

**COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE SECRETARY OF THE COMMONWEALTH
SECURITIES DIVISION
ONE ASHBURTON PLACE, ROOM 1701
BOSTON, MASSACHUSETTS 02108**

IN THE MATTER OF:)

MC2 CAPITAL CANADIAN OPPORTUNITIES)
FUND, LLC,)
MC2 CANADA CAPITAL MANAGEMENT, LLC,)
MC2 CAPITAL PARTNERS, LLC,)
MC2 CAPITAL VALUE PARTNERS, LLC,)
MC2 CAPITAL MANAGEMENT, LLC, and)
YASUNA MURAKAMI,)

RESPONDENTS.)

Docket No. E-2016-0117

SECURITIES DIVISION
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ADMINISTRATIVE COMPLAINT

I. PRELIMINARY STATEMENT

The Enforcement Section of the Massachusetts Securities Division of the Office of the Secretary of the Commonwealth (the “Enforcement Section” and the “Division,” respectively) files this Administrative Complaint (the “Complaint”) to commence an adjudicatory proceeding against MC2 Capital Canadian Opportunities Fund, LLC, MC2 Canada Capital Management, LLC, MC2 Capital Management, LLC, MC2 Capital Partners, LLC, MC2 Capital Value Partners, LLC, (collectively, the “MC2 Entities”) and Yasuna Murakami (collectively, with the MC2 Entities, the “Respondents”) for violations of MASS. GEN. LAWS ch. 110A, the Massachusetts Uniform Securities Act (the “Act”), and 950 MASS. CODE REGS. 10.00-14.413 (the “Regulations”). The Enforcement Section alleges that Respondents made material misrepresentations and omissions,

misappropriated investor funds, and operated an illegal Ponzi scheme, in violation of the Act and Regulations.

The Enforcement Section seeks an order: 1) finding as fact the allegations set forth below; 2) finding that all sanctions and remedies detailed herein are in the public interest and necessary for the protection of Massachusetts investors; 3) requiring Respondents to permanently cease and desist from further conduct in violation of the Act and Regulations in the Commonwealth; 4) requiring Respondents to provide an accounting for all losses attributable to the alleged wrongdoing; 5) requiring Respondents to pay restitution to fairly compensate investors for all losses attributable to the alleged wrongdoing; 6) requiring Respondents to provide an accounting for all profits and direct or indirect compensation and remuneration received by Respondents in connection with the alleged wrongdoing; 7) requiring Respondents to disgorge all profits and direct or indirect compensation and remuneration received by Respondents in connection with the alleged wrongdoing; 8) imposing an administrative fine on Respondents in an amount and on such terms and conditions as the Director or Presiding Officer may determine; 9) permanently barring Respondents from associating with or registering in the Commonwealth as a broker-dealer, broker-dealer agent, or as a partner, officer, director, or control person of a broker-dealer; 10) permanently barring Respondents from associating with or registering in the Commonwealth with any state-registered investment adviser, Securities and Exchange Commission registered investment adviser, and investment adviser excluded from the definition of investment adviser; 11) permanently barring Respondents from associating with or registering in the Commonwealth with any issuer of securities in the Commonwealth; and 12) taking any such further actions which may be necessary or appropriate in the public interest for the protection of Massachusetts investors.

II. SUMMARY

Over approximately nine and a half years, Respondent Yasuna Murakami, through various entities that he controlled (collectively, the "MC2 Entities"), established and operated three separate hedge funds: the Partners Fund in 2007, the Value Fund in 2008, and the Canadian Fund in 2011 (the "Funds"). Devastating early trading losses in the Partners Fund, along with routine misappropriation of investor money, ultimately led Murakami and certain MC2 Entities to operate the Canadian Fund as a Ponzi scheme from approximately May 2011 to the present. Between the three Funds, Murakami and the various MC2 Entities have taken in at least \$15,280,000 from at least forty-seven investors. Since 2011, Murakami has returned less than \$6,000,000 to his investors, while misappropriating millions of dollars for his own gain. Murakami has used investor money to finance his own lavish lifestyle, including purchases of an automobile, high-end shopping trips, luxury hotel stays, and thousand-dollar restaurant bills.

Murakami and his partner in MC2 ("MC2 Associate") opened the Partners Fund in 2007, marketing the fund primarily to friends and family. Between September 5, 2007 and October 20, 2008, the fund took in over \$3,500,000 million from at least nine investors. The Partners Fund purportedly had a value-oriented investment strategy and focused on small- and mid-cap U.S. stocks. In reality, the Partners Fund appeared to have no discernible strategy and lost nearly \$600,000 in the first three months of trading. In late 2008, as a result of Murakami's trading, the Partners Fund had a negative cash balance of nearly \$2,400,000. The exorbitant negative cash balance resulted in a margin call, decimating the Partners Fund with an almost-total loss of investors' equity.

Despite his substantial trading losses in the Partners Fund, Murakami and MC2 Associate opened the Value Fund in August of 2008 to mimic the purported strategy of the Partners Fund

using money from outside investors and institutional investors. However, the Value Fund failed to attract significant investment, taking in only \$700,000 from three known investors over an approximately 26-month period beginning in November 2008. Between the date of initial investment and September 2011, Murakami withdrew over \$643,000 from the Value Fund trading account and deposited those funds in bank accounts in the name of at least one MC2 Entity. Despite an investor presentation containing representations of investment gains, the Value Fund sustained net losses in 2008, 2009, and through September 30, 2010.

Over the life of the Partners Fund and the Value Fund, Murakami and the MC2 Entities failed to inform investors of the losses in both funds. In fact, Murakami and the MC2 Entities actively worked to conceal these losses from investors by soliciting additional investments and providing false or misleading performance numbers indicating that the Partners Fund and Value Fund were doing well.

