

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

GERMAN NINO,

Defendant.

COMPLAINT

Plaintiff Securities and Exchange Commission (“Commission”) alleges as follows:

I. Introduction

1. This case concerns a multi-year fraud by German Nino (“Nino”), a registered representative and investment adviser representative associated with UBS Financial Services Inc. (“UBS”), a financial services firm dually-registered with the Commission as a broker-dealer and an investment adviser. Between May 2014 and February 2020, Nino stole approximately \$5.8 million from a long-standing advisory client.

2. As part of this scheme, Nino represented to the client that he would invest the client’s funds in securities, but, instead, Nino used the funds for personal expenses—primarily gifts and travel and living expenses for women with whom he had romantic relationships. Nino also used a portion of the stolen funds to fully repay another client from whom he had previously misappropriated funds.

3. To conceal his fraud, Nino created and provided the client with fictitious account statements purporting to show the client’s investment portfolio and related balances, when in fact

the accounts had significantly smaller balances. Nino also manipulated UBS's records to ensure that the client did not receive notifications for wire transfers out of one of the client's accounts. To effectuate larger fraudulent transfers, Nino forged the client's signature on letters of authorization.

4. By engaging in the conduct described herein, Nino directly violated numerous anti-fraud provisions of the federal securities laws as described in more detail below. The Commission seeks injunctive relief, disgorgement and prejudgment interest, and civil penalties against Nino.

II. Defendant

5. Nino, 56, is a resident of Weston, Florida. From July 2012 through August 2020, when he resigned, Nino was a registered representative associated with UBS, a broker-dealer and investment adviser registered with the Commission.

III. Jurisdiction and Venue

6. This Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77v(a)], Section 27 of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78aa], and Sections 209(d), 209(e)(1), and 214 of the Investment Advisers Act of 1940 ("Advisers Act") [15 U.S.C. §§ 80b-9(d), 80b-9(e)(1), and 80b-14].

7. The Court has personal jurisdiction over Nino and venue is proper in this district pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)], Section 27(a) of the Exchange Act [15 U.S.C. § 78aa], and Section 214 of the Advisers Act [15 U.S.C. § 80b-14] because Nino resides in this district, transacted business in this district, and many of the acts, practices, and courses of business constituting the violations alleged herein occurred within the Southern District of Florida.

8. Nino has, directly or indirectly, made use of the means and instrumentalities of interstate commerce, of the mails, or of the facilities of a national securities exchange in connection with the acts, transactions, practices, and courses of business alleged in this Complaint.

IV. Facts

9. At UBS, Nino was the financial advisor for the accounts of a high-net-worth couple (“Client”) who had invested approximately \$11 million with UBS through Nino. Nino had discretionary authority over several of Client’s securities brokerage accounts and represented to Client that he would invest their funds in securities.

10. In May 2014, Nino began making unauthorized wire transfers out of certain of Client’s UBS accounts, and would sometimes liquidate Client’s securities at or about the same time as the wire transfers. Nino ultimately deposited those funds into a bank account that Nino kept separately from his marital accounts.

11. Nino continued this conduct until February 2020, ultimately stealing approximately \$5.8 million.

12. Nino spent approximately \$4.6 million of the stolen money on several women with whom he had romantic relationships. His purchases ranged from small gifts and vacations, to luxury cars, private school tuition, and an apartment in Colombia.

13. Nino spent the balance of the stolen proceeds, approximately \$1.2 million, to fully repay another advisory client from whom he had previously misappropriated funds.

14. Nino perpetuated and concealed the fraud in several ways:

a. In regular meetings or discussions with Client, Nino misrepresented the performance, account balances, and rates of return for the affected accounts, while failing to disclose his unauthorized transfers.

b. For transfers of \$100,000 or more, Nino prepared and submitted to UBS fraudulent letters of authorization containing Client's forged signatures.

c. Nino altered UBS's records relating to one of Client's accounts to ensure that Client did not receive email notification of wire transfers from that account.

d. Nino prepared and provided Client with false account statements that inflated the balances in two of the affected accounts.

15. In early 2020, Client's son discovered discrepancies with the account balance in one account, and began to confront Nino. Eventually, Nino confessed to the son that he had stolen Client's money, promising that he would pay Client back with a signing bonus he would receive when he joined a new firm. Client subsequently alerted UBS, which began to investigate the issue. In February 2020, UBS requested that Nino submit to an interview as part of its investigation. Nino resigned instead.

