

PROCEEDINGS BEFORE FINRA DISPUTE RESOLUTION

BEVERLEY B. SCHOTTENSTEIN,)
Individually and as Co-Trustee Under the)
Beverley B. Schottenstein Revocable)
Trust U/A/D April 5, 2011, as Amended,)
)
Claimant,)
)
vs.)
)
J.P. MORGAN SECURITIES, LLC;)
EVAN A. SCHOTTENSTEIN; and)
AVI E. SCHOTTENSTEIN, Jointly)
and Severally,)
)
Respondents.)
_____)

FINRA Arb. No. _____

STATEMENT OF CLAIM

This firm represents claimant, Beverley B. Schottenstein ("Mrs. Schottenstein"), individually and as Co-Trustee under the Beverley B. Schottenstein Revocable Trust U/A/D April 5, 2011, as Amended. Mrs. Schottenstein files this statement of claim against respondents, J.P. Morgan Securities, LLC ("J.P. Morgan"), Evan A. Schottenstein ("Evan Schottenstein"), and Avi E. Schottenstein ("Avi Schottenstein"), jointly and severally. At all material times, J.P. Morgan has been a broker/dealer and a member of the Financial Industry Regulatory Authority ("FINRA"). At all material times, Evan Schottenstein has been a registered representative licensed by FINRA and employed by J.P. Morgan. At all material times, Avi Schottenstein has been a registered representative licensed by FINRA and employed by J.P. Morgan. FINRA has jurisdiction over this matter pursuant to Article VII, Section 1, of the FINRA By-Laws and Section 12200 of the FINRA Code of Arbitration Procedure.

As of the date of the filing of this statement of claim, the two co-trustees under the Beverley B. Schottenstein Revocable Trust U/A/D April 5, 2011, as Amended, are Mrs. Schottenstein and The Goldman Sachs Trust Company, N.A. ("GS Trust Company"). Under the provisions of the revocable trust agreement, as amended, GS Trust Company has delegated to Mrs. Schottenstein, as trustee, the authority, on behalf of both co-trustees, to retain the undersigned law firm and to pursue claims against J.P. Morgan or any other persons or entities accountable for the wrongful actions which are the basis of the claims against J.P. Morgan.

Mrs. Schottenstein is 93 years old. Because of her age, she requests that this arbitration proceeding be expedited pursuant to the procedures of FINRA for expediting arbitration proceedings filed on behalf of senior investors.

In this arbitration proceeding, Mrs. Schottenstein seeks compensatory damages in excess of \$10,000,000 and punitive damages against all three respondents, jointly and severally, arising from egregious and outrageous fraudulent conduct and conduct in violation of the fiduciary duties owed to her by Evan Schottenstein and Avi Schottenstein. The misconduct that is the basis for this statement of claim occurred while Evan Schottenstein and Avi Schottenstein were employed by J.P. Morgan as financial advisors responsible for the investments in Mrs. Schottenstein's trust account with J.P. Morgan. From the opening of the account in March, 2014, through the closure of the account in 2019, Evan Schottenstein and Avi Schottenstein exercised complete control over Mrs. Schottenstein's trust account and all investments made in the trust account. In addition, J.P. Morgan completely and utterly failed to supervise Evan Schottenstein and Avi Schottenstein to prevent their misconduct, which caused Mrs. Schottenstein to suffer millions of dollars in damages.

I. THE PARTIES

Mrs. Schottenstein is a 93 year old widow who resides in Bal Harbour, Florida. Mrs. Schottenstein's date of birth is June 13, 1926. Mrs. Schottenstein grew up in Miami, Florida, and attended high school there. After high school, Mrs. Schottenstein worked briefly in New York City as a bookkeeper and attended night school. Mrs. Schottenstein does not have a college degree. Mrs. Schottenstein is an unsophisticated investor, who has always relied on financial advisors to manage her investment accounts.

J.P. Morgan has, at all material times, been a broker/dealer registered with FINRA. At all material times, J.P. Morgan has been regularly engaged in the business of providing investment advice and investment account services to customers, including Mrs. Schottenstein.

Evan Schottenstein graduated from college in approximately 2004. Evan Schottenstein is one of Mrs. Schottenstein's grandsons. After graduation, Evan Schottenstein went to work for Citigroup Global Markets, Inc., and obtained Series 7, 63, and 65 licenses from FINRA. In June, 2009, Evan Schottenstein became an employee and financial advisor of Morgan Stanley Smith Barney, LLC, d/b/a Morgan Stanley ("Morgan Stanley"). In March, 2014, Evan Schottenstein transferred from Morgan Stanley to the employment of J.P. Morgan where he became an employee and financial advisor of J.P. Morgan.

Avi Schottenstein graduated from college in approximately 2008. Avi Schottenstein is one of Mrs. Schottenstein's grandsons. Evan and Avi Schottenstein are brothers. In September, 2009, Avi Schottenstein joined his brother as an employee and financial advisor of Morgan Stanley. Avi Schottenstein obtained Series 3, 7, and 66 licenses from FINRA. In March, 2014, Avi Schottenstein transferred from Morgan Stanley to the employment of J.P. Morgan and became an employee and financial advisor of J.P. Morgan.

