

commit such violations again.

3. The Commission seeks a judgment from the Court: (a) enjoining Defendants from engaging in future violations of the antifraud provisions of the federal securities laws; (b) ordering Defendants to disgorge, with prejudgment interest, their ill-gotten gains as a result of the actions described herein; and (c) ordering Defendants to pay a civil money penalty.

JURISDICTION AND VENUE

4. The Court has jurisdiction over this action under Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Section 27 of the Exchange Act [15 U.S.C. § 78aa].

5. Defendants, directly or indirectly, used the means or instruments of interstate commerce, the mails, or the facilities of a national securities exchange in connection with the acts described herein.

6. Venue is proper under Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Section 27 of the Exchange Act [15 U.S.C. § 78aa] because certain of the transactions, acts, practices, and courses of business occurred within this judicial district.

DEFENDANTS

7. **FRANCESCO RUSCIANO**, 27, resides in Stamford, Connecticut. Prior to forming Ponta Negra Group, LLC in 2007, Rusciano was employed by UBS Securities from 2003 to 2006. Rusciano currently faces charges by the Federal Reserve System that he engaged in illegal trading and banking practices and schemed to defraud UBS by concealing substantial losses.

8. **PONTA NEGRA FUND I, LLC**, is a Delaware limited liability company whose assets are traded by its managing member, Ponta Negra Group, LLC. Ponta Negra Fund I, LLC's business is located at Rusciano's residence in Stamford, Connecticut.

9. **PONTA NEGRA OFFSHORE FUND I, LTD.**, is an offshore hedge fund located in George Town, Grand Cayman. Francesco Rusciano is the Director of the fund and makes all trading decisions.

10. **PONTA NEGRA GROUP, LLC**, is a Delaware limited liability company. Francesco Rusciano is the principal of Ponta Negra Group and makes all trading decisions. Ponta Negra Group's business is located at Rusciano's residence in Stamford, Connecticut. During the relevant period, Ponta Negra Group claims to have managed over \$100 million of assets, and further claims to have achieved an annualized return on investment of 36.36%.

11. Collectively, the three Ponta Negra entities are referred to as "Ponta Negra."

STATEMENT OF FACTS

A. Background

12. Rusciano formed Ponta Negra in January 2007. Ponta Negra offers and sells interests in hedge funds under Regulation 506 of the Securities Exchange Act of 1933. Prospective investors are required to make a minimum investment of \$50,000. This minimum may be reduced at Rusciano's discretion. Ponta Negra trades its assets in the Foreign Exchange markets. Its primary investment objective is to seek significant long-term and short-term appreciation.

13. Ponta Negra Group serves as the Managing Member of the Ponta Negra hedge funds. Rusciano is Ponta Negra's principal manager and makes all trading decisions. Ponta Negra Group is responsible for overseeing the Ponta Negra hedge funds' business affairs. It has absolute authority, power and discretion to manage and control the business, affairs and properties of the funds, and to make all decisions regarding those matters and to perform any and all other acts or activities customary or incident to the management of the funds' business. Ponta Negra Group executes trades for the funds through two brokers – Peregrine Financial Group and Marex Financial Group.

14. Ponta Negra began soliciting investors through a private placement memorandum on approximately January 24, 2007. Since at least September 1, 2007, Ponta Negra Fund, through its selling agents, including Puritan Securities, Inc., sold interests in the fund to at least 15 investors for a total investment of \$31,730,000.

B. Misrepresentations and Omissions of Material Facts

1. Forged Documents

15. As part of its due diligence on Ponta Negra, Puritan Securities asked Rusciano to verify Ponta Negra's assets under management or investments or both. In response, Rusciano produced a Peregrine Financial brokerage account statement dated January 11, 2008. The statement reflected an account balance for Ponta Negra Fund I of \$42,967,338.90.

16. Rusciano forged and produced this document to a Puritan Securities registered representative so that Puritan would rely on it in soliciting prospective investors for Ponta Negra. The correct balance for the Ponta Negra Fund I account at

Peregrine as of January 11, 2008 was \$2,967,338.90, precisely \$40,000,000 less than the amount represented by Rusciano. Thus, with a single keystroke, Rusciano fabricated a \$40,000,000 fiction.

17. Similarly, on August 5, 2008, Rusciano produced to another Puritan Securities registered representative a Peregrine account statement dated August 1, 2008. The August 1, 2008 statement reflected an “equity” balance for Ponta Negra Fund, LLC of more \$64 million.

18. Rusciano altered the August 1, 2008 account statement by, among other things, whitening out the word “excess” in the “excess equity” field on the account statement. Excess equity is generally defined as the total cash held in the brokerage account plus the maximum margin available.

19. Thus, by altering the document to reflect “equity” rather than “excess equity,” Rusciano misrepresented that the Ponta Negra Fund account at Peregrine had in excess of \$64 million. In reality, the Ponta Negra Fund had less than \$7 million. Thus, by whitening out the word “excess,” Rusciano created \$57 million from whole cloth.

