

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 101521 / November 6, 2024

INVESTMENT ADVISERS ACT OF 1940
Release No. 6765 / November 6, 2024

ADMINISTRATIVE PROCEEDING
File No. 3-22286

In the Matter of

MARK J. BOUCHER,

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
PROCEEDINGS PURSUANT TO SECTION
15(b) OF THE SECURITIES EXCHANGE
ACT OF 1934 AND SECTION 203(f) OF THE
INVESTMENT ADVISERS ACT OF 1940
AND NOTICE OF HEARING**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”) and Section 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against Mark J. Boucher (“Respondent” or “Boucher”).

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENT

1. Boucher was the sole owner of Strategic Wealth Advisor Group Services Inc. d/b/a Strategic Wealth Advisors Group Services Inc. and d/b/a Strategic Wealth Advisors Group (“SWAG”), an investment adviser formerly registered in the State of California. From 2000 to 2016, and from 2016 to May of 2019, Boucher was also a registered representative associated with two investment advisory firms registered with the Commission. For a portion of the time in which he engaged in the conduct underlying the complaint described below, Respondent was also a

registered representative associated with a broker-dealer registered with the Commission. Boucher, 60 years old, is a resident of Carlsbad, California.

B. ENTRY OF THE INJUNCTION AND RESPONDENT’S CRIMINAL CONVICTION

2. On January 24, 2024, a final judgment was entered against Boucher, permanently enjoining him from future violations of Sections 17(a) of the Securities Act of 1933 (“Securities Act”), Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and Sections 206(1) and 206(2) of the Advisers Act, as set forth in the judgment entered in the civil action entitled Securities and Exchange Commission v. Mark J. Boucher, et al., Civil Action Number 20-CV-1650-DMS-MSB, in the United States District Court for the Southern District of California.

3. On January 29, 2024, Boucher pled guilty to one count of wire fraud in violation of Title 18 United States Code, Section 1343 before the United States District Court for the Southern District of California in a parallel criminal action, United States v. Mark J. Boucher, No. 3:21-cr-02872-BAS. On May 28, 2024, the court entered judgment against Boucher and sentenced him to five years in prison followed by three years of supervised release. On July 9, 2024, the court ordered Boucher to pay a total of \$409,497.77 in restitution.

4. Boucher’s signed plea agreement states, inter alia, that from at least January 2017 to February 2021, Boucher devised a material scheme to defraud and obtain money and property from his investment advisory clients, that he misappropriated money and assets from them, and that he concealed his theft by making materially false, fraudulent and misleading statements and omitted material facts from his victim clients.

C. BOUCHER’S VIOLATIVE CONDUCT

5. The Commission’s complaint alleged that, between December 2010 and July 2020 (the “Relevant Period”), Boucher misappropriated over \$2 million from the advisory and bank accounts of certain of his investment advisory clients. The complaint alleged that, both alone and while later acting in his capacity as SWAG’s sole owner, Boucher engaged in a variety of deceptive conduct and made material misrepresentations and omissions as part of his fraud. It also alleged that he diverted advisory clients’ securities to his personal accounts and sold clients’ securities and misappropriated the proceeds for his personal use.

6. During the Relevant Period, Boucher provided investment advisory services while associated with two SEC registered investment advisory firms, Firm A and Firm B. Boucher generally had between 80 and 100 advisory clients. An advisory client is someone for whom an investment adviser renders investment advice or makes investment decisions. Because the clients were advisory clients, Boucher and SWAG owed them a fiduciary duty. In other words, Boucher and SWAG were required to place their clients’ interests ahead of their own and to disclose all material facts to their clients about their investment. Boucher’s clients were typically individual investors and small businesses who relied primarily on him for investment advice.

i. Boucher Sells Client A's Securities and Misappropriates the Proceeds

7. The advisory clients Boucher defrauded included a widow in her 60s who resided in Solvang, California ("Client A"). During the Relevant Period, Boucher's fraudulent activities included selling Client A's securities and diverting the proceeds to his personal use. His multi-year fraud resulted in the misappropriation of about \$669,000 from her advisory accounts at Firm A and Firm B. At times, Boucher even withdrew funds from Client A's advisory accounts on margin, when there was not enough cash in the accounts to meet his personal spending needs. Boucher used the money to pay his credit card debt, which included personal expenses like car insurance, dinners, and trips to a five-star hotel resort in Hawaii.

8. Boucher knew that Client A's husband reviewed his account statements and would ask questions about them, but that Client A did not review her account statements. Accordingly, Boucher did not steal any money from her husband's accounts, but misappropriated at least \$230,577 from Client A's advisory account while at Firm A until his termination from that firm in March 2016. From 2010 until March 2016, Boucher fraudulently forged Client A's name on 49 checks drawn on her advisory account at Firm A to pay his personal credit card bills. Most of the withdrawals were the proceeds of sales of securities that Boucher initiated in Client A's advisory account at Firm A.