II. FACTUAL BACKGROUND

A. Beverley Schottenstein

Just after the end of World War II, Mrs. Schottenstein met Alvin Schottenstein. Mrs. Schottenstein married Alvin Schottenstein in 1948. Mrs. Schottenstein and Alvin Schottenstein had four children: Charles Schottenstein, Randee Schottenstein, Robert ("Bobby") Schottenstein ("Bobby Schottenstein"), and Gary Schottenstein. Bobby Schottenstein has three male children, including Evan Schottenstein and Avi Schottenstein.

After Alvin Schottenstein and Mrs. Schottenstein were married, Alvin Schottenstein, along with his brothers, operated and expanded a successful chain of discount department stores and furniture stores that had been founded by their father. During Alvin Schottenstein's successful business career, he and his brothers purchased an interest in a Big Lots store chain. Mrs. Schottenstein was not involved in her late husband's business, and Mrs. Schottenstein did not work outside the home.

The success of the Schottenstein discount department store and furniture store chains and the purchase of an interest in the Big Lots store chain resulted in significant wealth for the Schottenstein family.

Alvin Schottenstein died in 1984. Before his death, Alvin Schottenstein handled all of the financial matters and investments for himself and Mrs. Schottenstein. For about 25 years after Alvin Schottenstein's death, Mrs. Schottenstein's investments were made, managed, and supervised by her eldest son, Charles Schottenstein, and two financial advisors in Columbus, Ohio. Mrs. Schottenstein continued to live in Columbus, Ohio, until she moved to her condominium in Bal Harbour, Florida, in approximately 2009.

B. Evan Schottenstein and Avi Schottenstein

After Evan Schottenstein graduated from college in approximately 2004, and became a financial advisor with Citigroup Global Markets, Inc., Evan Schottenstein began asking his grandmother, Mrs. Schottenstein, to allow him to manage her investments for her. Ultimately, in approximately 2009, Mrs. Schottenstein transferred the majority of her investment assets to an account managed by Evan Schottenstein about the time that Evan Schottenstein became employed as a financial advisor by Morgan Stanley.

When Evan Schottenstein repeatedly asked his grandmother to allow him to manage her investments, he assured her that she could place her trust and confidence in him to make prudent investments for her and to faithfully manage her wealth and investments in her best interests. Mrs. Schottenstein reposed her trust and confidence in her grandson, Evan Schottenstein, to invest her savings and make investments that were in her best interests. As a result of Mrs. Schottenstein placing her trust and confidence in her grandson, Evan Schottenstein, Evan Schottenstein gained influence over Mrs. Schottenstein. A fiduciary relationship, therefore, developed between Mrs. Schottenstein and Evan Schottenstein.

In September, 2009, Avi Schottenstein also became a financial advisor employed by Morgan Stanley. At some point in time, Avi Schottenstein was added as a financial advisor for Mrs. Schottenstein's account with Morgan Stanley. When, in March, 2014, Evan Schottenstein transferred to become a financial advisor for J.P. Morgan, Avi Schottenstein also transferred to become a financial advisor for J.P. Morgan.

Evan Schottenstein and Avi Schottenstein arranged for Mrs. Schottenstein to open an account with J.P. Morgan in her name as trustee of the Beverley B. Schottenstein Revocable Trust U/A/D April 5, 2011 ("Mrs. Schottenstein's Trust Account"). Evan Schottenstein became the

financial advisor on Mrs. Schottenstein's Trust Account with J.P. Morgan, along with Avi Schottenstein. Evan Schottenstein and Avi Schottenstein managed and controlled Mrs. Schottenstein's Trust Account and all of the investments in that account. Avi Schottenstein assisted Evan Schottenstein with the management of Mrs. Schottenstein's Trust Account and assisted Evan Schottenstein with making and controlling the investments in Mrs. Schottenstein's Trust Account. As a result of Avi Schottenstein being a grandson of Mrs. Schottenstein and his becoming a financial advisor for Mrs. Schottenstein's Trust Account, Avi Schottenstein had a fiduciary relationship with Mrs. Schottenstein.

The fiduciary relationship that had been formed between Mrs. Schottenstein and Evan Schottenstein continued when he became an employee and financial advisor of J.P. Morgan. After Evan Schottenstein became an employee and financial advisor of J.P. Morgan, he repeatedly assured Mrs. Schottenstein that she could trust and rely upon him to make prudent investments for her and to manage her wealth in her best interests. In working with Evan Schottenstein in managing and controlling Mrs. Schottenstein's Trust Account and investments, Avi Schottenstein also owed fiduciary duties to Mrs. Schottenstein.

The assets of Mrs. Schottenstein transferred to J.P. Morgan in April, 2014, had a value in excess of \$82,000,000.

