UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 11234 / September 14, 2023

SECURITIES EXCHANGE ACT OF 1934
Release No. 98392 / September 14, 2023

INVESTMENT ADVISERS ACT OF 1940
Release No. 6422 / September 14, 2023

INVESTMENT COMPANY ACT OF 1940
Release No. 34997 / September 14, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-21667

In the Matter of **GlennCap LLC and** **Jonathan Vincent Glenn,** **Respondents.**	**ORDER INSTITUTING ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 8A OF THE SECURITIES ACT OF 1933, SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, SECTIONS 203(e), 203(f), AND 203(k) OF THE INVESTMENT ADVISERS ACT OF 1940, AND SECTION 9(b) OF THE INVESTMENT COMPANY ACT OF 1940, MAKING FINDINGS, AND IMPOSING REMEDIAL SANCTIONS AND A CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 ("Securities Act"), Section 21C of the Securities Exchange Act of 1934 ("Exchange Act"), Sections 203(e), 203(f), and 203(k) of the Investment Advisers Act of 1940 ("Advisers Act"), and Section 9(b) of the Investment Company Act of 1940 ("Investment Company Act") against GlennCap LLC ("GlennCap") and Jonathan Vincent Glenn ("Glenn") (collectively, "Respondents").

II.

In anticipation of the institution of these proceedings, Respondents have submitted an Offer of Settlement (the "Offer"), which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over them and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondents consent to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Section 21C of the Securities Exchange Act of 1934, Sections 203(e), 203(f), and 203(k) of the Investment Advisers Act of 1940, and Section 9(b) of the Investment Company Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order ("Order"), as set forth below.

III.

On the basis of this Order and Respondents' Offer, the Commission finds[1] that:

Summary

From at least January 2020 to March 2022, GlennCap, acting through Glenn, its sole owner and principal, engaged in undisclosed "cherry-picking," a practice of fraudulently allocating profitable trades to favored accounts at the expense of other advisory clients. Glenn allocated a disproportionate number of trades with positive first-day returns to accounts belonging to certain favored clients, GlennCap (which Glenn owns), and another account that Glenn controlled, while allocating a disproportionate number of trades with negative first-day returns to other client accounts. Glenn accomplished this by executing block trades in GlennCap's omnibus brokerage account and then waiting until later in the day, after he could see whether the positions had increased or decreased in value, to allocate the trades to either favored or disfavored accounts. Respondents also made false and misleading statements concerning their trading practices in GlennCap's Forms ADV, Part 2A ("Brochures"), which were provided to clients and prospective clients. By virtue of this conduct, Respondents willfully violated Section 17(a) of the 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.

Respondents

1. **GlennCap LLC** is a Connecticut limited liability company with its principal place of business in Greenwich, Connecticut. GlennCap has been registered as an investment adviser with the State of Connecticut since January 3, 2018, except for a period from December 31, 2019 to January 14, 2020 when GlennCap failed to renew its registration because of insufficient funds in its renewals account. GlennCap has also been registered as an investment adviser with the State of

[1] The findings herein are made pursuant to Respondents' Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

New York since April 22, 2019, and on a conditional, restricted basis with the State of Texas since January 23, 2020. According to GlennCap's Form ADV filed on March 24, 2023, GlennCap manages $14 million in assets for 75 clients, all of whom are individual investors.

2. **Jonathan Vincent Glenn**, age 53, is a resident of Greenwich, Connecticut, and has been the sole owner, principal, employee, and investment adviser representative of GlennCap since at least 2018. Prior to 2018, Glenn was a registered representative associated with multiple broker-dealers.

Other Relevant Entities

3. **Broker-Dealer A** is an SEC-registered broker-dealer. From 2018 until March 2022, Broker-Dealer A provided asset custody and trade execution services to GlennCap. Broker-Dealer A held investment accounts in custody for Glenn, GlennCap, and GlennCap's advisory clients. Broker-Dealer A executed securities transactions in those accounts at the instruction of GlennCap, acting through Glenn. Broker-Dealer A terminated its relationship with GlennCap on March 11, 2022, effective June 9, 2022.

4. **Broker-Dealer B** is an SEC-registered broker-dealer. Glenn and GlennCap began transitioning their own and clients' accounts to Broker-Dealer B after March 11, 2022. Broker-Dealer B provided asset custody and trade execution services to Glenn, GlennCap, and GlennCap's advisory clients starting in May 2022. Broker-Dealer B executed securities transactions in their accounts at the instruction of GlennCap, acting through Glenn.

Background

5. Glenn founded GlennCap in 2018. By February 2019, GlennCap had approximately $12.5 million in assets under management and approximately 50 clients, all of whom were individual investors. By January 2022, GlennCap's assets under management had increased to approximately $21 million. Respondents managed client accounts on a discretionary basis and charged clients a negotiable annual management fee that was usually about 1.25% of assets under management. Several of GlennCap's clients also paid annual incentive fees consisting of 20% of the positive investment returns in their accounts each year.

6. From January 2018 to March 2022, Glenn, GlennCap, and GlennCap's clients all had their accounts in custody at Broker-Dealer A, an SEC-registered firm, and Glenn had discretionary authority to place trades for the accounts. Beginning in at least 2020, rather than trading directly in clients' accounts, Glenn often executed trades in GlennCap's omnibus account at Broker-Dealer A. An omnibus account is an investment account that allows multiple individuals to pool their resources and invest as a single entity. This allowed for block trading (that is, executing securities transactions on behalf of multiple accounts simultaneously without necessarily identifying the specific individual accounts for which a trade is intended in advance). After placing a block trade in the omnibus account, Glenn would wait before instructing Broker-Dealer A to allocate it among individual accounts. By allocating transactions after he had placed them, Glenn could wait

and see how the positions performed over the course of the day and then decide how to allocate them based on whether the positions had increased or decreased in value.

7. GlennCap had a written Code of Ethics that required Respondents to determine and document the specific allocation of each block trade prior to execution, and to allocate block trades to individual accounts at an average price. Respondents did not implement these procedures, however. Instead, from January 6, 2020 until December 31, 2020 ("Phase 1"), Glenn disproportionately allocated profitable trades (*e.g.*, purchases of securities that increased in price from the time of purchase in the omnibus account to time of allocation later that day) to certain accounts belonging to two of GlennCap's clients who paid 20% annual incentive fees and, to a lesser degree, to GlennCap's account, which benefitted Glenn because he owns GlennCap. At the same time, Glenn disproportionately allocated unprofitable trades (*e.g.*, purchases of securities that decreased in price from the time of purchase in the omnibus account to time of allocation later that day) to GlennCap's other clients' accounts. The preferred accounts obtained average first-day returns of approximately 0.44% on allocated equity trades during Phase 1, while GlennCap's other client accounts obtained average first-day returns of approximately -0.35% on allocated equity trades. The difference between the allocations of profitable trades and unprofitable trades is statistically significant. The probability that such a disparate allocation of gains and losses occurred by chance is nearly zero.

8. Thereafter, from January 4, 2021 to March 11, 2022 ("Phase 2"), Glenn disproportionately allocated profitable trades to accounts belonging to GlennCap and another account that Glenn controlled. At the same time, Glenn disproportionately allocated unprofitable trades to GlennCap's clients' accounts. The favored accounts obtained average first-day returns of approximately 0.70% on allocated equity trades during Phase 2, while GlennCap's client accounts obtained average first-day returns of approximately -0.84% on allocated equity trades. The difference between the allocations of profitable trades and unprofitable trades is statistically significant. The probability that such a disparate allocation of gains and losses occurred by chance is nearly zero.

9. On some occasions during Phases 1 and 2, Respondents executed multiple block trades in the same security at different prices on the same day. Some of those block trades were profitable at the time of allocation while others were not. Although GlennCap's Code of Ethics required the Respondents to blend those block trades and allocate them to individual accounts at an average price, Respondents did not do that. Instead, Respondents disproportionately allocated the profitable block trades to favored accounts, and they disproportionately allocated the unprofitable block trades in the same securities executed on the same day to disfavored accounts.

10. Respondents benefitted from Glenn's cherry-picking during Phase 1 through the receipt of incentive fees paid by the two favored clients. Specifically, Respondents received approximately $96,542 in net performance fees attributable to Respondents' cherry-picking during Phase 1. Respondents also received ill-gotten cherry-picking proceeds of at least $2,647,074 during Phases 1 and 2.

11. In March 2022, Broker-Dealer A notified Respondents that, due to concerns about the Respondents' trading, Broker-Dealer A had terminated GlennCap's access to the omnibus account and would terminate its relationship with GlennCap altogether in 90 days. Thereafter, Glenn asked GlennCap's clients to move their accounts to Broker-Dealer B, another SEC-registered firm. Broker-Dealer B does not allow investment advisers to use omnibus trading accounts. As a result, Respondents have been unable to cherry-pick profitable trades since March 2022.

12 From January 2018 to March 2022, Respondents made the following false and misleading statements concerning their trading practices in GlennCap's Forms ADV, Part 2A Brochures, which Glenn prepared and filed with the Investment Adviser Registration Depository, and which were provided to clients and prospective clients:

a. The Brochures stated that GlennCap would execute securities transactions on behalf of clients in accordance with risk tolerance levels as documented in individualized investment policy statements. This statement was false because Respondents did not create or utilize investment policy statements, and securities transactions on behalf of clients were executed in service of Respondents' cherry-picking scheme and were not based on clients' risk tolerance levels.

b. The Brochures stated, "GlennCap seeks to provide that investment decisions are made in accordance with the fiduciary duties owed to its accounts and without consideration of GlennCap's economic, investment or other financial interests. To meet its fiduciary obligations, GlennCap LLC attempts to avoid, among other things, investment or trading practices that systematically advantage or disadvantage certain client portfolios, and accordingly, GlennCap's policy is to seek fair and equitable allocation of investment opportunities/transactions among its clients to avoid favoring one client over another over time. It is GlennCap's policy to allocate investment opportunities and transactions it identifies as being appropriate and prudent . . . among its clients on a fair and equitable basis over time." This statement was false because Respondents did not: (i) seek to make investment decisions in accordance with their fiduciary duties and without consideration of their own interests; (ii) avoid trading practices that systematically advantaged or disadvantaged certain client portfolios; (iii) seek fair or equitable allocation of investment opportunities or transactions among clients; or (iv) avoid favoring one client over another over time. To the contrary, Respondents made investment decisions in service of a cherry-picking scheme that unfairly, inequitably, and systematically favored Respondents and select clients while disadvantaging other clients over time.

c. The Brochures stated, "[f]rom time to time, representatives of GlennCap may buy or sell securities for themselves that they also recommend to clients. This may provide an opportunity for representatives of GlennCap to buy or sell the same securities before or after recommending the same securities to clients resulting in representatives profiting off the recommendations they provide to clients. Such transactions may create a conflict of interest. GlennCap will

always document any transactions that could be construed as conflicts of interest and will never engage in trading that operates to the client's disadvantage when similar securities are being bought or sold." This statement was false because, in connection with their cherry-picking scheme, Respondents often bought and sold securities for themselves before and after buying and selling the same securities on behalf of clients in a manner that operated to the clients' disadvantage, and Respondents never documented these transactions.

d. The Brochures stated, "GlennCap will never engage in trading that operates to the client's disadvantage if representatives of GlennCap buy or sell securities at or around the same time as clients." This statement was false because, in connection with their cherry-picking scheme, Respondents often bought and sold securities for themselves at or around the same time that they also bought and sold the same securities on behalf of clients in a manner that operated to the clients' disadvantage.

e. The Brochures stated that, when GlennCap "aggregate[d] or bunch[ed] securities in a single transaction for multiple clients in order to seek more favorable prices, lower brokerage commissions, or more efficient execution," GlennCap "would place an aggregate order with the broker on behalf of all such clients in order to ensure fairness for all clients; provided, however, that trades would be reviewed periodically to ensure that accounts are not systematically disadvantaged by this policy." This statement was false because Respondents often used block trades to effectuate their cherry-picking scheme in a manner that systematically disadvantaged clients, and Respondents never reviewed those transactions to ensure that they were not systematically disadvantaging clients.