In 2009, Murakami found his potential saving grace: a successful Canadian fund manager called Donville Kent Asset Management Inc. (“DKAM”). In 2008, DKAM had opened its Capital Ideas Fund, which was subsequently awarded “Best New Fund in Canada” at the 2009 Alternative IQ Canadian Hedge Fund Awards. According to MC2 Associate, who was involved in the discussions with DKAM, the Canadian fund manager was “having some success in Canada and they wanted to potentially expand in the U.S.[.]” In May 2011, DKAM partnered with Murakami and MC2 Canada Capital Management, LLC (“MC2 Canada”). Murakami and MC2 Canada marketed the fund as being managed by DKAM consistent with the firm’s Capital Ideas Fund strategy. DKAM’s involvement in and management of the Canadian Fund was crucial to many investors’ decisions to invest in the Canadian Fund. For example, one large investor (“Institutional Investor”) contacted DKAM directly, after reading about the success of

the firm and its President and CEO, Jason Donville, in the Canadian market. DKAM referred Institutional Investor to Murakami and the MC2 Entities, and Institutional Investor ultimately invested approximately \$2,000,000 in the Canadian Fund based primarily on DKAM's management of the fund.

Over the lifetime of the Canadian Fund, Murakami and the MC2 Entities took in approximately \$10,500,000 from at least 40 known investors. However, of the initial \$250,000 deposited into the Canadian Fund trading account, \$170,000 was Value Fund investor money and \$80,000 was a portion of one investor's intended investment in the Canadian Fund, the remainder of which was diverted to bank accounts in the name of MC2 Capital Management LLC and Murakami himself. Murakami continued to misappropriate Canadian Fund investor money for his own personal use, and largely used Canadian Fund investor money to pay promised returns or redemptions to Partners Fund and Value Fund investors.

In early 2015, DKAM notified Murakami and the relevant MC2 Entities that it would be terminating its relationship with them and the Canadian Fund, effective in or around May 2015. Although DKAM's involvement in and management of the Canadian Fund was crucial to many investors' decisions to invest, Murakami failed to inform Canadian Fund investors at large of DKAM's termination. One group of six individual investors ("Investor Group") was not informed of DKAM's termination until the fall of 2015, in a phone call with Murakami. As of December 28, 2016, Institutional Investor remained unaware that DKAM had terminated its relationship with Murakami and the MC2 Entities. Although DKAM had initiated the termination of its relationship with the Canadian Fund in February 2015, Murakami provided investors with KPMG audited financial statements, dated June 19, 2015, stating that DKAM was still involved with the Canadian Fund. When asked by the Enforcement Section whether he had

concealed DKAM's termination from Canadian Fund investors because he knew that investors might withdraw from the Canadian Fund if so informed, Murakami invoked his privilege against self-incrimination under the 5th Amendment of the United States Constitution and Article 12 of the Massachusetts Declaration of Rights.

As a result of his misappropriation of investor funds and Ponzi payments to earlier investors, Murakami has been consistently unable to complete timely redemptions for Canadian Fund investors. Additionally, as recently as December 2, 2016, Murakami continues to deceive existing Canadian Fund investors, misrepresenting that their investments in the Canadian Fund are safe and continue to grow.

III. JURISDICTION AND AUTHORITY

1. As provided for by the Act, the Division has jurisdiction over matters relating to securities pursuant to chapter 110A of Massachusetts General Laws.
2. The Enforcement Section brings this action pursuant to the authority conferred upon the Division by Section 407A, and 414 of the Act, wherein the Division has the authority to conduct an adjudicatory proceeding to enforce the provisions of the Act and the Regulations.
3. This proceeding is brought in accordance with Sections 101, 407A, and 414 of the Act and its Regulations.
4. The Enforcement Section reserves the right to amend this Complaint and/or bring additional administrative complaints to reflect information developed during the current and ongoing investigation.

IV. RELEVANT TIME PERIOD

5. Except as otherwise expressly stated, the conduct described herein occurred during the approximate time period of January 1, 2007 to present (the "Relevant Time Period").

V. RESPONDENTS

6. MC2 Capital Canadian Opportunities Fund, LLC (the "Canadian Fund") is a limited liability company organized on May 18, 2011 in the State of Delaware. The Canadian Fund has a last known principal address of One Broadway, 14th Floor, Cambridge, MA 02142.
7. MC2 Canada Capital Management, LLC ("MC2 Canada") is a limited liability company organized on May 18, 2011 in the Commonwealth of Massachusetts. MC2 Canada has a last known principal address of One Broadway, 14th Floor, Cambridge, MA 02142. MC2 Canada was dissolved by order on June 30, 2015. MC2 Canada is the Managing Member of the Canadian Fund. The Managers of MC2 Canada are Yasuna Murakami and MC2 Associate.
8. MC2 Capital Partners, LLC (the "Partners Fund") is a limited liability company organized on August 17, 2007 in the State of Delaware. The Partners Fund has a last known principal address of One Broadway, 14th Floor, Cambridge, MA 02142.
9. MC2 Capital Value Partners, LLC (the "Value Fund") is a limited liability company organized on August 28, 2008 in the State of Delaware. The Value Fund has a last known principal address of One Broadway, 14th Floor, Cambridge, MA 02142.
10. MC2 Capital Management, LLC ("MC2 Capital") is a limited liability company organized on August 17, 2007 in the Commonwealth of Massachusetts. MC2 Capital has a last known principal address of One Broadway, 14th Floor, Cambridge, MA 02142.

MC2 Capital was dissolved by order on June 30, 2013. MC2 Capital is the Managing Member of both the Partners Fund and the Value Fund. The sole Manager of MC2 Capital is Yasuna Murakami.

11. Yasuna Murakami (“Murakami”) is an individual with a last known address in the Commonwealth of Massachusetts. Murakami has never been registered with the Division, the United States Securities and Exchange Commission (“SEC”), or the Financial Industry Regulatory Authority (“FINRA”).