V. Claims For Relief

COUNT I

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

16. The Commission realleges Paragraphs 1 through 15 and incorporates them by reference herein.

17. From in or about May 2014 through in or about February 2020, Nino, in connection with the purchase and sale of securities, by use of the means or instrumentalities of interstate commerce, or of the mails, or of any facility of a national securities exchange, directly or indirectly, knowingly or severely recklessly used and employed devices, schemes and artifices to defraud.

18. By reason of the foregoing, Nino violated, and, unless enjoined, is reasonably likely to continue to violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5(a) [17 CFR § 240.10b-5(a)] thereunder.

COUNT II

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

19. The Commission realleges Paragraphs 1 through 15 and incorporates them by reference herein.

20. From in or about May 2014 through in or about February 2020, Nino, in connection with the purchase and sale of securities, by use of the means or instrumentalities of interstate commerce, or of the mails, or of any facility of a national securities exchange, directly or indirectly, knowingly or severely recklessly made untrue statements of material fact and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

21. By reason of the foregoing, Nino violated, and unless enjoined, is reasonably likely to continue to violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5(b) [17 CFR § 240.10b-5(b)] thereunder.

COUNT III

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

22. The Commission realleges Paragraphs 1 through 15 and incorporates them by reference herein.

23. From in or about May 2014 through in or about February 2020, Nino, in connection with the purchase and sale of securities, by use of the means or instrumentalities of interstate commerce, or of the mails, or of any facility of a national securities exchange, directly or indirectly,

knowingly or severely recklessly engaged in acts, practices and courses of business which operated as a fraud and deceit upon any person.

24. By reason of the foregoing, Nino violated, and, unless enjoined, is reasonably likely to continue to violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5(c) [17 CFR § 240.10b-5(c)] thereunder.

COUNT IV

Violations of Section 17(a)(1) of the Securities Act

25. The Commission realleges Paragraphs 1 through 15 and incorporates them by reference herein.

26. From in or about May 2014 through in or about February 2020, Nino, in the offer and sale of securities, by the use of means or instruments of transportation or communication in interstate commerce, or by use of the mails, directly or indirectly, knowingly or severely recklessly employed devices, schemes and artifices to defraud.

27. By reason of the foregoing, Nino violated, and, unless enjoined, is reasonably likely to continue to violate, Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)].

COUNT V

Violations of Section 17(a)(2) of the Securities Act

28. The Commission realleges Paragraphs 1 through 15 and incorporates them by reference herein.

29. From in or about May 2014 through in or about February 2020, Nino, in the offer and sale of securities, by the use of means or instruments of transportation or communication in interstate commerce, or by use of the mails, directly or indirectly, negligently obtained money or property by means of untrue statements of material fact and omissions of material facts necessary

in order to make the statements made, in light of the circumstances under which they were made not misleading.

30. By reason of the foregoing, Nino violated, and, unless enjoined, is reasonably likely to continue to violate, Section 17(a)(2) of the Securities Act [15 U.S.C. § 77q(a)(2)].

COUNT VI

Violations of Section 17(a)(3) of the Securities Act

31. The Commission realleges Paragraphs 1 through 15 and incorporates them by reference herein.

32. From in or about May 2014 through in or about February 2020, Nino, in the offer and sale of securities, by the use of means or instruments of transportation or communication in interstate commerce, or by use of the mails, directly or indirectly, negligently engaged in transactions, practices, and courses of business that operated as a fraud or deceit upon purchasers of securities.

33. By reason of the foregoing, Nino violated, and, unless enjoined, is reasonably likely to continue to violate, Section 17(a)(3) of the Securities Act [15 U.S.C. § 77q(a)(3)].

COUNT VII

Violations of Sections 206(1) of the Advisers Act

34. The Commission realleges Paragraphs 1 through 15 and incorporates them by reference herein.

35. Nino, for compensation, engaged in the business of directly advising others as to the value of securities or as to the advisability of investing in, purchasing, or selling securities. Nino was therefore an “investment adviser” within the meaning of Section 202(a)(11) of the Advisers Act [15 U.S.C. § 80b-2(a)(11)].