C. The Egregious and Fraudulent Misconduct of Evan Schottenstein and Avi Schottenstein

After Evan Schottenstein became an employee and financial advisor of J.P. Morgan, he repeatedly assured Mrs. Schottenstein that he would not charge her any commissions on the investments that he made for her and that she would not incur fees or other charges for his management of her investments or for the investments. Evan Schottenstein also repeatedly told Mrs. Schottenstein that she did not need to concern herself with the monthly statements and other

documents that J.P. Morgan mailed to her. Evan Schottenstein assured his grandmother that he had everything under control, that her investments were doing well, and that he and Avi Schottenstein maintained all of her monthly statements and other documents from J.P. Morgan.

Despite the fact that the Trust Account was a non-discretionary account, neither Evan Schottenstein nor Avi Schottenstein contacted Mrs. Schottenstein to discuss or recommend the purchase or sale of any of the securities purchased or sold in Mrs. Schottenstein's Trust Account. All purchases and sales of investments in the Trust Account were unauthorized and were made at the discretion of Evan Schottenstein and Avi Schottenstein.

Between May, 2014, and May, 2015, Evan Schottenstein and Avi Schottenstein purchased 66 structured products, commonly referred to as "autocallable structured notes." The autocallable structured notes purchased by Evan Schottenstein and Avi Schottenstein for their grandmother, Mrs. Schottenstein, were highly complex, extremely risky, and illiquid investment products that were totally inappropriate for Mrs. Schottenstein. The total principal amount of the autocallable structured notes purchased by Evan Schottenstein and Avi Schottenstein in one year was in excess of \$72,000,000. Of the 66 purchases of autocallable structured notes, 45 of those purchases were purportedly made on an unsolicited basis.¹ The notion that Mrs. Schottenstein would have any knowledge whatsoever of the existence of autocallable structured notes as investments that could be purchased in her account is patently absurd. Nevertheless, Evan Schottenstein and Avi Schottenstein marked at least 68% of the purchases of the autocallable structured notes as unsolicited. Mrs. Schottenstein suffered principal losses in excess of \$10,000,000 on 15 of the autocallable structured notes purchased for her by Evan and Avi Schottenstein at J.P. Morgan.

¹ A financial advisor marking a securities transaction as "unsolicited" is his statement that the securities transaction was made based upon the unsolicited request of his customer, in this case, Mrs. Schottenstein. A financial advisor marking a securities transaction as "solicited" is his statement that the securities transaction was made based upon a solicitation or recommendation by the financial advisor to his customer.

Contrary to Evan Schottenstein's repeated assurances to his grandmother about not charging commissions or other fees and charges, Mrs. Schottenstein incurred substantial costs associated with the purchase of the autocallable structured notes and the other trading activity in Mrs. Schottenstein's Trust Account. On information and belief, the amount of money received by J.P. Morgan, Evan Schottenstein, and Avi Schottenstein for the unauthorized purchases of over \$72,000,000 in autocallable structured notes was many hundreds of thousands of dollars, if not more.

During the first nine months after Mrs. Schottenstein's Trust Account was opened with J.P. Morgan, with the exception of the purchase of 3000 shares of Google stock, the only investments purchased, all on an unauthorized basis, by Evan Schottenstein and Avi Schottenstein in the Trust Account were autocallable structured notes. In May, 2015, approximately one year after Evan Schottenstein and Avi Schottenstein embarked on the fraudulent, unauthorized purchase of autocallable structured notes in Mrs. Schottenstein's Trust Account, they abruptly ceased purchasing those investment products.

During the period of time that Evan Schottenstein and Avi Schottenstein were focused on the unauthorized purchases of autocallable structured notes in Mrs. Schottenstein's Trust Account, they sold, on an unauthorized basis, over 36,000 shares of Apple stock that had been held by Mrs. Schottenstein. The total sales price of the Apple stock sold on one day, November 3, 2014, was approximately \$4,400,000. The sale of the Apple stock resulted in Mrs. Schottenstein incurring totally unnecessary capital gains tax liability. All of the sales transactions for the Apple stock were entered into the J.P. Morgan trading system as unsolicited trades. However, Mrs. Schottenstein did not request those transactions and did not know of those transactions. J.P. Morgan was a market maker in Apple stock. Evan Schottenstein and Avi Schottenstein placed

those unauthorized sales transactions to generate revenue for J.P. Morgan and themselves on the markdowns on the sales transactions.

Beginning in January, 2015, Evan Schottenstein and Avi Schottenstein embarked on trading activity that was completely unauthorized and made no sense, other than to generate revenue for themselves and J.P. Morgan. Between January 1, 2015, and December 31, 2018, Evan Schottenstein and Avi Schottenstein made 215 unauthorized purchase transactions. The aggregate purchase price for the securities purchased was over \$198,000,000. During that same period of time, Evan Schottenstein and Avi Schottenstein made 382 unauthorized sales transactions, which resulted in gross sales in the amount of \$186,398,612.