VI. OTHER RELEVANT INDIVIDUAL AND ENTITY

12. MC2 Associate is an individual with a last known address in Massachusetts. MC2 Associate was registered in Massachusetts from January 24, 2007 to July 9, 2007 as a broker-dealer agent of Bear, Stearns & Co., Inc. MC2 Associate has been registered with Massachusetts since May 22, 2015 as an investment adviser representative. MC2 Associate held the titles of “General Partner” and “Portfolio Manager” with MC2 Capital.
13. Donville Kent Asset Management Inc. (“DKAM”) is an entity organized in Canada, with a principal address of 123 Front Street West, Suite 902, Toronto, Ontario, Canada M5J2M2.

VII. STATEMENT OF FACTS

A. BACKGROUND

14. MC2 Associate met Murakami while the two were students at Suffolk University’s Sawyer Business School.
15. From approximately January 24, 2007 through July 9, 2007 MC2 Associate worked at Bear, Stearns & Co., Inc. as a “Marketing Assistant.” In his role at Bear Stearns, MC2 Associate “spent time getting familiar with the industry.”

16. MC2 Associate testified to the Division that in or around 2007, Murakami “wanted to start a [hedge] fund.”
17. MC2 Associate testified that Murakami told him “that he had a lot of experience in the hedge fund space, both doing trading and setting up operations.”
18. On information and belief, Murakami had no professional experience trading securities prior to forming MC2 Capital.
19. When asked by the Enforcement Section whether he had any formal training trading securities, Murakami invoked his privilege against self-incrimination under the 5th Amendment of the United States Constitution and Article 12 of the Massachusetts Declaration of Rights.
20. In July 2007, MC2 Associate “left [Bear Stearns] to join Yasuna Murakami to do marketing and sales for a hedge fund.”

B. MC2 CAPITAL PARTNERS (THE PARTNERS FUND)

21. On or around August 17, 2007, MC2 Associate and Murakami established MC2 Capital as a Massachusetts limited liability company.
22. MC2 Capital’s Certificate of Organization identifies Murakami and MC2 Associate as the sole Managers of MC2 Capital.
23. According to MC2 Capital’s Certificate of Organization, the business of MC2 Capital was threefold: (i) to provide investment management, advisory and other business services, directly or indirectly through one (1) or more entities, (ii) to acquire, hold, finance, sell, exchange and otherwise deal with and in interests in business and investment entities and (iii) to engage in any other business or activity to which a limited

liability company may lawfully engage and which is determined by the Manager to be in the best interest of the Company.

24. On August 17, 2007, the Partners Fund was formed as a limited liability company in the State of Delaware.
25. At the time of formation, MC2 Capital was the Managing Member of the Partners Fund.
26. On information and belief, MC2 Capital has been the Managing Member of the Partners Fund at all times during the Relevant Time Period.
27. According to MC2 Associate, the Partners Fund was initially marketed primarily to friends and family.
28. In fact, according to brokerage records, at least \$2,600,000 was invested by MC2 Associate and members of his family.
29. MC2 Capital made all investment decisions in the Partners Fund.
30. On information and belief, Murakami was the final decision maker for all investment decisions by MC2 Capital.
31. When asked by the Enforcement Section whether he exercised sole control over investment decisions for the Partners Fund, Murakami invoked his privilege against self-incrimination under the 5th Amendment of the United States Constitution and Article 12 of the Massachusetts Declaration of Rights.
32. According to MC2 Associate, the Partners Fund was supposed to focus primarily on small to medium cap U.S. stocks, with an emphasis on value-oriented investments.
33. However, the Partners Fund appears to have had no discernible investment strategy, with significant holdings in high volatility industries such as mining and oil and gas.

34. According to brokerage records, a total of \$3,680,580.21 was invested in the Partners Fund by at least eight investors between September 5, 2007 and October 20, 2008.
35. Partners Fund investor funds were pooled in a single trading account.
36. The fortunes of Partners Fund investors were interwoven with and dependent upon the efforts and successes of MC2 Capital and Murakami.
37. Partners Fund investors expected to realize a profit from their investment in the Partners Fund.
38. Murakami, individually and through MC2 Capital, exercised exclusive control over the Partners Fund trading account and entered and executed the vast majority of trades in the Partners Fund during the Relevant Time Period.
39. Investors relied on the efforts of Murakami and MC2 Capital in order to generate returns on their investments.
 - i. **Murakami's trading resulted in consistent losses in the Partners Fund.**
40. The Partners Fund incurred significant trading losses beginning in its first four months of operation in 2007.
41. More specifically, between September 21, 2007 and December 20, 2007, the Partners Fund realized over \$595,000 in net trading losses.
42. Between the initial investment on September 5, 2007 and July 31, 2008, a total of \$3,180,580.21 was invested in the Partners Fund.
43. As of July 31, 2008, after only \$170,230 in withdrawals, the Partners Fund held only \$1,875,153.03 in net equity.
44. According to brokerage records, the Partners Fund sustained a net loss of approximately \$1,100,000 in expenses and trading losses during this period.

45. On information and belief, Murakami failed to inform investors of the 2007 and early 2008 trading losses in the Partners Fund.
46. On information and belief, Murakami concealed the 2007 and early 2008 trading losses in the Partners Fund from Partners Fund investors.
47. When asked by the Enforcement Section whether he had misrepresented the performance of the Partners Fund to any investor in order to conceal trading losses in the Partners Fund, Murakami invoked his privilege against self-incrimination under the 5th Amendment of the United States Constitution and Article 12 of the Massachusetts Declaration of Rights.
48. Between September 21, 2007 and August 31, 2011, at least eight of Murakami's trades in the Partners Fund trading account resulted in realized losses in excess of \$100,000.
49. Between September 21, 2007 and August 31, 2011, at least twenty-one of Murakami's trades in the Partners Fund trading account resulted in realized losses in excess of \$50,000.
- ii. **Murakami's trading resulted in almost-total loss of investor equity in the Partners Fund.**
50. On information and belief, Murakami traded on margin in the Partners Fund, using leverage to potentially realize greater returns.¹
51. As of August 31, 2008, the Partners Fund trading account carried a negative "Cash & Cash Equivalents" balance of over \$900,000.