Violations

13. As a result of the conduct described above, Respondents willfully violated Section 17(a) of the Securities Act, which prohibits any person, in the offer or sale of any securities by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly, from employing any device, scheme, or artifice to defraud; obtaining money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

14. As a result of the conduct described above, Respondents willfully violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails or of any facility of any national securities exchange, in connection with the purchase or sale of any security, from employing any deceptive device, scheme, or artifice to defraud; making any untrue statement of a material fact or to omitting to state a material fact necessary in order to make the

statements made, in the light of the circumstances under which they were made, not misleading; or engaging in any act, practice, or course of business that operates as a fraud on any person.

15. As a result of the conduct described above, Respondents willfully violated Sections 206(1) and 206(2) of the Advisers Act, which prohibit any investment adviser, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly, from (1) employing any device, scheme, or artifice to defraud any client or prospective client, and (2) engaging in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client.

Disgorgement

16. The disgorgement and prejudgment interest ordered in paragraph E of Section IV is consistent with equitable principles and does not exceed Respondents' net profits from their violations, and will be distributed to harmed investors to the extent feasible. The Commission will hold funds paid pursuant to paragraph E in an account at the United States Treasury pending distribution. Upon approval of the distribution final accounting by the Commission, any amounts remaining that are infeasible to return to investors, and any amounts returned to the Commission in the future that are infeasible to return to investors, may be transferred to the general fund of the U.S. Treasury, subject to Section 21F(g)(3) of the Exchange Act.

IV.

In view of the foregoing, the Commission deems it appropriate, in the public interest to impose the sanctions agreed to in the Respondents' Offer.

Accordingly, pursuant to Section 8A of the Securities Act, Section 21C of the Exchange Act, Sections 203(e), 203(f), and 203(k) of the Advisers Act, and Section 9(b) of the Investment Company Act, it is hereby ORDERED that:

A. Respondents GlennCap and Glenn cease and desist from committing or causing any violations and any future violations of Section 17(a) of the 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.

B. Respondent Glenn be, and hereby is:

> barred from association with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; and
>
> prohibited from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter.

C. Respondent GlennCap is censured.

D. Any reapplication for association by Respondent Glenn will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, compliance with the Commission's order and payment of any or all of the following: (a) any disgorgement or civil penalties ordered by a Court against Respondent Glenn in any action brought by the Commission; (b) any disgorgement amounts ordered against Respondent Glenn for which the Commission waived payment; (c) any arbitration award related to the conduct that served as the basis for the Commission order; (d) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (e) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

E. Respondents shall, within 14 days of the entry of this Order, pay, jointly and severally, disgorgement of $2,743,616 and prejudgment interest of $251,357, and Respondent Glenn shall pay a civil money penalty in the amount of $500,000, to the Securities and Exchange Commission. If timely payment of the disgorgement and prejudgment interest is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600. If timely payment of the civil money penalty is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717. Payment must be made in one of the following ways:

(1) Respondents may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

(2) Respondents may make direct payment from a bank account via Pay.gov through the SEC website at http://www.sec.gov/about/offices/ofm.htm; or

(3) Respondents may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Glenn and GlennCap as Respondents in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Andrew Dean, Co-Chief, Asset Management Unit, Division of Enforcement, U.S. Securities and Exchange Commission, New York Regional Office, 100 Pearl St., Suite 20-100, New York, NY 10004-2616.

F. Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, a Fair Fund is created for the disgorgement, prejudgment interest and penalties referenced in paragraph IV.E. above. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent Glenn agrees that in any Related Investor Action, he shall not argue that he is entitled to, nor shall he benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent Glenn's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent Glenn agrees that he shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent Glenn by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Respondent Glenn, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent Glenn under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent Glenn of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Vanessa A. Countryman
Secretary