, above.

35. The Defendants, directly or indirectly, singly or in concert, knowingly or recklessly, by use of the means or instrumentalities of interstate commerce, or of the mails, or of the facilities of a national securities exchange, in connection with the purchase and sale of securities: (a) have employed, are employing, or are about to employ, devices, schemes and artifices to defraud; (b) have made, are making, or are about to make untrue statements of material fact, and have omitted, are omitting, or are about to omit to state material facts necessary in order to make statements made, in light of the circumstances under which they were made, not misleading; or (c) have engaged, are engaging, or are about to engage in transactions, acts, practices and courses of business which operated or would operate as a fraud or deceit upon purchasers of securities.

36. By reason of foregoing, the Defendants, directly or indirectly, singly or in concert, have violated, are violating, and unless enjoined will again violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. §240.10b-5].

### **THIRD CLAIM FOR RELIEF**

#### **Violations of Sections 206(1) and 206(2) of the Advisers Act [Defendants Dawson and BMG]**

37. The Commission realleges and incorporates by reference the allegations contained in paragraphs 1 through 30, above.

38. Defendants Dawson and BMG at all relevant times were investment advisers within the meaning of Section 202(11) of the Advisers Act [15 U.S.C. § 80b-2(11)].

39. Defendants Dawson and BMG directly or indirectly, singly or in concert, knowingly or recklessly, through use of the mails or any means or instrumentality of interstate commerce, while acting as investment advisers within the meaning of Section 202(11) of the Advisers Act [15 U.S.C. § 80b-2(11)]: (a) have employed, are employing, or are about to employ devices, schemes, and artifices to defraud any client or prospective client; or (b) have engaged, are engaging, or are about to engage in acts, practices, or courses of business with operates as a fraud or deceit upon any client or prospective client.

40. By reason of the foregoing, Defendants Dawson and BMG violated Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. § 80b-6(1) and (2)], and unless enjoined will continue to violate Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §§ 80b-6(1) and (2)].

### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff respectfully requests that the Court grant the following relief:

**I.**

An Order temporarily and preliminarily, and Final Judgments permanently, restraining and enjoining the Defendants, their agents, servants, employees and attorneys and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from future violations of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)]; and Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5].

**II.**

An Order temporarily and preliminarily, and Final Judgments permanently restraining and enjoining each of the Defendants, their agents, servants, employees and attorneys and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from future violations of Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §§ 80b-6(1) and (2)].

**III.**

An Order directing the Defendants, and each of their financial and brokerage institutions, agents, servants, employees, attorneys-in-fact, and those persons in active concert or participation with them who receive actual notice of such Order by personal service, facsimile service, or otherwise, to hold and retain within their control, and otherwise prevent, any withdrawal, transfer, pledge, encumbrance, assignment, dissipation, concealment or other disposal of any assets, funds, or other property

(including money, real or personal property, securities, commodities, choses in action or other property of any kind whatsoever) of, held by, or under the control of Dawson, BMG or Ethan Thomas, whether held in their names or for their direct or indirect beneficial interest wherever situated.

#### IV.

An Order directing Dawson, BMG and Ethan Thomas to file with this Court and serve upon the Commission, within five (5) business days, or within such extension of time as the Commission agrees in writing or as otherwise ordered by the Court, a verified written accounting, signed by each such Defendant, and under penalty of perjury, setting forth:

- (1) All assets, liabilities and property currently held, directly or indirectly, by or for the benefit of each such Defendant, including, without limitation, bank accounts, brokerage accounts, investments, business interests, loans, lines of credit, and real and personal property wherever situated, describing each asset and liability, its current location and amount;
- (2) All money, property, assets and income received by each such Defendant for his direct or indirect benefit, at any time from January 1, 2004 through the date of such accounting, describing the source, amount, disposition and current location of each of the items listed;
- (3) The names and last known addresses of all bailees, debtors, and other persons and entities that currently are holding the assets, funds or property of each such Defendant; and
- (4) All assets, funds, securities and real or personal property received by each

such Defendant, or any other person controlled by them, from persons who provided money to the Defendants in connection with the offer, purchase or sale of any securities from January 1, 2004 to the date of the accounting, and the disposition of such assets, funds, securities, real or personal property.

**V.**

An Order permitting expedited discovery.

**VI.**

A Final Judgment ordering Defendants to disgorge their ill-gotten gains and to pay prejudgment interest thereon.

**VII.**

An Order enjoining and restraining each of the Defendants, and any person or entity acting at their direction or on their behalf, from destroying, altering, concealing, or otherwise interfering with the access of the Commission to relevant documents, books and records.

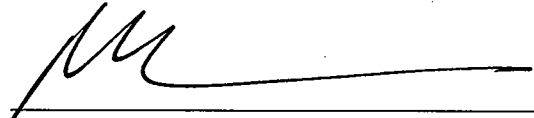
**VIII.**

A Final Judgment ordering the Defendants to pay civil money penalties pursuant to Section 20(d) of the Securities Act and Section 21(d)(3) of the Exchange Act, and Defendants Dawson and BMG to pay civil penalties pursuant to Section 209(e) of the Advisers Act.

**IX.**

Such other and further relief as the Court deems appropriate.

Dated: New York, New York  
November 29, 2006



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MARK K. SCHONFELD (MS-2798)

Attorney for Plaintiff  
SECURITIES AND EXCHANGE  
COMMISSION  
Northeast Regional Office  
3 World Financial Center  
Room 4300  
New York, New York 10281  
Tel: (212) 336-1020

***Of Counsel:***

Helene Glotzer  
Gerald Gross  
Nancy Brown  
James Farrell  
Daphna Abrams