¹ "Margin' is borrowing money from your broker to buy a stock and using your investment as collateral. Investors generally use margin to increase their purchasing power so that they can own more stock without fully paying for it. But **margin exposes investors to the potential for higher losses.**" United States Securities & Exchange Commission, *Margin: Borrowing Money to Pay for Stocks* (Apr. 17, 2009), available at <https://www.sec.gov/investor/pubs/margin.htm>. (Emphasis added).

52. On information and belief, the majority of this negative "Cash & Cash Equivalents" balance consisted of a margin loan used to purchase securities in the account.
53. By September 30, 2008, the Partners Fund trading account's negative "Cash & Cash Equivalents" balance had grown to over \$2,300,000.
54. On information and belief, the Partners Fund's substantial negative cash balance resulted in a margin call.
55. Pursuant to the margin call, over \$2,400,000 in securities held in the Partners Fund were liquidated in order to satisfy the margin loan.
56. The margin call resulted in an almost-total loss of investor equity in the Partners Fund, with less than \$200,000 of investor equity remaining in the trading account.
57. On information and belief, Murakami failed to inform investors of the substantial trading losses through September and October 2008, and concealed these losses from Partners Fund investors.
58. By August 31, 2011, the Partners Fund contained only \$33,577.51 in net equity.
59. Between October 3, 2007 and August 23, 2011, Murakami transferred over \$1,000,000 from the Partners Fund trading account to bank accounts in the name of the Partners Fund and MC2 Capital.
60. Between September 21, 2007 and August 31, 2011, Murakami's trading in the Partners Fund resulted in net realized losses of approximately \$2,100,000.

C. MC2 CAPITAL VALUE PARTNERS (THE VALUE FUND)

61. According to MC2 Associate, Murakami decided to start another fund because he "wanted to have a vehicle that he could market and focus on institutional investors."

62. On August 28, 2008, the Value Fund was formed as a limited liability company in the State of Delaware.
63. At the time of formation of the Value Fund, MC2 Capital was the Managing Member of the Value Fund.
64. On information and belief, MC2 Capital has been the Managing Member of the Value Fund at all times during the Relevant Time Period.
65. The Value Fund purportedly employed the same trading strategy as the Partners Fund, but was marketed to investors outside of Murakami and MC2 Associate's friends and family.
66. MC2 Capital made all investment decisions in the Value Fund.
67. On information and belief, Murakami was the final decision maker for all investment decisions by MC2 Capital in the Value Fund.
68. When asked by the Enforcement Section whether he exercised sole control over investment decisions for the Value Fund, Murakami invoked his privilege against self-incrimination under the 5th Amendment of the United States Constitution and Article 12 of the Massachusetts Declaration of Rights.
69. According to brokerage records, between November 10, 2008 and January 11, 2011, \$700,000 was invested into the Value Fund by three investors.
70. Investor funds for the Value Fund were pooled in a single trading account.
71. The fortunes of Value Fund investors were interwoven with and dependent upon the efforts and successes of MC2 Capital and Murakami.
72. Investors expected to realize a profit from their investment in the Value Fund.

73. Investors relied on the efforts of Murakami and MC2 Capital in order to generate returns on their investments.
74. Between November 10, 2008 and September 20, 2011, \$643,438.19 was transferred from the Value Fund trading account to bank accounts in the name of at least one MC2 entity.
75. Of the \$643,438.19 transferred from the Value Fund trading account during this period, Murakami distributed none to any Value Fund investor.
76. In an email sent to a potential investor by MC2 Associate on October 29, 2010, MC2 Associate and Murakami provided a prospective investor with copies of “the Value Fund’s most recent investor presentation and quarterly letter[.]” The email was signed, “Best Regards, [MC2 Associate] & Yasuna.” In MC2 Associate’s signature block, he identifies himself as General Partner & Portfolio Manager of MC2 Capital.
77. The investor presentation attached to the October 29, 2010 email refers to the Value Fund’s “Exceptional Track Record,” citing returns of 0.86% in 2008, 10.29% in 2009, and 6.31% year-to-date through the third quarter of 2010.
78. However, brokerage records for the Value Fund trading account indicate that the Value Fund incurred net losses in 2008, 2009, and year-to-date through September 30, 2010.

D. MC2 CAPITAL CANADIAN OPPORTUNITIES FUND (THE CANADIAN FUND)

79. Despite poor results in the Partners Fund and Value Fund, Murakami and MC2 Associate continued to form new funds to attract new investor money.

i. Formation and structure of the Canadian Fund

80. In or around 2009, MC2 Capital, Murakami, and MC2 Associate began discussions with DKAM, a successful asset management firm and fund manager in Canada.

81. According to MC2 Associate, DKAM was “having some success in Canada and they wanted to potentially expand in the U.S. . . . but they needed someone that could do some sales and marketing for it and they wanted someone that . . . could, you know, run the back office and work with the service providers.”
82. On or around May 18, 2011, MC2 Associate and Murakami established MC2 Canada as a Massachusetts limited liability company.
83. MC2 Canada’s Certificate of Organization identifies Murakami and MC2 Associate as the sole Managers of MC2 Capital.
84. Pursuant to the MC2 Canada Operating Agreement, DKAM was a member of MC2 Canada and owned 70% of the Class B Units in the LLC.
85. On information and belief, DKAM’s Membership interest in MC2 Canada entitled it to 70% of all fees generated by the Canadian Fund.
86. According to brokerage records, DKAM received at least \$242,876.26 from the Canadian Fund between October 21, 2014 and May 18, 2015.
87. On May 18, 2011, the Canadian Fund was formed as a limited liability company in the State of Delaware.
88. At the time of formation of the Canadian Fund, MC2 Canada was the Managing Member of the Canadian Fund.
89. On information and belief, MC2 Canada has been the Managing Member of the Canadian Fund at all times during the Relevant Time Period.
90. On information and belief, DKAM was the final decision maker for all investment decisions by MC2 Capital.