Of the nearly 600 unauthorized purchase and sales transactions between January 1, 2015, and December 31, 2018, Evan Schottenstein and Avi Schottenstein entered 85% of those transactions as unsolicited. The entry of those transactions as unsolicited was false. Mrs. Schottenstein did not request those transactions and did not know about them. The intent of Evan and Avi Schottenstein in entering 85% of the purchase and sales transactions as unsolicited was to attempt to hide their unauthorized trading activity in their grandmother's Trust Account in gross violation of their fiduciary duties to her.

To generate revenue for themselves during the years 2015 through 2018, Evan Schottenstein and Avi Schottenstein frequently purchased and sold on an unauthorized basis securities in which J.P. Morgan made a market, so that they would be paid a percentage of the markup on the purchase and the markdown on the sale of those securities. In addition, Evan Schottenstein and Avi Schottenstein orchestrated the purchase of securities in initial or follow-on offerings of securities so that they would receive a percentage of the selling concession paid to J.P. Morgan on those purchase transactions. Over 64% of the purchase transactions from 2015

through 2018 involved purchases of securities for which J.P. Morgan was a market maker or involved purchases of securities sold in initial public offerings or follow-on offerings.

The trading activity in Mrs. Schottenstein's Trust Account in securities other than autocallable secured notes during the years 2015 through 2018 was outrageous and unconscionable. Evan Schottenstein and Avi Schottenstein engaged in that trading activity to generate revenue and income for themselves and J.P. Morgan and completely ignored the interests of their grandmother, let alone the best interests of their grandmother.

The 66 unauthorized purchase transactions of autocallable structured notes in the principal amount in excess of \$72,000,000 and the excessive, nonsensical, and unauthorized trading in other securities were able to be carried out and accomplished as a result of the abject failure of J.P. Morgan to supervise Evan and Avi Schottenstein. J.P. Morgan had a duty to supervise Evan Schottenstein and Avi Schottenstein and to prevent their gross misconduct.

During 2014, 2015, and 2016, Evan Schottenstein came to Mrs. Schottenstein's condominium unit, where she kept her documents. Evan Schottenstein repeatedly told his grandmother that she did not need to keep the documents sent to her by J.P. Morgan and that he would help her by shredding documents that she did not need to retain. The documents shredded by Evan Schottenstein included the monthly statements and confirmation slips that Mrs. Schottenstein had received from J.P. Morgan.

By late 2015, Evan Schottenstein and/or Avi Schottenstein, without informing Mrs. Schottenstein, created a fictitious email address for Mrs. Schottenstein, "bevschottenstein@aol.com." Sometime in the second half of 2016, Evan Schottenstein and/or Avi Schottenstein directed J.P. Morgan to stop mailing monthly statements and other written communications to Mrs. Schottenstein and to only deliver monthly statements and other written

communications related to her Trust Account to her at the fictitious email address that had been created for her. The intent of Evan Schottenstein in shredding documents in his grandmother's condominium and the intent of Evan Schottenstein and/or Avi Schottenstein in creating the fictitious email address was to prevent Mrs. Schottenstein from having access to the monthly statements and other documents related to her Trust Account with J.P. Morgan.

Evan Schottenstein and Avi Schottenstein knew that their grandmother did not know of the fictitious email address that they had created. They also knew that their grandmother did not own or have access to a computer and that she had no idea how to operate a computer.

Between the fourth quarter of 2016 and the closure of Mrs. Schottenstein's Trust Account with J.P. Morgan, Mrs. Schottenstein received no monthly statements or other documents concerning her Trust Account from J.P. Morgan by mail. All monthly statements and other documents were sent to the fictitious email address created by Evan Schottenstein and/or Avi Schottenstein.

The outrageous and unconscionable misconduct of Evan Schottenstein and Avi Schottenstein did not end with their unauthorized, fraudulent purchase of over \$72,000,000 in autocallable structured notes or their unauthorized and fraudulent purchase and sale of securities between 2015 and 2018 in their grandmother's Trust Account. In December, 2018, Evan Schottenstein and/or Avi Schottenstein orchestrated the commitment of \$5,000,000 by Mrs. Schottenstein to purchase an interest in a Cayman Islands private equity fund, Coatue Early Stage Fund Private Investors (Cayman), L.P. (the "Coatue Private Equity Fund"). Evan Schottenstein and Avi Schottenstein failed to inform Mrs. Schottenstein of their commitment of \$5,000,000 of her money to purchase an interest in the Coatue Private Equity Fund. To purchase the \$5,000,000 interest and to hide that transaction from Mrs. Schottenstein, Evan Schottenstein

and/or Avi Schottenstein orchestrated the forgery of her signatures on the subscription agreement, the subscriber information form, the tax forms, and the other subscription documents associated with Mrs. Schottenstein's purported purchase of a \$5,000,000 interest in the Coatue Private Equity Fund.

Evan Schottenstein's and Avi Schottenstein's outrageous, unconscionable, fraudulent, and criminal conduct as employees of J.P. Morgan has caused Mrs. Schottenstein to sustain damages in excess of \$10,000,000.

