

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

)	
IN THE MATTER OF:)	
)	
RAYMOND K. MONTOYA,)	
RESEARCH MAGNATE ADVISORS, LLC, and)	
RESOURCE MANAGED ASSETS, LLC,)	
)	
RESPONDENTS.)	Docket No. E-2017-0040
)	

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 Raymond K. Montoya, Research Magnate Advisors, LLC, and Resource Managed Assets, LLC (collectively, the “Respondents”) for violations of MASS. GEN. LAWS ch. 110A, the Massachusetts Uniform Securities Act (the “Act”), and the regulations promulgated thereunder at 950 MASS. CODE REGS. 10.00 – 14.413 (the “Regulations”). The Enforcement Section alleges that Respondents engaged in acts and practices in violation of Sections 101, 102, 301, and 404 of the Act and Regulations.

The Enforcement Section seeks an order: 1) finding as fact the allegations set forth below; 2) finding that all the 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; 4) censuring

Respondents; 5) barring Respondents from associating with or acting as a registered investment adviser, an investment adviser required to be registered, an investment adviser exempted from registration, a person relying on an exclusion from the definition of investment adviser in any capacity, a broker-dealer, a broker-dealer agent, an issuer, an issuer-agent, or any entity or individual exempt, excluded, or required to be registered as such; 6) requiring Respondents to provide an accounting of all proceeds which were received as a result of the alleged wrongdoing; 7) requiring Respondents to pay restitution to fairly compensate investors for all losses attributable to the alleged wrongdoing; 8) requiring Respondents to make rescission offers to all investors who purchased securities sold in violation of the Act; 9) requiring Respondents to disgorge all profits and other direct or indirect remuneration received from the alleged wrongdoing; 10) imposing an administrative fine on Respondents in such amount and upon such terms and conditions as the Director or Presiding Officer may determine; and 11) taking any such further action which may be necessary or appropriate in the public interest for the protection of Massachusetts investors.

II. SUMMARY

Raymond K. Montoya (“Montoya”), of Allston, Massachusetts, operates a fraudulent hedge fund, known as the RMA Strategic Opportunity Fund, LLC (“RMA Fund”), with headquarters on Federal Street in Boston, Massachusetts. Over the past ten years, Montoya and associated entities have solicited tens of millions of dollars of investor funds under false pretenses. Montoya has used this money for his own personal benefit and that of his immediate family, to trade with only limited success, and to make Ponzi-like payments to other investors.

Montoya and other associates of the RMA Fund have made repeated and egregiously false statements to investors and prospective investors in the RMA Fund, including grossly inflated statements of the RMA Fund's value and performance to current and prospective investors. For example, an ostensibly independent audit of the RMA Fund's financials reported that the RMA Fund had holdings of over \$3.9 billion in 2011. This report was false. A purported summary of the RMA Fund's trading results reported that the RMA Fund consistently generated positive returns over the past ten years, while outperforming the S&P 500 by 134% between January 2008 and October 2016. This report was also false. In an e-mail to prospective investors, Montoya claimed that the RMA Fund had "several layers of oversight in its operations," and assured them that their "concerns [about the RMA Fund] akin to those one might have regarding the Madoff situation" were misplaced. This statement was, likewise, false.

In sworn testimony before the Enforcement Section on June 2, 2017, Montoya testified to the Enforcement Section that the current net asset value, and high-water mark, of the RMA Fund is, "about twenty million, a little bit over twenty million [dollars.]" Documents and representations provided and made to investors claimed that the RMA Fund's net asset value exceeded \$3.9 billion in 2011 and \$5 billion in 2015. Through its investigation, the Enforcement Section has identified brokerage accounts currently valued at approximately \$8.2 million, the majority of which is held in Montoya's personal brokerage account.

In materials filed with the Division, his testimony, and materials provided to investors in the RMA Fund, Montoya stated that the RMA Fund's assets were initially traded in a brokerage account with Caris & Company, Inc. In response to the

Enforcement Section's investigation, the current custodian of Caris & Company, Inc.'s books and records was unable to locate any evidence that such accounts ever existed. In subsequent documents filed with the Division and provided to investors, and in his testimony, Montoya stated that the RMA Fund's assets were later traded in a brokerage account held with "J.P. Morgan, New York." In response to the Enforcement Section's investigation, J.P. Morgan Securities LLC was unable to locate any evidence that such accounts ever existed. Montoya and the RMA Fund have active accounts at E*TRADE Securities LLC, but the account in the name of the RMA Fund was only opened in 2015.