91. The fortunes of Canadian Fund investors were interwoven with and dependent upon the efforts and successes of MC2 Canada and DKAM.
92. Investors expected to realize a profit from their investment in the Canadian Fund.
93. Investors relied on the efforts of MC2 Canada and DKAM in order to generate returns on their investments.
94. Over the lifetime of the Canadian Fund, Murakami took in at least \$10,000,000 from at least thirty-eight individuals who intended the money to be invested in the Canadian Fund.
95. But over the same period, only approximately \$8,289,000 was transferred to the Canadian Fund's trading account.

ii. **The initial capital deposits into the Canadian Fund trading account included Value Fund investor money.**

96. Murakami used investor funds from the Value Fund as the initial deposit to capitalize the Canadian Fund trading account.
97. On May 31, 2011, Murakami caused two deposits to be made into the Canadian Fund trading account from a Value Fund bank account, totaling \$250,000. This amount constituted the initial capital deposit in the Canadian Fund trading account.
98. \$170,000 of the May 31, 2011 deposits into the Canadian Fund trading account was Value Fund investor money from the Value Fund trading account.
99. When asked by the Enforcement Section whether he ever notified any Value Fund investor that any portion of their investment was going to be invested in the Canadian Fund, Murakami invoked his privilege against self-incrimination under the 5th Amendment of the United States Constitution and Article 12 of the Massachusetts Declaration of Rights.

100. As of January 6, 2017, at least one Value Fund investor remained unaware that Value Fund money had been commingled in the Canadian Fund trading account.

iii. DKAM managed the Canadian Fund and referred investors.

101. According to a private placement memorandum provided to at least one investor in 2012 (the “Initial PPM”), “[t]he [Canadian] Fund’s investment objective is to mimic the investment strategy and investments of the [DKAM] Capital Ideas Fund (the ‘[DKAM] Fund’).”

102. The Initial PPM also states that, “[MC2 Canada] has entered into a Consulting Agreement with [DKAM] providing [MC2 Canada] with the right to access and use the actual investments and investment strategies of the [DKAM] Fund.”

103. On information and belief, DKAM entered into an agreement with MC2 Canada, under which DKAM would make investment decisions and place the trades in the Canadian Fund through a service provider chosen by MC2 Canada.

104. On information and belief, DKAM’s Capital Ideas Fund (the “[DKAM] Fund” referenced in the Initial Prospectus) was the recipient of an award for Best New Fund in Canada at the 2009 Canadian Hedge Fund Awards.

105. According to DKAM’s website, the DKAM Fund had returns in excess of 88% in 2009 and in excess of 22% in 2010, net of fees and expenses, and experienced consistent annual growth through 2014.

106. DKAM has been recognized in financial media as “[o]ne of the top-performing fund managers in Canada[.]”²

² The Motley Fool, *Steal These Ideas From One of Canada’s Top Fund Managers* (May 7, 2014), available at <http://www.fool.ca/2014/05/07/steal-these-ideas-from-one-of-canadas-top-fund-managers/>.

107. DKAM's initial and continued involvement in the Canadian Fund was a significant factor in certain investors' decisions to invest in the Canadian Fund.
108. DKAM President and CEO Jason Donville was personally involved in soliciting certain investors to the Canadian Fund.
109. Jason Donville participated in telephone calls and in-person meetings in order to present the Canadian Fund to prospective American investors.
110. At least two United States-based investors invested in the Canadian Fund after being referred by DKAM.
111. In one instance near the end of 2011, a Massachusetts-based institutional investor ("Institutional Investor") contacted DKAM after learning of the success of the DKAM Capital Ideas Fund through research on the Canadian marketplace.
112. Members of the DKAM team, including Jason Donville, met with Institutional Investor and referred him to Murakami and MC2 Canada.
113. Primarily as a result of DKAM's involvement with the Canadian Fund, Institutional Investor ultimately invested \$2,000,000 total in the Canadian Fund in 2012 and 2013.
- iv. **DKAM terminated its relationship with MC2 Canada and the Canadian Fund in early 2015, and Murakami and MC2 Canada fail to inform Canadian Fund investors.**
114. In or around February 2015, DKAM notified Murakami via letter that it was terminating its relationship with MC2 Canada and the Canadian Fund.
115. On information and belief, the letter indicated that DKAM's relationship with MC2 Canada and the Canadian Fund would be terminated in May 2015.
116. On information and belief, as of May 31, 2015, DKAM was no longer involved with the Canadian Fund.