9. In January of 2018, after he became associated with Firm B, and after Client A's husband died, Boucher resumed his fraudulent scheme of misappropriating funds from Client A, using her advisory account at Firm B to pay his credit card bills at American Express and Citibank. From January 2018 through April 2019, he forged 21 more checks and made seven unauthorized electronic withdrawals, which together totaled about \$438,709. Most of the withdrawals were the proceeds of securities sales that Boucher initiated in the Client A advisory account at Firm B. At other times, Boucher wrote checks drawn on the cash balance in the account, and even withdrew funds on margin when the Client A advisory account at Firm B lacked sufficient funds to meet his personal spending needs.

10. Client A uncovered Boucher's fraud in May of 2019, when she received a letter from American Express stating that a payment from Client A's advisory account at Firm B to Boucher's American Express accounts was out of balance and could not be processed. Client A confronted Boucher, who initially denied any wrongdoing. When she showed him the letter from American Express, he acknowledged making the payment. The next day, Client A called Schwab, the account custodian for her account at Firm B. Schwab conducted an investigation, found numerous instances of theft, and alerted Firm B. Firm B then investigated Boucher and concluded that Boucher had misappropriated funds from the Client A advisory account at Firm B. When confronted about the misappropriation, Boucher admitted to Firm B that he had possession of Client A's check book from the Client A advisory account at Firm B and wrote checks to pay his credit card expenses.

ii. Boucher Uses Assets Belonging to Two Brothers, Clients B and C, To Purchase a Sports Car

11. Boucher's misconduct was not limited to Client A. Boucher had two brothers, co-owners of an automotive supply business, as advisory clients. (Clients B and C). During the week of March 16, 2017, their mother lay in the hospital, dying. Boucher exploited this situation to misappropriate funds from their securities accounts. On March 16, 2017, Boucher sold approximately \$70,000 of securities in Client B's Schwab advisory account and transferred the funds to Client C's account. Boucher then created a wire authorization form from the account of Client C to send \$60,000 in proceeds from the sale to a California car dealership. Boucher then faxed the wire authorization form to Schwab from Client B's and C's business office in Garden Grove, California, where Boucher had an appointment that day. Client C was not at his office when the fax was sent. To process the wire transfer, Schwab requested verification of Client C's signature. On March 17, 2017, Boucher called Schwab. In that telephone conversation, Boucher impersonated Client C, provided proof of identity using Client C's birthdate and phone number, and said that he (as Client C) authorized the wire transfer.

12. When the car dealership asked Boucher why Client C's name, rather than Boucher's, appeared as the source of funds on the wire receipt, Boucher sent an email falsely stating that Schwab had made a mistake in the name, and that the wire was from him. This scheme was successful, and Boucher took delivery of the Camaro in April of 2017. After owning the car for approximately 17 months, Boucher communicated in texts and by telephone with Client C, saying he knew that Client C admired Boucher's Camaro and offering to sell it to Client C for its trade-in value. In September of 2018, Client C purchased the car from Boucher for about \$52,000, not realizing that Boucher had secretly wired funds from Client C's account – funds derived from Boucher's sales of securities in Client B's account – to buy the car in the first place.

iii. Boucher Misappropriates Funds from the Trust of a Deceased Client ("Client D")

13. After his fraud against Client A was discovered in May 2019 and Firm B terminated him, Boucher engaged in a separate scheme to steal the trust funds of a recently deceased client ("Client D"). Boucher, who had served as Client D's investment adviser since at least 2015, had gained her trust and confidence. Before Client D passed away in early August 2019, she had created a revocable trust document that provided for the disposition of her assets upon her death. Boucher was successor trustee and an investment adviser for the trust. Upon her death, the trust assets consisted of, among other things, advisory and bank accounts holding over \$1.8 million in securities and cash. Boucher engaged in a scheme to misappropriate assets from these accounts and use them for his personal gain. Between August 2019 and July of 2020, Boucher misappropriated over \$1.5 million by sending cash, securities, and the proceeds of securities sales from trust accounts to accounts he controlled, including his personal checking and brokerage accounts. Boucher used a portion of these trust assets to pay for his personal expenses and credit card debt.

iv. Boucher Repeatedly Took Steps to Conceal His Misconduct

14. Boucher took steps to conceal his misconduct from existing and future advisory clients. Among other things, he sought to hide the letter that alerted Client A to his theft, and then

misrepresented to Client A the full extent of his fraud. He misrepresented to Client C that his misappropriation of funds to purchase a Camaro was simply a mistake. He registered SWAG as a California investment adviser firm without disclosing to clients or prospective clients that he had been fired from Firm B for stealing client funds, an omission he corrected only after the SEC began its investigation. Boucher also took steps to conceal his wrongdoing from SEC Enforcement staff during the SEC's investigation. Boucher created numerous financial accounts in an unsuccessful attempt to obfuscate and hide his misappropriations from Client D's trust, and created a forged letter purportedly from Client D to create the false impression that she had gifted him \$1.5 million.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative proceedings be instituted to determine:

A. Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford Respondent an opportunity to establish any defenses to such allegations;

B. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 15(b) of the Exchange Act;

C. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 203(f) of the Advisers Act.

IV.

IT IS ORDERED that a public hearing before the Commission for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed by further order of the Commission, pursuant to Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondent shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220(b) of the Commission's Rules of Practice, 17 C.F.R. § 201.220(b).

IT IS FURTHER ORDERED that the Division of Enforcement and Respondent shall conduct a prehearing conference pursuant to Rule 221 of the Commission's Rules of Practice, 17 C.F.R. § 201.221, within fourteen (14) days of service of the Answer. The parties may meet in person or participate by telephone or other remote means; following the conference, they shall file a statement with the Office of the Secretary advising the Commission of any agreements reached at said conference. If a prehearing conference was not held, a statement shall be filed with the Office of the Secretary advising the Commission of that fact and of the efforts made to meet and confer.

If Respondent fails to file the directed Answer, or fails to appear at a hearing or conference after being duly notified, the Respondent may be deemed in default and the proceedings may be

determined against him upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310.

This Order shall be served forthwith upon Respondent by any means permitted by the Commission's Rules of Practice.

The Commission finds that it would serve the interests of justice and not result in prejudice to any party to provide, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), that notwithstanding any contrary reference in the Rules of Practice to service of paper copies, service to the Division of Enforcement of all opinions, orders, and decisions described in Rule 141, 17 C.F.R. § 201.141, and all papers described in Rule 150(a), 17 C.F.R. § 201.150(a), in these proceedings shall be by email to the attorneys who enter an appearance on behalf of the Division, and not by paper service.

Attention is called to Rule 151(a), (b) and (c) of the Commission's Rules of Practice, 17 C.F.R. § 201.151(a), (b) and (c), providing that when, as here, a proceeding is set before the Commission, all papers (including those listed in the following paragraph) shall be filed electronically in administrative proceedings using the Commission's Electronic Filings in Administrative Proceedings (eFAP) system access through the Commission's website, www.sec.gov, at <http://www.sec.gov/eFAP>. Respondent also must serve and accept service of documents electronically. All motions, objections, or applications will be decided by the Commission.

The Commission finds that it would serve the interests of justice and not result in prejudice to any party to provide, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), that notwithstanding any contrary reference in the Rules of Practice to filing with or disposition by a hearing officer, all filings, including those under Rules 210, 221, 222, 230, 231, 232, 233, and 250 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.210, 221, 222, 230, 231, 232, 233, and 250, shall be directed to and, as appropriate, decided by the Commission. This proceeding shall be deemed to be one under the 75-day timeframe specified in Rule of Practice 360(a)(2)(i), 17 C.F.R. § 201.360(a)(2)(i), for the purposes of applying Rules of Practice 233 and 250, 17 C.F.R. §§ 201.233 and 250.

The Commission finds that it would serve the interests of justice and not result in prejudice to any party to provide, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), that the Commission shall issue a decision on the basis of the record in this proceeding, which shall consist of the items listed at Rule 350(a) of the Commission's Rules of Practice, 17 C.F.R. § 201.350(a), and any other document or item filed with the Office of the Secretary and accepted into the record by the Commission. The provisions of Rule 351 of the Commission's Rules of Practice, 17 C.F.R. § 201.351, relating to preparation and certification of a record index by the Office of the Secretary or the hearing officer are not applicable to this proceeding.

The Commission will issue a final order resolving the proceeding after one of the following: (A) The completion of post-hearing briefing in a proceeding where the public hearing has been completed; (B) The completion of briefing on a motion for a ruling on the pleadings or a motion for summary disposition pursuant to Rule 250 of the Commission's Rules of Practice, 17 C.F.R. § 201.250, where the Commission has determined that no public hearing is necessary; or (C) The determination that a party is deemed to be in default under Rule 155 of the Commission's Rules of Practice, 17 C.F.R. § 201.155, and no public hearing is necessary.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Vanessa A. Countryman
Secretary