In his testimony before the Enforcement Section, Montoya was evasive and inconsistent, and repeatedly revised his testimony when presented with contradictory evidence. Montoya made multiple false statements regarding the existence and location of the RMA Fund's brokerage accounts and assets. When subsequently subpoenaed to provide any evidence of these purported accounts, Montoya asserted his rights against self-incrimination under the Fifth Amendment.

Since January 1, 2014, the RMA Fund has taken in over \$30 million of investor funds. Over the same time period, less than \$16 million has ever been transferred to any brokerage account. Investor funds are commingled with Montoya's personal funds in various accounts held at Citizens Bank, which accounts Montoya and members of his immediate family have used as a personal slush fund. In October 2014, investor funds were used to pay off a more than \$1 million mortgage in the name of Montoya's eldest son and daughter-in-law. In addition, Montoya and several other members of his immediate family draw salaries from the RMA Fund's managing member for vaguely defined services and have received over \$1.3 million in personal payouts from the same

account which accepts capital contributions from investors. Funds from this account have been used to pay cash withdrawals and various personal expenses for Montoya and his family, including tens of thousands of dollars of credit card bills and payments on luxury automobiles.

For the past three years, Montoya and his associated entities have relied on an exemption from registration that all but removed them from regulatory oversight. In that time, Montoya has enticed investors with misleading materials and inflated rates of return in order to perpetrate his fraudulent scheme in violation of the Massachusetts Uniform Securities Act, taking in over \$1.8 million of investor money in the past approximately three months alone.

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 Sections 407A and 414 of the Act, wherein the Division has the authority to conduct an adjudicatory proceeding to enforce the provisions of the Act.
3. This proceeding is brought in accordance with Section 101, 102, 301, and 404 of the Act.
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 the present (the “Relevant Time Period”).

V. RESPONDENTS

6. Raymond K. Montoya (hereinafter “Montoya”) is a natural person with a last known address in Allston, Massachusetts. Montoya has a Financial Industry Regulatory Authority (“FINRA”) Central Registration Depository (“CRD”) number of 5976620. Montoya has never been registered in any capacity in the securities industry. Montoya currently serves as the Chief Executive Officer of Research Magnate Advisors, LLC and is a direct owner of Research Magnate Advisors, LLC.

7. Research Magnate Advisors, LLC (hereinafter “RM Advisors”) is a Delaware limited liability company with a principal place of business located at 175 Federal Street, Suite 910, Boston, Massachusetts 02110. According to the Delaware Division of Corporations, RM Advisors executed a Certificate of Formation on August 21, 2007. RM Advisors has a FINRA CRD number of 154943 and was registered as an investment adviser in Massachusetts from March 6, 2012 to April 2, 2014. RM Advisors has operated as an exempt reporting adviser since April 24, 2014, and currently serves as the investment adviser to the RMA Strategic Opportunity Fund, LLC.

8. Resource Managed Assets, LLC (hereinafter “RM Assets”) is a Delaware limited liability company with a principal place of business located at 175 Federal Street, Suite 910, Boston, Massachusetts 02110. According to the Delaware Division of Corporations, RM Assets executed a Certificate of Formation on August 2, 2007. RM Assets has a

FINRA CRD number of 158810. RM Assets has never been registered in any capacity in the securities industry in Massachusetts. RM Assets serves as the managing member of the RMA Strategic Opportunity Fund, LLC.

VI. RELATED PARTY

9. RMA Strategic Opportunity Fund, LLC (hereinafter the “RMA Fund”) is a Delaware limited liability company with a principal place of business located at 175 Federal Street, Suite 910, Boston, Massachusetts 02110. According to the Delaware Division of Corporations, the RMA Fund executed a Certificate of Formation on May 16, 2007 creating the RMA Group Galleon Fund, LLC. On October 23, 2009, Montoya executed a Certificate of Amendment changing the name of the limited liability company to RMA Strategic Opportunity Fund, LLC.

VII. STATEMENT OF FACTS

A. RMA Strategic Opportunity Fund, LLC

10. The RMA Fund is a pooled investment vehicle that was formed by Montoya as a Delaware limited liability company with the name RMA Group Galleon Fund, LLC on May 16, 2007.

