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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

-against-

**DAVID YOW SHANG CHIUEH and
UPRIGHT FINANCIAL CORP.,**

Defendants.

COMPLAINT

25 Civ. 1920

**JURY TRIAL
DEMANDED**

Plaintiff Securities and Exchange Commission (“Commission”), 100 Pearl Street, Suite 20-100, New York, New York 10004-2616, for its Complaint against Defendants David Yow Shang Chiueh (“Chiueh”), 349 Ridgedale Avenue, East Hanover, New Jersey 07936, and Upright Financial Corp. (“Upright”), 349 Ridgedale Avenue, East Hanover, New Jersey 07936 (together, “Defendants”), alleges as follows:

SUMMARY

1. Defendants engaged in a multi-year fraudulent scheme to operate the mutual fund Upright Growth Fund (“Fund”) as a highly concentrated fund in violation of the Fund’s investment mandate and Defendants’ fiduciary duties, at the expense of the Fund and its retail investor base. Defendants also violated other important legal requirements for mutual funds, like the Fund, that are integral to safeguarding investors, which Chiueh then lied about in the Fund’s public filings with the Commission.

2. In the 1990s, Chiueh founded both Upright, an investment adviser registered with the Commission, and Upright Investments Trust (“Upright Trust”), a registered investment company of which the Fund is a series. Beginning at its inception in 1998, and for more than two decades later, the Fund had a disclosed fundamental policy to invest no more than 25% of its total assets in one industry (“Concentration Policy”).

3. In November 2021, the Commission issued a settled order that found that Defendants violated the Concentration Policy between July 2017 and June 2020 by concentrating more than 25% of the Fund’s total assets in one industry, including the semiconductor industry, and, in doing so, that Defendants committed fraud and breached their fiduciary duties to the Fund (among other securities law

violations). *See Upright Financial Corp. and David Yow Shang Chiueh*, A.P. File No. 3-20664 (Nov. 24, 2021) (“2021 Order”).

4. But, despite Defendants’ promise, made as part of their settlement with the Commission, that they would stop this conduct, they continued their fraud unabated. From at least November 24, 2021, through September 29, 2023, Defendants continued to invest more than 25% of the Fund’s total assets in a single company, Company A. And, even after September 29, 2023, Defendants continued to violate the Fund’s Concentration Policy by investing more than 25% of the Fund’s assets in the semiconductor industry through at least June 23, 2024.

5. Defendants’ conduct from November 24, 2021, through at least June 23, 2024 (“Relevant Period”), harmed the Fund and its investors. By waiting nearly two years to reduce the Fund’s Company A holdings below the 25% limit, and then continuing to overconcentrate the Fund in the semiconductor industry, Defendants caused losses of approximately \$1.6 million. Meanwhile, Defendants collected advisory fees of approximately \$100,000 on the Fund’s assets that exceeded the 25% limit.

6. Defendants also engaged in three sets of misconduct during the Relevant Period with respect to Upright Trust’s board of trustees (“Board”), in violation of fundamental provisions of the Investment Company Act of 1940 (“Investment Company Act”). *First*, Chiueh operated the Board without the

required number of independent trustees and then misrepresented in the Fund's Commission filings that one trustee, Trustee 1, was independent when Trustee 1 was not. *Second*, Defendants failed to provide or withheld key information from the Board, including (i) information reasonably necessary for the Board to evaluate the terms of Upright's advisory contract, which was not put to a vote as required and which Chiueh misrepresented in the Fund's Commission filings, and (ii) misleading the Board about Defendants' past securities law violations and the 2021 Order. *Third*, Defendants hired an accountant to audit each series of Upright Trust, including the Fund, without the required Board vote.

VIOLATIONS

7. Through the above conduct and as alleged further herein, Defendants have violated Sections 17(a)(1) and 17(a)(3) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77q(a)(1) and 77q(a)(3)], Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rules 10b-5(a) and 10b-5(c) thereunder [17 C.F.R. §§ 240.10b-5(a) and 240.10b-5(c)], Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 ("Advisers Act") [15 U.S.C. §§ 80b-6(1) and 80b-6(2)], and Investment Company Act Section 15(c) [15 U.S.C. § 80a-15(c)].