117. When asked by the Enforcement Section whether he began trading in the Canadian Fund after DKAM's termination, Murakami invoked his privilege against self-incrimination under the 5th Amendment of the United States Constitution and Article 12 of the Massachusetts Declaration of Rights.
118. When asked by the Enforcement Section whether he had disclosed DKAM's termination to any Canadian Fund investor between February 2015 and May 2015, Murakami invoked his privilege against self-incrimination under the 5th Amendment of the United States Constitution and Article 12 of the Massachusetts Declaration of Rights.
119. When asked by the Enforcement Section whether he had disclosed DKAM's termination to any Canadian Fund investor at any time after May 2015, Murakami invoked his privilege against self-incrimination under the 5th Amendment of the United States Constitution and Article 12 of the Massachusetts Declaration of Rights.
120. When asked by the Enforcement Section whether he had concealed DKAM's termination from Canadian Fund investors because he knew that if he informed them of the termination they might want to take their money out of the Canadian Fund, Murakami invoked his privilege against self-incrimination under the 5th Amendment of the United States Constitution and Article 12 of the Massachusetts Declaration of Rights.
121. Murakami and MC2 Canada failed to inform Institutional Investor that DKAM was no longer involved with the Canadian Fund.
122. On information and belief, Murakami modified the Canadian Fund private placement memorandum in response to DKAM's termination.
123. On or around July 15, 2016, Murakami provided a modified Canadian Fund private placement memorandum (the "Modified PPM") to a Massachusetts-registered broker-

dealer in connection with his application to open a new trading account for the Canadian Fund.

124. According to the Modified PPM, the role that had been occupied by DKAM was now being filled by another Canadian asset management firm, Forge First Asset Management Inc.
125. Specifically, the Modified PPM represented that “The [Canadian] Fund’s investment objective is to mimic the investment strategy and investments of the Forge First Asset Management Inc. Capital Ideas Fund (the ‘Forge First Fund’).”
126. According to Forge First Asset Management, there is no such fund as the Forge First Asset Management Inc. Capital Ideas Fund.
127. The Modified PPM further represented that “[MC2 Canada] has entered into a Consulting Agreement with Forge First Asset Management providing [MC2 Canada] with the right to access and use the actual investments and investment strategies of the Forge First Fund.”
128. Neither Murakami nor any of the MC2 Entities ever had any formal relationship with Forge First Asset Management.
129. When asked by the Enforcement Section whether he had provided a copy of the Modified PPM to any potential investor, Murakami invoked his privilege against self-incrimination under the 5th Amendment of the United States Constitution and Article 12 of the Massachusetts Declaration of Rights.

E. **MURAKAMI, MC2 CAPITAL, AND MC2 CANADA OPERATED A PONZI SCHEME AND ROUTINELY MISAPPROPRIATED INVESTOR FUNDS**

130. In total, across all three funds, Murakami has taken in investments of over \$15,280,000.
131. As of December 19, 2016, the combined value of all Partners, Value and Canadian Fund brokerage accounts known to the Enforcement Section was \$12,826.95.
132. On or around December 2, 2016, Murakami represented to Institutional Investor that the current value of his investment in the Canadian Fund was \$4,532,233.68.
133. As of November 30, 2016, the combined value of all bank accounts known to the Enforcement Section in the name of any of the MC2 Entities totaled only \$5,826.20.
134. On information and belief, since 2007 Murakami has routinely misappropriated investor funds for personal use.
135. In addition, as a result of his substantial trading losses, Murakami has operated the Canadian Fund as a Ponzi scheme, using new investments in the Canadian Fund to pay earlier Canadian Fund investors, as well as earlier investors in the Partners Fund and Value Fund.

i. **Murakami misappropriated investor funds.**

136. Beginning as early as 2011, Murakami has used Canadian Fund investor money to finance his personal expenses and lifestyle.
137. For example, in January 2011, Investor One provided a check to Murakami for \$100,000, which Investor One intended to be invested in the Canadian Fund.
138. Murakami did not deposit the check until May 24, 2011, at which time he deposited the check into a Partners Fund bank account.
139. On May 26, 2011, Murakami transferred only \$80,000 of Investor One's investment from the Partners Fund bank account to the Value Fund bank account.

140. The same day, Murakami deposited \$15,000 of Investor One's investment into a MC2 Capital bank account, and \$5,000 of Investor One's investment into a bank account in the name of Yasuna J. Murakami.
141. Later, in December 2011, another investor made a transfer of approximately \$125,000 to a Canadian Fund bank account.
142. The Canadian Fund bank account had an initial balance of \$41.00 before receiving the investor's deposit.
143. Over the next two days, Murakami transferred a total of \$51,100 from the Canadian Fund bank account to his personal checking account, routed through other intermediary bank accounts, in increments of less than \$10,000.
144. Over the same two-day period, Murakami paid out over \$54,000 from his personal checking account. Murakami's purchases included a \$13,050 American Express card payment, wires to a foreign bank account held in his name, and a \$1,648.96 payment to a Beacon Hill liquor store, among others.
145. In another example, on May 15, 2012, Murakami received a wire deposit of \$1,000,000 from Institutional Investor into a Canadian Fund bank account.
146. On May 23, 2012, Murakami received an additional deposit of \$50,000 from a different investor, Investor Two, into the same Canadian Fund bank account.
147. The Canadian Fund bank account had an initial balance of only \$964.63 prior to receiving Institutional Investor's wire deposit.
148. Both Institutional Investor and Investor Two believed that Murakami would transfer their deposits to the Canadian Fund brokerage account, where it would be managed by DKAM, per the terms of the Canadian Fund's private placement memorandum.

149. In fact, Murakami transferred only \$828,000 of Institutional Investor and Investor Two's deposits to the Canadian Fund's brokerage account.
150. Over a sixteen-day period following the receipt of Institutional Investor's initial \$1,000,000 deposit, Murakami transferred \$146,000 from the Canadian Fund bank account to his personal checking account.
151. The Canadian Fund bank account received only \$800 of other deposits during this time.
152. Over the same period, Murakami paid out over \$132,000 from his personal checking account. Murakami's expenses included charges from Nordstrom, Saks Fifth Avenue, a luxury Montreal hotel, and a \$39,200 wire transfer to a specialty used car dealership.
153. On May 15, 2012, Murakami's personal checking account had an initial balance of \$6,108.27. Between May 15 and May 31, 2012, the account received only \$6,925 in additional deposits not traceable to Institutional Investor and Investor Two.
154. On information and belief, Murakami similarly used other Canadian Fund investors' money for his own personal expenses and lifestyle.
155. The amount of investor money that Murakami used to finance his personal lifestyle and spending habits was far in excess of the amount to which he was entitled as fees.
156. On information and belief, Murakami also withdrew money from the Canadian Fund's trading account as needed to finance his personal expenses.
157. Over the last seven months alone, Murakami has paid over \$250,000 to American Express using funds withdrawn from the Canadian Fund trading account.
158. Since January 2011 Murakami has received deposits from investors totaling \$4,611,128.16 in several bank accounts held in the name of various MC2 entities.

159. Murakami transferred only \$1,993,000 of these funds from the various MC2 entities' bank accounts to any MC2 entity trading account.
- ii. **Murakami and the MC2 Entities operated a Ponzi scheme.**
160. Murakami operated the Canadian Fund as a Ponzi scheme, using new money invested in the Canadian Fund to pay returns to previous investors in the Partners, Value, and Canadian Funds.
161. For example, sometime on or around August 2013, Investor One approached Murakami seeking the return of funds that Investor One had invested in the Value and Canadian Funds.
162. Murakami told Investor One that the Canadian Fund was about to receive a significant new investment, and asked Investor One to delay his redemption request until after the investment had been made.
163. On August 23, 2013, the Canadian Fund account had an opening balance of \$793.94.
164. On August 23, 2013, Institutional Investor wired \$1,000,000 to a Canadian Fund bank account.
165. Also on August 23, 2013, after receiving Institutional Investor's \$1,000,000 deposit, Murakami transferred \$300,000 from the Canadian Fund account to a Value Fund bank account, and \$700,000 to a MC2 Capital bank account.
166. On August 23, 2013, the MC2 Capital bank account had an initial balance of \$13,785.04 before receiving the \$700,000 transfer of Institutional Investor's money.
167. Between August 23, 2013 and September 23, 2013, the MC2 Capital bank account received less than \$5,000 in additional deposits.

168. During that time, of the \$1,000,000 that Institutional Investor wired to the Canadian Fund bank account, Murakami transferred only \$200,000 to the Canadian Fund trading account.
169. During that same period, Murakami paid out tens of thousands of dollars from the MC2 Capital bank account, including \$16,000 paid to a Somerville bicycle store, \$10,750 in American Express bill payments, and over \$3,500 to the Plaza Hotel in New York City, New York.
170. On September 12, 2013, Murakami paid \$100,000 from the MC2 Capital bank account to Investor One.
171. Murakami represented to Investor One that the \$100,000 check was the partial return of Investor One's investment in the Canadian and Value Funds.
172. In fact, Investor One's partial return was paid from funds that Institutional Investor contributed for investment in the Canadian Fund.
173. On August 23, 2013, the Value Fund bank account had an initial balance of \$13,619.54 before receiving the \$300,000 transfer of Institutional Investor's money.
174. Between August 23, 2013 and December 2, 2013, Murakami made twenty-eight transfers totaling \$242,050 from the Value Fund bank account to his personal checking account.
175. The Value Fund bank account received no other deposits during this time.
176. During that same time period, Murakami transferred an additional \$35,400 from the Value Fund bank account to a checking account held jointly by Murakami and his wife.
177. In another instance, on May 14, 2014, Murakami transferred \$475,000 by wire from the Canadian Fund trading account to a Canadian Fund bank account held with bank.

178. The Canadian Fund bank account had an initial balance of \$230 before receiving the incoming \$475,000 wire.
179. On May 30, 2014, Murakami transferred \$300,000 from the Canadian Fund bank account to a MC2 Capital bank account. The MC2 Capital bank account had an initial balance of \$1,658.46 before receiving the online transfer.
180. Later that day, Murakami wired \$160,000 from the MC2 Capital bank account to Investor Three.
181. Investor Three was an early investor in the Value Fund, but had never made any investment in the Canadian Fund.
182. Murakami represented to Investor Three that the \$160,000 wire transfer from the MC2 Capital bank account represented the partial return of Investor Three's investment in the Value Fund.
183. In fact, Investor Three's \$160,000 redemption came from funds that had been invested by others in the Canadian Fund.
- iii. Murakami made material misrepresentations to investors regarding the performance of the Canadian Fund and his inability to pay requested redemptions.**
184. Murakami has been consistently unable to complete timely redemptions for Canadian Fund investors.
185. Additionally, Murakami continues to represent to Canadian Fund investors that their investments in the Canadian Fund are safe, and continue to grow.
186. For example, Murakami provided a letter dated December 2, 2016 to Institutional Investor purportedly showing Institutional Investor's balance in the MC2 Capital Canadian Opportunities Fund as of November 30, 2016.

187. According to the December 2, 2016 letter, Institutional Investor had a capital account valued at \$4,532,233.68, after experiencing year-to-date gains of 18.70%.
188. Trading accounts and bank accounts for the MC2 Entities combined do not show sufficient holdings to substantiate the balance represented on the December 2, 2016 letter.
189. In addition to Institutional Investor's alleged holdings of over \$4,500,000, a number of other investors in the Partner, Value, and Canadian Funds still believe that they have millions in capital invested with Murakami.
190. Upon information and belief, Murakami and the MC2 entities do not have sufficient funds or holdings to repay initial investor capital contributions or the purported gains.
191. As such, a number of investors have been unable to redeem their interests in the MC2 Entities, despite repeated requests to Murakami.
192. On November 21, 2016, a group of six individual investors (collectively, "Investor Group") filed a civil lawsuit against Murakami, MC2 Canada, MC2 Capital, and the Canadian Fund as a result of being unable to withdraw investments.³
193. The six investors comprising Investor Group invested a total of \$830,000 in the Canadian Fund between November 11, 2013 and January 10, 2014.
194. Beginning in mid-2015, Investor Group began to have concerns with inconsistencies and the deteriorating quality of fund administration, and decided to withdraw their investments.
195. Between April 28, 2016 and April 29, 2016, all Investor Group investors submitted withdrawal forms to Murakami.

³ See, Civil Action No. 1684CV03594 Smith, Richard L vs. MC2 Capital Canadian Opportunities Fund LLC

196. Over the ensuing months, despite repeated requests for the withdrawals, Murakami failed to process the withdrawals and missed multiple self-imposed withdrawal deadlines.
197. At one point, in July 2015, Murakami indicated to one Investor Group investor that his funds were being held in escrow at BTIG and that MG Stover was the third party administrator for the Canadian Fund.
198. Murakami provided five of the Investor Group investors with purported capital account statements from BTIG dated September 30, 2016.
199. The statements provided by Murakami are false.
200. An email from BTIG's head of compliance noted that, "[...] MC2 was an account with BTIG but transferred to Etrade in November 2011 (note that MC2 did not have an account in the title of the Canadian Opportunity fund [...])"
201. Similarly, MG Stover did not have a relationship with the Canadian Fund and Murakami in July 2016.
202. Other investors interviewed by the Enforcement Section recounted similar difficulties obtaining redemptions.
203. While some investors were ultimately able to obtain at least partial redemptions, the redemptions took extended periods of time accompanied by a myriad of excuses from Murakami.
204. Upon information and belief, certain investors across the Partners, Value, and Canadian Funds have not received any redemptions or return of initial capital.

F. OVERALL RESULTS OF MURAKAMI'S PONZI/MISAPPROPRIATION

- 205. Since 2007, Murakami has taken in at least \$15,287,708.37 from investors in the Partners Fund, Value Fund, and Canadian Fund combined.
- 206. Since January 2011, Murakami has taken in at least \$10,500,000 intended as investments in the Canadian Fund.
- 207. Over the lifetime of the Canadian Fund, only \$8,289,000 was ever transferred to the Fund's brokerage account.
- 208. Since 2011, Murakami has returned only approximately \$5,731,000 to investors in the Partners, Value, and Canadian Funds combined.
- 209. Between January 2011 and present, Murakami took in over \$4,500,000 in investor funds to bank accounts held in the name of various MC2 entities.
- 210. Over the same period, Murakami transferred only \$1,993,000 from the various MC2 Entities' bank account to any Canadian Fund, Value Fund, or Partners Fund trading account.

VIII. VIOLATIONS OF LAW

A. COUNT I – Violation of MASS. GEN. LAWS ch. 110A, § 101

- 211. Section 101 of the Act provides:

It is unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly

- (1) to employ any device, scheme, or artifice to defraud,
- (2) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, or

(3) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

MASS. GEN. LAWS ch. 110A, § 101.

212. The Enforcement Section realleges and incorporates the allegations of paragraphs 1 through 210 above.

213. The conduct of Respondents, as described above, constitutes a violation of Mass. Gen. Laws ch. 110A, § 101.

IX. STATUTORY BASIS FOR RELIEF

Section 407A of the Act provides, in pertinent part:

(a) If the secretary determines, after notice and opportunity for hearing, that any person has engaged in or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule or order issued thereunder, he may order such person to cease and desist from such unlawful act or practice and may take such affirmative action, including the imposition of an administrative fine, the issuance of an order for an accounting, disgorgement or rescission or any other such relief as in his judgment may be necessary to carry out the purposes of [the Act].

MASS. GEN. LAWS ch. 110A, § 407A.

X. PUBLIC INTEREST

For any and all of the reasons set forth above, it is in the public interest and will protect Massachusetts investors for the Director to enter an order finding that such “action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this chapter [MASS. GEN. LAWS ch. 110A].”

XI. RELIEF REQUESTED

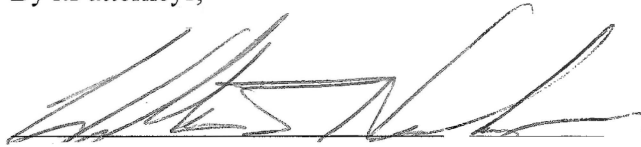
The Enforcement Section of the Division requests that an order be entered:

- A. Finding as fact all allegations set forth in paragraphs 1 through 210, inclusive of the Complaint;
- B. Finding that all the sanctions and remedies detailed herein are in the public interest and necessary for the protection of Massachusetts investors;
- C. Requiring Respondents to permanently cease and desist from all conduct in violation of the Act and Regulations in the Commonwealth;
- D. Requiring Respondents to provide an accounting for all losses attributable to the alleged wrongdoing;
- E. Requiring Respondents to pay restitution to fairly compensate investors for all losses attributable to the alleged wrongdoing;
- F. Requiring Respondents to provide an accounting for all profits and direct or indirect compensation and remuneration received by Respondents in connection with the alleged wrongdoing;
- G. Requiring Respondents to disgorge all profits and direct or indirect compensation and remuneration received by Respondents in connection with the alleged wrongdoing;
- H. Imposing an administrative fine on Respondents in an amount and upon such terms and conditions as the Director or Presiding Officer may determine;
- I. Permanently barring Respondents from associating with or registering in the Commonwealth as a broker-dealer, broker-dealer agent, or as a partner, officer, director, or control person of a broker-dealer;

- J. Permanently barring Respondents from associating with or registering in the Commonwealth with any state-registered investment adviser, Securities and Exchange Commission registered investment adviser, and investment adviser excluded from the definition of investment adviser;
- K. Permanently barring Respondents from associating with or registering in the Commonwealth with any issuer of securities in the Commonwealth; and
- L. Taking any such further action which may be in the public interest and necessary and appropriate for the protection of Massachusetts investors.

**MASSACHUSETTS SECURITIES DIVISION
ENFORCEMENT SECTION**

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Dated: January 18, 2017