11. The RMA Fund changed its name to RMA Strategic Opportunity Fund, LLC on October 23, 2009 after the portfolio manager of the Galleon Group, the operator of several apparently unrelated hedge funds, was indicted for insider trading.

12. RM Advisors and Montoya, the Chief Executive Officer, Managing Member, and co-owner of RM Advisors, act as investment advisers to the RMA Fund, and are responsible for the day-to-day management of its portfolio. As such, they have assumed a fiduciary duty to serve in the best interest of the RMA Fund.

13. Investors in the RMA Fund expect to earn profits on their investments, and the successes of their investments in the RMA Fund are solely dependent on the efforts of RM Advisors and Montoya.

14. Montoya formed the RMA Fund after a period of self-employment as a “management consultant” for certain members of his family from 2000 to 2007. Montoya conducted his consulting business as RMA Group, Inc., a Delaware corporation originally created by Montoya in 1999.

15. Montoya created RM Advisors as a Delaware limited liability company in 2007 to serve as the investment adviser to the RMA Fund.

16. The RMA Fund relies on an exclusion from the definition of investment company under section 3(c)(1) of the Investment Company Act of 1940, which provides, in relevant part:

[N]one of the following persons is an investment company within the meaning of this title:

(1) Any issuer whose outstanding securities (other than short-term paper) are beneficially owned by not more than one hundred persons and which is not making and does not presently propose to make a public offering of its securities.

17. The RMA Fund requires a minimum investment of \$100,000, but Montoya waives the minimum amount for family and friends at his discretion.

18. The RMA Fund accepts investors with a net worth of \$2,000,000 or more, but Montoya waives this restriction for family and friends at his discretion.

19. The RMA Fund’s November 16, 2009 Form D states that investors pay a management fee of 1.25% of assets under management.

20. According to the RMA Fund Private Placement Memorandum:

Investors in the [RMA Fund] will generally be subject to (i) a monthly management fee payable in advance equal to 1/12 of 1.75% (a 1.75% annual rate) of such investor's capital account balance as of the beginning of such money; and (ii) a monthly performance allocation equal to at least 17.5% of each investor's ratable share of the [RMA Fund's] profits for such month, but only to the extent that such profits exceed such investor's "high water mark" and only if such profits exceed a "hurdle rate" of 3.0%.

21. RM Advisors applied for registration as an investment adviser in Massachusetts on October 19, 2011, and submitted a Form ADV-W to the Division on April 2, 2014, seeking the withdrawal of its registration as an investment adviser in Massachusetts.

22. RM Advisors has operated as an Exempt Reporting Adviser ("ERA") since April 24, 2014.

B. False and Misleading Marketing Materials

23. Montoya and RM Assets created and distributed materially misleading marketing materials to both current and prospective investors.

24. For example, in July 2012, RM Assets's then-Administrative Manager and Compliance Officer (and Montoya's current daughter-in-law) e-mailed to two prospective investors a number of documents, including a document titled "RMA Overview: 1995 to 2011" (the "RMA Overview").

25. The RMA Overview states, in part, "In 1995, RMA was founded and raised \$1 billion in private equity by selling 1,000 investment shares at \$1 million each. By 2011, this \$1 million investment share would be worth almost \$230 million."

26. The RMA Fund did not exist in 1995.

27. In his testimony before the Enforcement Section, Montoya was questioned about a different piece of marketing material which also identified the RMA Fund's "inception date" as 1995. According to Montoya:

Well, I wrote there 1995 because that's when I started my management, personal management in personal trading, personal brokerage, personal management, myself, in 1995. It's my own personal money account. So, I use that as an inception date just for my experience, but the actual [RMA Fund] was not formed until 2007, but 1995 is for my own -- I use that as my own reference, that I had been in the business since 1995, my own personal management.

28. The RMA Overview further states:

From its inception in 1995 through 1999, RMA took advantage of the numerous investment opportunities available during this period now known as the "Internet bubble." Consequently, RMA was able to produce for our investors during these unique and unusual investment times an **average annual return of 113.8%**.

[]

The markets again crashed with a vengeance in 2008, producing one of the worst single year drops in S&P 500 history at -38.5%. However, once again RMA's analytic models warned of fundamental issues allowing RMA to take defensive investment positions during 2008 and still return 10.2% to our investors. As a result, from 2008 through 2011 when the S&P 500's annual returns were -3.8%, RMA's annual returns were 10.7%.