Mrs. Schottenstein trusted and relied on Evan Schottenstein and Avi Schottenstein to manage her wealth and to make investments on her behalf that were in her best interests. Given the familial relationship, Mrs. Schottenstein had no reason to expect anything less from her grandsons.

The outrageous misconduct of Evan Schottenstein and Avi Schottenstein was ongoing and continuing. The gross misconduct of Evan and Avi Schottenstein would not have been possible if J.P. Morgan had fulfilled its responsibilities to supervise their financial advisors and the investments and investment activity in Mrs. Schottenstein's Trust Account.

Mrs. Schottenstein did not become aware of any questions concerning the investments made in her Trust Account or Evan Schottenstein's and Avi Schottenstein's management of her investments until December, 2018. A relative of Mrs. Schottenstein obtained access to the monthly statements for Mrs. Schottenstein's Trust Account on the J.P. Morgan website through the use of a username and password that Evan Schottenstein had provided to the relative. The relative downloaded the monthly statements and reviewed some of them with Mrs. Schottenstein. That review caused Mrs. Schottenstein to become concerned about the investments that Evan and Avi Schottenstein had made in her Trust Account.

In early January, 2019, Mrs. Schottenstein met with representatives of Goldman Sachs. Based on the discussions Mrs. Schottenstein had with the Goldman Sachs representatives, she prepared and sent to J.P. Morgan on January 8, 2019, a letter addressed to Evan Schottenstein and Avi Schottenstein directing them to make no further investments, either purchases or sales, in her Trust Account.

In early January, 2019, Mrs. Schottenstein also prepared a five page "amendment to her will and trust" that expressed some of her concerns about her account and investments with J.P. Morgan and other concerns. In an effort to help Mrs. Schottenstein, one of Mrs. Schottenstein's relatives sent that five page handwritten document to J.P. Morgan.

The sending of the letter directing Evan and Avi Schottenstein to cease trading activity and the handwritten amendment to Mrs. Schottenstein's will and trust to J.P. Morgan prompted an immediate, aggressive, and even violent, response from Bobby Schottenstein and Avi Schottenstein. In an effort to try to protect himself and to protect his sons, Evan and Avi Schottenstein, from being fired by J.P. Morgan, Bobby Schottenstein physically forced his mother, Mrs. Schottenstein, into a chair in the kitchen of her condominium and forced her to write a one page letter to J.P. Morgan that Bobby Schottenstein dictated to her. The letter purportedly retracted the statements made by Mrs. Schottenstein in the five page handwritten amendment to her will and trust. The statements made in the so-called letter of retraction were those of Bobby Schottenstein, which he forced his mother to write, sign, and have notarized so that he could send the purported retraction letter to J.P. Morgan.

In January, 2019, representatives of Goldman Sachs and lawyers working for Mrs. Schottenstein tried to begin the process of transferring the assets and cash in Mrs. Schottenstein's Trust Account to Goldman Sachs. J.P. Morgan delayed that process until

mid-March, 2019. The only assets that remain at J.P. Morgan are the funds fraudulently invested in the Coatue Private Equity Fund and an illiquid investment in a hedge fund.

III. LEGAL CLAIMS

Evan and Avi Schottenstein intentionally and grossly betrayed the trust and confidence of their grandmother, Mrs. Schottenstein. They engaged in repeated and continuous fraudulent conduct and in criminal conduct to advance their own self-interests to the detriment of Mrs. Schottenstein. The conduct of Evan and Avi Schottenstein, as employees and financial advisors of J.P. Morgan, grossly violated securities industry standards of conduct, FINRA rules, and Florida and New York law.

As the fiduciaries for Mrs. Schottenstein, Evan Schottenstein and Avi Schottenstein had the utmost duties of honesty, good faith, fair dealing, and disclosure. They also had the duty to act in the best interests of Mrs. Schottenstein and not for their own self-interests.

Evan Schottenstein abused his fiduciary duties to Mrs. Schottenstein by misrepresenting to her that she would not be charged anything for the management of her wealth or the investments in her Trust Account and that she would not incur any fees or other expenses associated with the management or investments on her behalf. Evan Schottenstein and Avi Schottenstein failed to disclose anything to Mrs. Schottenstein about their purchase of over \$72,000,000 of autocallable structured notes in her Trust Account. The non-disclosures included the substantial risks, significant fees, and illiquidity associated with those products. Evan Schottenstein misrepresented to Mrs. Schottenstein that J.P. Morgan would not allow her to purchase stocks in her account, but, rather, would only allow her to purchase conservative bonds. Evan Schottenstein and Avi Schottenstein engaged in rampant and unchecked unauthorized trading in Mrs. Schottenstein's Trust Account. To attempt to hide their unauthorized trading and fraudulent conduct, Evan

Schottenstein shredded Mrs. Schottenstein's monthly statements and other documents from J.P. Morgan; and Evan Schottenstein and/or Avi Schottenstein created a fictitious email address for her, and directed J.P. Morgan to send Mrs. Schottenstein's statements and other documents to the fictitious email address, knowing that she would never see any of those monthly statements or other documents.