2. *False Returns*

20. In its marketing materials, Ponta Negra misrepresented its monthly and yearly performance results. With regard to monthly returns, Rusciano falsely represented that Ponta Negra had achieved consistently positive monthly results throughout 2007 and 2008. In fact, from March 2007 through March 2009, the Ponta Negra Fund lost money at Peregrine Financial in 10 of the 24 months.

21. With regard to yearly results, Rusciano misrepresented that Ponta Negra earned total annual returns of 42.99% for 2007, 24.85% for 2008, and 6.14% for the first

two months of 2009. In reality, the account suffered substantial trading losses in 2007, had modest profits in 2008, and again sustained losses in 2009.

3. Misrepresentation of Assets Under Management

22. On April 21, 2009, Rusciano sent an email to a registered representative at Puritan Securities, detailing the Ponta Negra Funds' assets under management. According to the e-mail, the Ponta Negra Funds had \$59 million in assets under management as of February 2009.

23. According to Ponta Negra's Policies and Procedures Manual for Internal Systems, investors' funds are initially sent to a Ponta Negra bank account at JP Morgan and subsequently transferred to accounts belonging to one of Ponta Negra's two brokers – Peregrine or Marex. The Policies and Procedures manual states in part:

Wires are sent to Ponta Negra Fund I, LLC business banking checking account at J.P. Morgan Chase. All subscription and redemption monies plus all fees must go through this account. From there, after all expenses are paid, the remaining monies are sent via internal transfer to a segregated J.P. Morgan Chase account of the executing brokers (Peregrine Financial Group or Marex Financial Group) where monies are used as collateral for the Fund's trading activities.

24. Ponta Negra Funds' accounts at Peregrine currently have less than \$10 million in assets. Moreover, the maximum amount of assets held by the Ponta Negra Funds at Peregrine was approximately \$10 million. Ponta Negra's accounts at Marex currently have less than \$900,000 in assets, and never had more than \$2 million in assets. As evidenced by Ponta Negra's account balances at Peregrine and Marex, the hedge funds have never had more than \$12 million under management.

4. Failure to Disclose Material Facts

25. Rusciano worked for UBS securities from 2003 to June 1, 2006. He voluntarily resigned after UBS discovered that Rusciano misreported and late reported to the firm certain Brazilian bond transactions and non-deliverable forwards on Brazilian currency. UBS reported that these transactions caused false profits to appear on Rusciano's profit and loss statement.

26. Rusciano touted his trading experience at UBS in the Ponta Negra offering materials. But he never disclosed to potential investors the circumstances of his resignation from UBS or the misdeeds he committed there.

27. In January 2009, the Board of Governors of the Federal Reserve System (the "Fed") initiated proceedings against Rusciano in connection with his resignation from UBS. The Fed alleged that in his capacity as a trader, Rusciano: (a) "engaged in violations of the law, unsafe and unsound banking practices, and breaches of fiduciary duties" in connection with his trading activity; (b) "knowingly and intentionally concealed substantial losses" from UBS; and (c) "engaged in a scheme to defraud UBS" by concealing information material to its business. Despite touting his UBS experience, Rusciano never disclosed these allegations, or their underlying factual predicate, to investors.

FIRST CLAIM

FRAUD IN CONNECTION WITH THE PURCHASE OR SALE OF SECURITIES

Violations of Exchange Act Section 10(b) and Exchange Act Rule 10b-5

28. The Commission realleges paragraphs 1 through 27.

29. Defendants, with scienter, by use of the means or instrumentalities of interstate commerce or of the mails, in connection with the purchase or sale of securities: (a) employed devices, schemes, or artifices to defraud; (b) made 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/or (c) engaged in acts, practices or courses of business that operated or would operate as a fraud or deceit.

30. By reason of the actions alleged herein, Defendants violated Section 10(b) of the Securities Exchange Act of 1934 [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5].

SECOND CLAIM

FRAUD IN THE OFFER OR SALE OF SECURITIES

Violations of Section 17(a) of the Securities Act

31. The Commission realleges paragraphs 1 through 27.

32. Defendants, with scienter, by use of the means or instrumentalities of interstate commerce or of the mails, in the offer or sale of securities: (a) employed devices, schemes or artifices to defraud; (b) obtained 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/or (c) engaged in acts, practices or courses of business which operated or would operate as a fraud or deceit upon the purchasers of the securities offered and sold by Defendants.

33. By reason of the actions alleged herein, Defendants violated Section 17(a)

of the Securities Act [15 U.S.C. § 77q(a)].

REQUEST FOR RELIEF

For these reasons, the Commission respectfully requests that the Court enter a judgment:

(i) finding that Defendants violated the antifraud provisions of the federal securities laws as alleged herein;

(ii) permanently enjoining Defendants from violating 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 thereunder [17 C.F.R. § 240.10b-5];

(iii) ordering Defendants to disgorge the losses avoided as a result of the actions alleged herein and to pay prejudgment interest thereon;

(iv) ordering Defendants to pay a civil monetary penalty under Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)]; and

(v) granting such other relief as this Court may deem just and proper.

Dated: April 27, 2009

Respectfully submitted,

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