(Emphasis added).

29. The RMA Overview's statements of purported historical returns, including those for years in which the RMA Fund did not exist, are false.

30. In another example, in October 2016, Montoya created and caused to be distributed to RMA Fund investors a document purporting to show the RMA Fund's trading performance, net of fees, between January 2012 and October 2016 (the "RMA Returns Summary").

31. Montoya testified to the Enforcement Section that he provides similar updated returns summaries to RMA Fund investors on a monthly basis, and that he is solely responsible for preparing the updated summaries.

32. The RMA Returns Summary states that the RMA Fund has outperformed the S&P 500 by 134% from January 2008 through October 2016.

33. The RMA Fund did not outperform the S&P 500 by 134% from January 2008 through October 2016.
34. The RMA Returns Summary states that the RMA Fund has generated a cumulative return of 178.85% through trading gains from January 2008 through October 2016.
35. The RMA Fund did not generate a cumulative return of 178.85% through trading gains from January 2008 through October 2016.
36. The RMA Returns Summary states that the RMA Fund generated a positive return from trading results, net of fees, for 55 of the 58 preceding months.
37. In fact, the RMA Fund did not generate positive trading returns, net of fees, for 55 of the preceding 58 months.
38. The RMA Returns Summary incorrectly lists two people as members of its management team who were not members of its management team at that time.
39. The RMA Returns Summary falsely indicates that RM Assets is a “Massachusetts Registered Investment Adviser.”
40. The RMA Returns Summary identifies “J.P. Morgan, New York” as the prime broker.
41. Montoya testified to the Enforcement Section that J.P. Morgan served as prime broker around 2010 and 2011.
42. In response to the Enforcement Section’s investigation, J.P. Morgan Securities LLC was unable to identify any accounts, open or closed, in the name of Montoya, RM Assets, RM Advisors, or the RMA Fund.

43. In another piece of marketing material, RM Assets indicates that they utilize “distinct, specific, proprietary methods that have proven reliable and profitable during bull and bear market cycles.”

44. When asked to identify and explain these methods, Montoya testified that the RMA Fund utilized a proprietary algorithm, which he purchased from a software developer for \$5,000, that can predict the minute-to-minute price movements of individual stocks with 65% accuracy.

45. On information and belief, no such proprietary algorithm exists.

C. False Statements and Misrepresentations to Prospective Investors

46. In an e-mail dated September 25, 2012, Montoya attempted to assuage the fears of two investors:

The RMA Fund, like most private hedge funds, has several layers of oversight in its operations.

[]

When I saw the two of you last weekend, I sensed some concerns from you regarding [the RMA Fund]. Your concerns seemed akin to those one might have regarding the Madoff situation, which in fact has striking differences with [the RMA Fund], in that they were not only fund managers like us, but also [Securities and Exchange Commission] Series 7 licensed broker-dealers, who are licensed to buy and sell securities not only for the fund, but also for their own clients.

[]

Additionally, we have an outside administrator for our accounting functions, as well as an outside accountant for our auditing. Therefore, very much unlike Madoff, we share the various financial functions of [the RMA Fund] with outside prime brokers and accountants, who provide a reliable system of checks and balances.

47. On February 15, 2012, the “outside administrator” and “outside auditor” identified in Montoya’s September 25, 2012 e-mail provided purported audited financial statements for RM Assets and the RMA Fund as of December 31, 2011 (the “2011 RMA Financials”).

48. The 2011 RMA Financials stated that the RMA Fund had total investment holdings of \$3,969,145,094.

49. The 2011 RMA Financials stated that RM Assets generated \$47,313,225 in management and performance fees, which represents more than double the value Montoya testified to as the RMA Fund's high-water mark.

50. The 2011 RMA Financials state, in relevant part:

The [RMA Fund's] Funds Under Management on January 1, 2011 was [sic] \$3,802,613,725.

[]

The [RMA Fund's] Funds Under Management on December 31, 2011 was [sic] \$3,969,145,094.

51. On information and belief, these stated total values of the RMA Fund's investment holdings and management and performance fees are false.

52. In 2015, the value of the RMA Fund was reported to at least one investor as approximately \$5 billion.

D. Misappropriation of RMA Investor Funds

53. Between January 1, 2014 and the present, Montoya received approximately \$30 million intended for investment in the RMA Fund.

54. Prospective investor funds were received by check or wire deposits to a Citizens Bank account held in the name of RMA Group, Inc. (the "RMAG Account").

55. Over the same time period, Montoya transferred a total of less than \$15,830,000 from the RMAG Account to several brokerage accounts held at E*TRADE Securities LLC ("E*TRADE") ("RMA Brokerage Accounts").

56. Specifically, between January 1, 2014 and the present, Montoya's personal E*TRADE brokerage account received a total of \$12,830,000 in deposits, all wired from

the RMAG Account. Over the same period, a total of \$1,500,000 was transferred to the RMA Fund E*TRADE brokerage account, and a total of \$1,500,000 was transferred to three other brokerage accounts held in the name of other RMA entities.

57. At this time, the Enforcement Section has not identified any other brokerage accounts used in connection with the RMA Fund, at E*TRADE or any other broker-dealer.

58. Over \$16 million of investor funds were never transferred from the RMA Group, Inc.'s Citizens Bank account ("RMAG Account") to any brokerage account. Instead, these funds were used to pay, among other things, purported capital distributions to other investors in the RMA Fund, purported operational expenses, and personal expenses for Montoya and certain members of his immediate family.

59. For example, in October 2014 Montoya used funds received from RMA investors to pay off the balance of a son's home mortgage.

E. Misuse of Investor Funds to Pay Son's Mortgage

60. According to records available through the Cook County Registry of Deeds, Montoya's son and daughter-in-law were granted a \$1,007,500 mortgage for the purchase of a house in Illinois on March 31, 2014.

61. On August 19, 2014, the RMAG Account received two checks, each in the amount of \$450,000.

62. The memo lines of the two checks read: "Please deposit into RMAG-2045GF from [Investor 1]" and "Please deposit into RMAG-2045GF from [Investor 2]."

63. The starting balance of the RMAG Account on August 19, 2014 was \$127,083.48.

64. After receipt of the Investor 1 and Investor 2 checks, as well as additional deposited checks, the closing balance of the RMAG Account on August 19, 2014 was \$1,202,220.75.

65. The following day, on August 20, 2014, Montoya withdrew \$1 million from the RMAG Account, which he used to open and fund two new personal savings accounts, each in the amount of \$500,000 (“Account -2221” and “Account -2213”).

66. Account -2213 received only \$25,000.48 in additional deposits through October 2014.

67. Account -2221 received only \$25,222.51 in additional deposits until October 9, 2014, and there were no withdrawals from Account -2221 during that time.

68. On October 8, 2014, the RMAG Account received a wire transfer of \$686,775.34 from another known investor in the RMA Fund. The wire transfer instructions noted that the transfer was “For further credit to RMAG-2074GF [Investor 3] Revocable Trust.”

69. Investor 3’s wire transfer increased the balance of the RMAG account from \$150,656.20 to \$837,431.54. The RMAG Account received no other deposits that day.

70. On October 9, 2014, Montoya transferred \$500,000 from the RMAG Account to Account -2221, increasing its balance to \$1,025,562.33. Account -2221 earned interest but received no further deposits until November 2014.

71. On October 27, 2014, Montoya transferred \$900,000 from Account -2221 to the RMAG Account.

72. On the same day, Montoya also transferred \$275,000 from Account -2213 to the RMAG Account. The two deposits increased the balance in the RMAG Account from

\$111,562.45 to \$1,286,562.45. The account received no further deposits until October 31, 2014.

73. On October 28, 2014, Montoya wire transferred \$1,003,212.64 from the RMAG Account to an account JPMorgan Chase Bank, N.A. with instructions to apply the funds to his son and daughter-in-law's mortgage.

74. According to documents available from the Cook County Registry of Deed, the mortgage on Montoya's son and daughter-in-law's house in Illinois was officially discharged on November 14, 2014.

75. Montoya has similarly used investor funds to pay other personal and family expenses on multiple other occasions.

F. RMAG Account Checks to Montoya's Immediate Family

76. Since January 1, 2014, members of Montoya's immediate family received over \$1.3 million of funds from the RMAG Account, primarily through checks drawn on the RMAG Account and signed by Montoya.

77. Over the same time period, one of Montoya's sons personally received over \$41,000 from the RMAG Account.

78. Over the same time period, another of Montoya's sons personally received over \$140,000 from the RMAG Account.

79. Over the same time period, another of Montoya's sons personally received over \$270,000 from the RMAG Account.

80. Over the same time period, Montoya's daughter personally received over \$220,000 from the RMAG Account.

81. Over the same time period, Montoya's wife personally received over \$585,000.

G. RMA Brokerage Accounts

82. The RM Advisors 2014 State ERA report¹ (“2014 ERA Report”) filed with the Division reported that the RMA Fund’s gross asset value was \$8,725,564 as of April 24, 2014.

83. The 2014 ERA Report reported that the RMA Fund utilized Caris & Company, Inc. as its prime broker and Goldman Sachs Execution & Clearing, L.P. as its custodian as of April 24, 2014.

84. Montoya testified to the Enforcement Section that the RMA Fund utilized Caris & Co., Inc. as its prime broker around 2009 and 2010.

85. In response to the Enforcement Section’s investigation, B. Riley & Co., LLC, which acquired Caris & Company, Inc. in December 2012, did not locate any accounts in the name of Montoya, RM Advisors, RM Assets, or the RMA Fund.

86. In response to the Enforcement Section’s investigation, Goldman, Sachs & Co. did not identify any accounts in the name of Montoya, RM Advisors, RM Assets, or the RMA Fund.

87. The RM Advisors 2016 State ERA report (“2016 ERA Report”) reported that the RMA Fund’s gross asset value was \$9,752,000 as of March 21, 2016.

88. The 2016 ERA Report stated that the RMA Fund utilized E*TRADE Securities LLC as both its prime broker and custodian.

89. Montoya testified to the Enforcement Section about the existence of two E*TRADE brokerage accounts the RMA Fund utilizes to execute trades, RMA Strategic Opportunity Fund I and RMA Strategic Opportunity Fund II.

¹ The Form ADV Uniform Application for Investment Adviser Registration and Report by Exempt Reporting Advisers.

90. Montoya further testified to the Enforcement Section that the RMA Strategic Opportunity Fund I account has an approximate value of \$15,000,000 and the RMA Strategic Opportunity Fund II account has an approximate value of \$5,000,000.

91. E*TRADE identified one account in the name of “RMA Strategic Opportunity LLC” with a value of \$2,327,382.35 as of May 31, 2017.

92. E*TRADE identified an account in the name of “Research Magnate Advisors LLC” with a value of \$85,057.53 as of May 31, 2017.

93. E*TRADE identified an account in the name of “Resource Managed Assets LLC” with a value of \$111,054.30 as of April 30, 2017.

94. Montoya initially testified that he has no personal brokerage accounts at E*TRADE.

95. E*TRADE identified an account in the name of Montoya and his wife with a value of \$5,663,974.35 as of May 31, 2017.

96. Following the conclusion of his testimony, the Enforcement Section subpoenaed Montoya to produce records of his and the RMA Fund’s brokerage accounts. Through counsel, Montoya responded that compulsory production of these records would violate his Fifth Amendment right against self-incrimination.

H. False Filing

97. On February 6, 2014, the Division sent a letter to Massachusetts-registered investment advisers who indicated they were providing advisory services to pooled investment vehicles (“MSD Inquiry Letter”).

98. In its February 20, 2014 response to the MSD Inquiry Letter, RM Advisors stated:

[RM Advisors] provides investment advice to the [RMA Fund], a Delaware limited liability company. The [RMA Fund’s] value as of

January 31, 2014 is \$8,161,258.16. There are five (5) investors in the [RMA Fund]; one is a family trust set up by the family of the principal owners and the other four (4) comprise of other family members and friends of the principal owners. The approximate percentage of the Fund beneficially owned by [RM Advisors] and its related persons is 90%.

99. At the time of RM Advisors's response to the MSD Inquiry Letter, the RMA Fund had more than five investors.

100. The RM Advisors February 20, 2014 response further stated:

[RM Advisors] only manages one Fund, the [RMA Fund]; and as such it only has one type of investment account – a General Fund Account. The [RMA Fund] is a long and short fund, and invests in US securities. [The RMA Fund's] investments are comprised of 75% stocks and 25% bonds (short term corporate bonds only). [RM Advisors] do [sic] not use leverage and does not buy securities on margin.

101. At the time of the MSD Inquiry Letter, RM Advisors and the RMA Fund traded on margin.

102. Less than two months after receiving the MSD Inquiry Letter, RM Advisors filed a Form ADV-W seeking the withdrawal of its registration as an investment adviser in Massachusetts.

I. Ongoing Investor Harm

103. At least until as recently as May 2017, Montoya and the RMA Fund continued to accept capital contributions from current and prospective investors.

104. Since March 1, 2017, the RMA Fund has taken in over \$1.8 million in new capital contributions from RMA Fund investors.

105. Over the same time period, Montoya and the RMA Fund have transmitted only \$1.27 million to any brokerage accounts, have distributed over \$420,000 of funds to other RMA Fund investors, and have spent tens of thousands of dollars on personal expenses, including credit card payments and luxury automobile payments.

VIII. VIOLATIONS OF LAW

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

106. 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.

107. The Enforcement Section herein re-alleges and re-states the allegations of fact set forth in Section VII above.

108. The conduct of Respondents Raymond K. Montoya and Resource Managed Assets, LLC, as described above, constitutes violations of MASS. GEN. LAWS ch. 110A, § 101.

Count II – Violation of MASS. GEN. LAWS ch. 110A, § 102

109. Section 102 of the Act provides:

It is unlawful for any person who receives, directly or indirectly, any consideration from another person primarily for advising the other person as to the value of securities or their purchase or sale, whether through the issuance of analyses or reports or otherwise

- (1) to employ any device, scheme, or artifice to defraud the other person,
or
- (2) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon the other person.

MASS. GEN. LAWS ch. 110A, § 102.

110. The Enforcement Section herein re-alleges and re-states the allegations of fact set forth in Section VII above.

111. The conduct of Respondents Raymond K. Montoya and Research Magnate Advisors, LLC, as described above, constitutes violations of MASS. GEN. LAWS ch. 110A, § 102.

Count III – Violation of MASS. GEN. LAWS ch. 110A, § 301

112. Section 301 of the Act provides:

It is unlawful for any person to offer or sell any security in the commonwealth unless:–

- (1) the security is registered under this chapter;
- (2) the security or transaction is exempted under section 402; or
- (3) the security is a federal covered security.

MASS. GEN. LAWS ch. 110A, § 301.

113. The Enforcement Section herein re-alleges and re-states the allegations of fact set forth in Section VII above.

114. The conduct of Respondents Raymond K. and Resource Managed Assets, LLC, as described above, constitutes violations of MASS. GEN. LAWS ch. 110A, § 301.

Count IV – Violation of MASS. GEN. LAWS ch. 110A, § 404

115. Section 404 of the Act provides:

It is unlawful for any person to make or cause to be made, in any document filed with the secretary or in any proceeding under this chapter, any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect.

MASS. GEN. LAWS ch. 110A, § 404.

116. The Enforcement Section herein re-alleges and re-states the allegations of fact set forth in Section VII above.

117. The conduct of Respondent Research Magnate Advisors, LLC, as described above, constitutes violations of MASS. GEN. LAWS ch. 110A, § 404.

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:

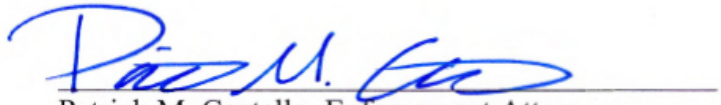
- A. Finding as fact all allegations set forth in Section VII of the Complaint;
- B. Finding that all the sanctions and remedies detailed herein are in the public interest and necessary for the protection of Massachusetts investors;
- C. Requiring Respondents to permanently cease and desist from further conduct in violation of the Act and the Regulations in the Commonwealth;
- D. Censuring Respondents;

- E. Barring Respondents from associating with or acting as a registered investment adviser, an investment adviser required to be registered, an investment adviser exempted from registration, a person relying on an exclusion from the definition of investment in any capacity, a broker-dealer, a broker-dealer agent, an issuer, an issuer-agent, or any entity or individual exempt, excluded, or required to be registered as such;
- F. Requiring Respondents to provide an accounting of all proceeds which were received as a result of the alleged wrongdoing;
- G. Requiring Respondents to provide restitution to all investors to fairly compensate investors for all losses attributable to the alleged wrongdoing;
- H. Requiring Respondents to make rescission offers to all investors who purchased securities sold in violation of the Act;
- I. Requiring Respondents to disgorge all profits and other direct or indirect remuneration received from the alleged wrongdoing;
- J. Imposing an administrative fine on Respondents in an amount and upon such terms and conditions as the Director or Presiding Officer may determine; and

K. 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**

By and through its attorneys,



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Dated: June 8, 2017