Evan and Avi Schottenstein grossly breached their duties under applicable FINRA Conduct Rules to observe high standards of commercial honor and just and equitable principles of trade and to deal fairly with Mrs. Schottenstein. Evan Schottenstein and Avi Schottenstein repeatedly and continuously engaged in conduct that benefited themselves and J.P. Morgan financially, that caused Mrs. Schottenstein to incur millions of dollars in losses, and that resulted in substantial revenues and income for J.P. Morgan and Evan and Avi Schottenstein to the detriment of Mrs. Schottenstein.

Evan Schottenstein and/or Avi Schottenstein also engaged in criminal conduct by orchestrating the forgery of Mrs. Schottenstein's signatures on the subscription documents in December, 2018, for a \$5,000,000 investment in the Coatue Private Equity Fund. To date, Mrs. Schottenstein has been required to pay approximately \$1,225,707 in capital calls to the Coatue Private Equity Fund.

Evan Schottenstein's and Avi Schottenstein's conduct was willful and wanton and was in total disregard for the interests and rights of their grandmother, Mrs. Schottenstein. As the employer of Evan and Avi Schottenstein, J.P. Morgan is responsible and liable for the willful and outrageous misconduct of its employees. J.P. Morgan actively and knowingly participated in the misconduct of Evan Schottenstein and Avi Schottenstein by approving the transactions in her Trust Account, and by completely and by utterly failing to supervise Evan and Avi Schottenstein to

prevent their willful and outrageous abuse of their fiduciary duties to Mrs. Schottenstein and to prevent their fraudulent conduct. In addition, J.P. Morgan, through its supervisors and managers, knowingly condoned, ratified, or consented to Evan Schottenstein's and Avi Schottenstein's outrageous misconduct.

Constructive Fraud/Abuse of Fiduciary Duty

There can be no question that Evan Schottenstein and Avi Schottenstein owed fiduciary duties to their grandmother, Mrs. Schottenstein, to act, make investments, and manage her wealth in her best interests and to not engage in fraudulent conduct in managing her wealth and investments and in making investments in her Trust Account with J.P. Morgan. The fiduciary duties imposed on Evan Schottenstein, Avi Schottenstein, and J.P. Morgan are the duties of the highest trust, confidence, disclosure, and fidelity that is recognized under Florida or New York law. Evan Schottenstein, Avi Schottenstein, and J.P. Morgan had the duty to act in a manner that was consistent with the best interests of Mrs. Schottenstein, and not for their pecuniary gain.

Evan and Avi Schottenstein abused their fiduciary duties to Mrs. Schottenstein in many ways. Evan Schottenstein fraudulently misrepresented to her that he would not earn any commissions from managing her wealth or investments and that she would not be charged any fees or other expenses for the management of her wealth or investments in her Trust Account. Evan Schottenstein misrepresented to Mrs. Schottenstein that J.P. Morgan would not allow her to invest in common stocks and that she would only be allowed to purchase conservative bonds in her account. Evan and Avi Schottenstein failed to disclose to Mrs. Schottenstein anything about their purchase of autocallable structured notes, including the substantial risks, significant fees, and illiquidity associated with those products. From the opening of Mrs. Schottenstein's Trust Account with J.P. Morgan through its closure, Evan and Avi Schottenstein engaged in rampant and

continuous unauthorized trading to the detriment of Mrs. Schottenstein. They attempted to hide their fraudulent conduct and abuse of their fiduciary duties by shredding the monthly statements and other documents mailed to Mrs. Schottenstein and by later creating a fictitious email address for her and directing J.P. Morgan to send the monthly statements and other documents to Mrs. Schottenstein at that email address. Evan and Avi Schottenstein substantially profited from the unauthorized and fraudulent investments in the autocallable structured notes and the trading activity in Mrs. Schottenstein's Trust Account, including the purchases and sales of securities for which J.P. Morgan was a market maker and securities that were offered in initial or follow-on offerings.

Evan Schottenstein and/or Avi Schottenstein engaged in criminal conduct by orchestrating the forgery of Mrs. Schottenstein's signatures on the subscription documents for the Coatue Private Equity Fund.

J.P. Morgan actively participated in and knowingly condoned, ratified, or consented to the egregious misconduct of Evan Schottenstein and Avi Schottenstein by failing to supervise them in their management of their grandmother's wealth and in the making of hundreds of unauthorized purchases and sales of securities in Mrs. Schottenstein's Trust Account. J.P. Morgan breached its supervisory duties by approving the purchases of 66 autocallable structured notes with a principal value in excess of \$72,000,000. J.P. Morgan should not have allowed the sale of one autocallable structured note to Mrs. Schottenstein. J.P. Morgan's gross supervisory lapses continued with its failure to prevent the other trading activity in Mrs. Schottenstein's Trust Account, the purpose of which was to generate revenue for J.P. Morgan and Evan and Avi Schottenstein. J.P. Morgan had a duty to know and clearly should have known of the egregious misconduct of its employees and financial advisors, Evan Schottenstein and Avi Schottenstein, with respect to the fraudulent and

unauthorized purchase and sale of securities in Mrs. Schottenstein's Trust Account. J.P. Morgan's complete and utter failure to supervise Evan Schottenstein and Avi Schottenstein and to prevent the flagrant abuses of Mrs. Schottenstein's interests has resulted in substantial revenues for J.P. Morgan to the detriment of Mrs. Schottenstein.