36. From in or about May 2014 through in or about February 2020, Nino, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly, knowingly or recklessly employed a device, scheme, or artifice to defraud one or more clients or prospective clients.

37. By reason of the foregoing, Nino violated and, unless enjoined, is reasonably likely to continue to violate Section 206(1) of the Advisers Act [15 U.S.C. § 80b-6(1)].

COUNT VIII

Violations of Sections 206(2) of the Advisers Act

38. The Commission realleges Paragraphs 1 through 15 and 35 and incorporates them by reference herein.

39. From in or about May 2014 through in or about February 2020, Nino by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly, negligently engaged in transactions, practices, or courses of business which operated as a fraud or deceit upon one or more clients or prospective clients.

40. By reason of the foregoing, Nino violated and, unless enjoined, is reasonably likely to continue to violate Section 206(2) of the Advisers Act [15 U.S.C. § 80b-6(2)].

VI. Relief Requested

WHEREFORE, the Commission respectfully requests the Court find that Nino committed the violations of the federal securities laws alleged in this Complaint and:

A. Permanent Injunction

Enter an Order permanently restraining and enjoining Nino from, directly or indirectly, violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Section 10(b) of the Exchange

Act [15 U.S.C. § 78j] and Rule 10b-5 thereunder [17 CFR § 240.10b-5], and Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §§ 80b-6(1) and 80b-6(2)].

B. Disgorgement and Prejudgment Interest

Issue an Order requiring Nino to disgorge the ill-gotten gains received as a result of the violations alleged in this Complaint, including prejudgment interest, resulting from the acts or courses of conduct alleged in this Complaint.

C. Civil Penalties

Issue an Order directing Nino to pay a civil monetary penalty pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)], and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)].

D. Further Relief

Grant such other and further relief as this Court may deem just and appropriate.

VII. Retention Of Jurisdiction

Further, the Commission respectfully requests that the Court retain jurisdiction over this action and over the Defendant in order to implement and carry out the terms of all orders and decrees that may hereby be entered, or to entertain any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court.

VIII. Jury Trial Demand

The Commission hereby demands a trial by jury on any and all issues in this action so triable.

January 21, 2022

Respectfully submitted,

By: /s/ Andrew O. Schiff
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

I. (a) PLAINTIFFS

Securities and Exchange Commission

DEFENDANTS

German Nino

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Broward County, FL (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number) Andrew O. Schiff, Esq., Securities and Exchange Commission, 801 Brickell Avenue, Suite 1950, Miami, Florida 33131; Telephone: (305) 982-6300; Fax: (305) 536-4154; Email: schiffa@sec.gov

Attorneys (If Known)

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State PTF DEF 1 1
Citizen of Another State PTF DEF 2 2
Citizen or Subject of a Foreign Country PTF DEF 3 3
Incorporated or Principal Place of Business In This State PTF DEF 4 4
Incorporated and Principal Place of Business In Another State PTF DEF 5 5
Foreign Nation PTF DEF 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Grid of categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, LABOR, IMMIGRATION, FORFEITURE/PENALTY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes items like 110 Insurance, 210 Land Condemnation, 310 Airplane, 440 Other Civil Rights, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding 2 Removed from State Court 3 Re-filed (See VI below) 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation Transfer 7 Appeal to District Judge from Magistrate Judgment 8 Multidistrict Litigation - Direct File 9 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S)

(See instructions): a) Re-filed Case YES NO b) Related Cases YES NO

JUDGE:

DOCKET NUMBER:

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity): 15 U.S.C. § 77q(a)(1), (2) and (3), 15 U.S.C. § 78j(b), 15 U.S.C. § 80b-2(a)(11), 15 U.S.C. § 80b-6(1) and (2), 17 CFR § 240.10b-5(a), (b) and (c). Length of Trial via 5 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ disgorgement, prejudgment interest, and civil penalty

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

DATE 01/21/2022 SIGNATURE OF ATTORNEY OF RECORD /s/Andrew O. Schiff

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Florida



Securities and Exchange Commission

Plaintiff(s)

v.

German Nino

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) German Nino
1501 Victoria Isle Way
Weston, FL 33327

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Andrew O. Schiff, Esq., Senior Trial Counsel
Securities and Exchange Commission
801 Brickell Avenue, Suite 1950
Miami, Florida 33131
Telephone: (305) 982-6300
Email: schiffa@sec.gov

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: