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

**UNITED STATES SECURITIES AND
EXCHANGE COMMISSION,**

Plaintiff,

v.

SUYUN GU and YONG LEE,

Defendants.

21-cv-17578

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff United States Securities and Exchange Commission (the “SEC” or “Commission”), 100 F Street, N.E., Washington, DC 20549, for its Complaint against Defendants Suyun Gu (“Gu”), whose last known address is 220 21st Street, Miami Beach, Florida 33139, and Yong Lee (“Lee”), whose last known address is 5409 Calle Mayor, Torrance, California 90505 (collectively “Defendants”), alleges as follows:

SUMMARY

1. From February to April 2021, Gu and Lee perpetrated a fraudulent options-trading scheme to collectively obtain over \$1 million in rebates from U.S. national security exchanges through thousands of “wash trades” – simultaneous or near-simultaneous purchases and sales of securities without an actual change in beneficial ownership.

2. Gu's and Lee's scheme involved trading options – contracts that give the holder the right, but not the obligation to buy or sell shares of an underlying security at a specified price on or before a given date – to take advantage of the “maker-taker” fee model that options exchanges use to attract order flow and increase liquidity. Under the model, non-marketable orders are eligible for a rebate paid by the options exchange (“make rebate”). Marketable orders that execute against those pre-existing orders then pay a fee when they are executed (a “take fee”). The rebates are based on the number of option contracts traded by the order. Under most maker-taker fee models, the take fee is slightly larger than the make rebate, with the options exchange keeping the difference between the two amounts.

3. Broker-dealers that direct orders to exchanges pay the take fees and collect the make rebates. Some retail broker-dealers connect directly or indirectly to exchanges and pass take fees and make rebates back to their underlying customer accounts. Other broker-dealers have order flow arrangements whereby they send their order flow to wholesale market makers rather than routing orders directly to exchanges. If the wholesale market makers route the underlying orders to exchanges, they will pay take fees or collect make rebates for the underlying orders. The wholesale market makers usually do not pass the take fees or make rebates back to the retail broker-dealers, which in turn do not pass anything back to their underlying customers. In other words, retail customers using some brokerage accounts collect make rebates and pay take fees, while retail customers using other broker-dealers do not.

4. To effectuate their scheme, Gu and Lee used accounts at a broker-dealer that passes back to clients make rebates collected for providing liquidity by placing non-marketable limit orders for out-of-the-money options – options that would be unprofitable to exercise at the time of the trading. Gu and Lee then used accounts at a different brokerage firm that does not pass along take fees to place orders on the opposite side of the market for the same put options,

completing the wash trade. For example, if they used one account that passes back make rebates to place a sell order, they would use a second account that does not pass back take fees to place a buy order for the same put options. These two orders would be routed to the same exchange and execute against each other. Gu and Lee would then collect the make rebate for that trade in the first account and avoid paying the take fee in the second account.

5. Gu and Lee would then often reverse the trade using the same placement strategy to collect additional rebates. For example, if they first sold the options from the account that passed back make rebates to the account that does not charge take fees, they would then buy back the same options by first placing an order in the account that passes back rebates, completing another wash trade. Placing the trades in that order ensured Gu and Lee would receive rebates in one account and avoid fees in the other.

6. Defendants first focused their wash-trading scheme on trading out-of-the-money put options in so-called “meme stocks” – a group of stocks that were actively promoted on internet-based social media platforms and message boards and experienced significant increases in trading volume and price in early 2021. Gu and Lee believed that other market participants’ interest in buying “meme stocks” and related price increases would make put options on those stocks less attractive, making it easier for Gu and Lee to trade with themselves.

7. To conceal the scheme, Gu – the mastermind of the scheme who executed the vast majority of the wash trades and collected the bulk of the rebates – traded in the brokerage accounts of friends and family, used virtual private servers to mask his identity, and misrepresented his trading strategy to the broker-dealers through which he executed the wash trades.

8. Gu and Lee effectuated this scheme during two time periods. The first round of trading occurred between February 19, 2021 and March 4, 2021, when the broker-dealers they

used for this trading detected the conduct and froze their accounts. Lee stopped trading at this point. Gu, however, shifted his activity to different accounts and did a second round of trading from March 25, 2021 through April 15, 2021.

9. Over the course of the scheme, Gu executed approximately 11,430 wash trades, which represented approximately 2.9 million option contracts traded in numerous underlying securities. Gu received at least \$1,370,000 in rebates as a result of the scheme, resulting in a net gain of at least \$668,671 after commissions and fees.

10. Lee executed approximately 2,360 wash trades, which represented approximately 405,000 options contracts traded in numerous underlying securities. Lee received at least \$174,000 in rebates as a result of the scheme, resulting in a net gain of at least \$51,334 after commissions and fees.

11. As a result of the conduct alleged herein, Defendants violated, and unless restrained and enjoined will continue to violate, Section 17(a) of the Securities Act 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 thereunder [17 C.F.R. § 240.10b-5]. Indeed, Gu has informed the SEC staff that he may continue his wash trading scheme in the future.

12. The Commission seeks a permanent injunction against Defendants, enjoining them from engaging in the transactions, acts, practices, and courses of business alleged in this Complaint, disgorgement of all ill-gotten gains from the unlawful conduct set forth in this Complaint, together with prejudgment interest, civil penalties pursuant to 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 such other relief as the Court may deem appropriate.

JURISDICTION AND VENUE

13. The Commission brings this action pursuant to authority conferred upon it by Sections 20(b) and 20(d) of the Securities Act [15 U.S.C. §§ 77t(b) and 77t(d)] and Sections 21(d) and 21(e) of the Exchange Act [15 U.S.C. §§ 78u(d) and 78u(e)].

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

15. In connection with the conduct described in this Complaint, Gu and Lee, directly or indirectly, made use of the mails or means or instruments of transportation or communication, or of facilities of a national securities exchange, in interstate commerce.

16. Venue is proper in this District pursuant to 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]. Gu and Lee transacted business in this District, and certain of the acts, practices, transactions, and courses of business constituting violations of the securities laws alleged in this Complaint occurred within this District. For example, most of the wash trades occurred on Exchange A, which is owned by a company located in New Jersey and which has its production servers located in New Jersey. In addition, Gu used an account at Broker-dealer C, which is located in New Jersey.

RELEVANT SECURITIES TRADING TERMS AND CONCEPTS

17. A “put option” is a type of contract that gives the owner the right, but not the obligation, to sell 100 shares of an underlying security at a specified price within a specified time. The “strike price” is the price per share at which the option owner can sell the underlying securities if he chooses to exercise the option. The “expiration date” is the last day that an option contract is valid. If the option owner chooses not to exercise the option (in other words, to not sell 100 shares of the underlying stock), the option expires and becomes worthless, and the

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