The conduct of Evan Schottenstein, Avi Schottenstein, and J.P. Morgan was willful and wanton and was in reckless disregard of the rights and interests of Mrs. Schottenstein.

Fraudulent Misrepresentations and Omissions

Evan Schottenstein and Avi Schottenstein misrepresented and failed to disclose to Mrs. Schottenstein numerous material facts concerning the investments in her Trust Account and their management of her account. They did so with the intent to deceive Mrs. Schottenstein, who justifiably relied on Evan Schottenstein's misrepresentations on behalf of himself and Avi Schottenstein. Evan Schottenstein's and Avi Schottenstein's fraudulent misrepresentations and omissions have caused Mrs. Schottenstein to suffer substantial damages.

Those misrepresentations and omissions include, but are not limited to, the following:

(1) Evan and Avi Schottenstein failed to disclose to Mrs. Schottenstein anything about their purchase of over \$72,000,000 of autocallable structured notes in her Trust Account. The non-disclosures included the substantial risks, significant fees, and illiquidity associated with those products;

(2) Evan Schottenstein misrepresented to Mrs. Schottenstein that she would not be charged anything for the management of her wealth or the investments in her Trust Account and that she would not incur any fees or other expenses associated with the management or investments on her behalf;

(3) Evan Schottenstein misrepresented to Mrs. Schottenstein that J.P. Morgan would not allow her to purchase stocks in her account, but would, rather, only allow her to purchase conservative bonds;

(4) Evan and Avi Schottenstein failed to disclose to Mrs. Schottenstein anything about the other investments that they purchased and sold in her Trust Account;

(5) Evan and Avi Schottenstein failed to disclose to Mrs. Schottenstein the fees and costs incurred by her with respect to the nearly 600 purchase and sales transactions between 2015 and 2018;

(6) Evan Schottenstein and Avi Schottenstein engaged in rampant and unchecked unauthorized trading in Mrs. Schottenstein's Trust Account;

(7) To attempt to hide the unauthorized trading and fraudulent conduct, Evan Schottenstein shredded Mrs. Schottenstein's monthly statements and other documents from J.P. Morgan, and Evan Schottenstein and/or Avi Schottenstein created a fictitious email address for Mrs. Schottenstein and directed J.P. Morgan to send Mrs. Schottenstein's monthly statements and other documents to the fictitious email address, knowing that she would never see any of those monthly statements or other documents;

(8) Evan and Avi Schottenstein failed to disclose to Mrs. Schottenstein anything having to do with the Coatue Private Equity Fund and the commitment of \$5,000,000 of her money to purchase an investment in that private equity fund; and

(9) Evan Schottenstein and/or Avi Schottenstein fraudulently orchestrated the forgery of Mrs. Schottenstein's signatures on the subscription documents for the Coatue Private Equity Fund.

J.P. Morgan actively participated in and knowingly condoned, ratified, or consented to the fraudulent misrepresentations and omissions of Evan Schottenstein and Avi Schottenstein by failing to supervise them in their management of their grandmother's wealth and in the making of hundreds of unauthorized purchases and sales of securities in Mrs. Schottenstein's Trust Account. J.P. Morgan breached its supervisory duties by approving the purchases of 66 autocallable structured notes with a principal value in excess of \$72,000,000. J.P. Morgan should not have allowed the sale of one autocallable structured note to Mrs. Schottenstein. J.P. Morgan's gross supervisory lapses continued with its failure to prevent the other trading activity in Mrs. Schottenstein's Trust Account, the purpose of which was to generate revenue for J.P. Morgan and Evan and Avi Schottenstein. J.P. Morgan had a duty to know and clearly should have known of the fraudulent misrepresentations and omissions of its employees and financial advisors, Evan Schottenstein and Avi Schottenstein, with respect to the fraudulent and unauthorized purchase and sale of securities in Mrs. Schottenstein's Trust Account. J.P. Morgan's complete and utter failure to supervise Evan Schottenstein and Avi Schottenstein and to prevent the flagrant abuses of Mrs. Schottenstein's interests has resulted in substantial revenues for J.P. Morgan to the detriment of Mrs. Schottenstein.

The conduct of Evan Schottenstein, Avi Schottenstein, and J.P. Morgan was willful and wanton and was in reckless disregard of the rights and interests of Mrs. Schottenstein.

Violation of Chapter 415, Fla.Stat.

Florida law provides for civil actions to be brought by "exploited" and "vulnerable" adults under § 415.1111, *Fla.Stat.* At all times material to this case, Mrs. Schottenstein was a resident of Florida and is entitled to the protection provided by Florida law. Florida has a fundamental and

strong public policy in seeking to prevent and preventing exploitation of its elderly citizens and in providing statutory remedies to its elderly citizens who are victimized by elder exploitation.

Under the definition of a "vulnerable adult" in § 415.102, *Fla.Stat.*, Mrs. Schottenstein was a vulnerable adult because her ability to perform the normal activities of daily living or to provide for her own care or protection has been impaired due to the infirmities of aging. During her marriage to Alvin Schottenstein, Alvin Schottenstein handled all financial matters and investments for himself and Mrs. Schottenstein. After Alvin Schottenstein died in 1984, Mrs. Schottenstein needed the assistance of her eldest son, Charles Schottenstein, and two financial advisors to handle her investments and manage her wealth for her. By about 2009, Evan Schottenstein had convinced his grandmother to turn over to him the majority of her investments and wealth for him, and later him and Avi Schottenstein, to prudently invest and manage on her behalf. As a widowed, unsophisticated investor in her late 80's and early 90's, who has always needed the assistance of others to make investments for her and manage her wealth, Mrs. Schottenstein's ability to provide for her own financial protection became impaired as a result of the infirmities of aging. Since at least October, 2016, when Mrs. Schottenstein fell and broke her hip, she has needed the continuous assistance of a caregiver to help her in performing the normal activities of daily living and to provide for her own care or protection.

Under the definitions in § 415.102, *Fla.Stat.*, Evan Schottenstein, Avi Schottenstein, and J.P. Morgan exploited Mrs. Schottenstein. They stood in a position of trust and confidence with Mrs. Schottenstein, as a vulnerable adult, and knowingly and by deception obtained or used or endeavored to obtain or use Mrs. Schottenstein's funds and assets with the intent to temporarily or permanently deprive her of the use, benefit, or possession of those funds and assets for the benefit of Evan Schottenstein, Avi Schottenstein, and J.P. Morgan. Evan Schottenstein, Avi

Schottenstein, and J.P. Morgan exploited Mrs. Schottenstein within the meaning of § 415.102(8), *Fla.Stat.*, during the period of time that Mrs. Schottenstein has been a "vulnerable adult" as defined in § 415.102(27), *Fla.Stat.*, and she maintained her Trust Account with J.P. Morgan. The misconduct described above unmistakably constitutes exploitation of Mrs. Schottenstein in violation of Chapter 415, *Fla.Stat.*

The remedies provided for in § 415.1111, *Fla.Stat.*, include actual damages, punitive damages, and attorney's fees. Evan Schottenstein, Avi Schottenstein, and J.P. Morgan exploited Mrs. Schottenstein for their own financial benefit to the detriment of Mrs. Schottenstein. J.P. Morgan's exploitation of Mrs. Schottenstein includes its complete and utter failure to supervise Evan and Avi Schottenstein, as described above, to prevent the outrageous misconduct of Evan and Avi Schottenstein and to protect Mrs. Schottenstein.

The conduct of Evan Schottenstein, Avi Schottenstein, and J.P. Morgan was willful and wanton and was in reckless disregard of the rights and interests of Mrs. Schottenstein.

IV. RELIEF REQUESTED

A. Compensatory Damages, Punitive Damages, and Other Relief

The facts presented to the arbitration panel in this proceeding are outrageous and justify not just the award of compensatory damages to Mrs. Schottenstein, but the award of punitive damages to Mrs. Schottenstein. The conduct alleged in this statement of claim shocks the conscience. The precise measure of Mrs. Schottenstein's compensatory damages, at present, is undetermined, but Mrs. Schottenstein seeks the award of compensatory damages substantially in excess of \$10,000,000 and punitive damages. Mrs. Schottenstein requests an award against all three respondents, jointly and severally, in her favor for compensatory damages; rescission of the investment in the Coatue Private Equity Fund and the return of the capital calls paid to Coatue;

interest; disgorgement of all commissions and revenues received by J.P. Morgan from all trading activity in Mrs. Schottenstein's Trust Account; punitive damages in the amount of at least three times the compensatory damages awarded by the panel; and all costs of this arbitration proceeding, including attorney's fees, filing fees, expert witness fees, arbitrators' fees, and any other costs.

**B. Hearing Location of Boca Raton, Florida, and
the Appointment of an All-Public Panel on an Expedited Basis**

Mrs. Schottenstein resides in Bal Harbour, Florida. Given her age of 93, she is entitled to and deserves expedited administration of the arbitration proceeding and a hearing locale in Boca Raton, Florida. Mrs. Schottenstein requests a panel of three public arbitrators appointed by FINRA's list selection method. Mrs. Schottenstein further requests that the arbitration panel enter a reasoned award.

V. CONCLUSION

Based on the foregoing and the proofs to be submitted at the final arbitration hearing, Mrs. Schottenstein requests an award of the above-described relief against Evan Schottenstein, Avi Schottenstein, and J.P. Morgan, jointly and severally, and such other and further relief as the arbitration panel deems just and proper.

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