8. Through the above conduct and as alleged further herein, Chiueh violated Securities Act Section 17(a)(2) [15 U.S.C. § 77q(a)(2)], Exchange Act

Section 10(b) [15 U.S.C. § 78j(b)] and Rule 10b-5(b) thereunder [17 C.F.R. § 240.10b-5(b)], and Advisers Act Section 206(4) [15 U.S.C. § 80b-6(4)] and Rule 206(4)-8(a)(1) thereunder [17 C.F.R. § 275.206(4)-8(a)(1)].

9. Through the above conduct and as alleged further herein, Chiueh aided and abetted, pursuant to Securities Act Section 15(b) [15 U.S.C. § 77o(b)], Exchange Act Section 20(e) [15 U.S.C. § 78t(e)], and Investment Company Act Section 48(b) [15 U.S.C. § 80a-47(b)], Upright Trust's violations of Securities Act Section 17(a)(2) [15 U.S.C. § 77q(a)(2)], Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and Rule 10b-5(b) thereunder [17 C.F.R. § 240.10b-5(b)], and Investment Company Act Section 10(a) [15 U.S.C. § 80a-10(a)].

10. Through the above conduct and as alleged further herein, Defendants aided and abetted, pursuant to the Investment Company Act Section 48(b) [15 U.S.C. § 80a-47(b)], Upright Trust's violations of Investment Company Act Sections 13(a)(3) and 32(a) [15 U.S.C. §§ 80a-13(a)(3) and 80a-31(a)].

11. Unless Defendants are restrained and enjoined, they will engage in the acts, practices, transactions, and courses of business set forth in this Complaint or in acts, practices, transactions, and courses of business of similar type and object.

NATURE OF THE PROCEEDINGS AND RELIEF SOUGHT

12. The Commission brings this action pursuant to the authority conferred upon it by Securities Act Sections 20(b) and 20(d) [15 U.S.C. §§ 77t(b) and

77t(d)], Exchange Act Section 21(d) [15 U.S.C. § 78u(d)], Advisers Act Sections 209(d) and 209(e) [15 U.S.C. §§ 80b-9(d) and 80b-9(e)], and Investment Company Act Section 41(d) [15 U.S.C. § 80a-41(d)].

13. The Commission seeks a final judgment: (a) permanently enjoining Defendants from violating the federal securities laws and rules this Complaint alleges they have violated; (b) ordering Defendants to disgorge all ill-gotten gains they received as a result of the violations alleged here and to pay prejudgment interest, pursuant to Exchange Act Sections 21(d)(5) and 21(d)(7) [15 U.S.C. § 78u(d)(5) and 78u(d)(7)], and Investment Company Act Section 9(e) [15 U.S.C. 80a-9(e)]; (c) ordering Defendants to pay civil money penalties pursuant to Securities Act Section 20(d) [15 U.S.C. § 77t(d)], Exchange Act Section 21(d)(3) [15 U.S.C. § 78u(d)(3)], Advisers Act Section 209(e) [15 U.S.C. § 80b-9(e)], and Investment Company Act Section 41(e) [15 U.S.C. § 80a-41(e)]; and (d) ordering any other relief the Court may deem just and proper.

JURISDICTION AND VENUE

14. This Court has jurisdiction over this action pursuant to Securities Act Section 22(a) [15 U.S.C. § 77v(a)], Exchange Act Section 27 [15 U.S.C. § 78aa], Advisers Act Section 214 [15 U.S.C. § 80b-14], and Investment Company Act Sections 42(d) and 44 [15 U.S.C. §§ 80a-41(d) and 80a-43].

15. Defendants, directly and indirectly, have made use of the means or instrumentalities of interstate commerce or of the mails in connection with the transactions, acts, practices, and courses of business alleged herein.

16. Venue lies in this District under Securities Act Section 22(a) [15 U.S.C. § 77v(a)], Exchange Act Section 27 [15 U.S.C. § 78aa], Advisers Act Section 214 [15 U.S.C. § 80b-14], and Investment Company Act Section 44 [15 U.S.C. § 80a-43]. Upright is a New Jersey corporation with its principal place of business in this District in East Hanover, New Jersey. Chiueh resides in East Hanover, New Jersey at the same address as Upright. In addition, certain of the acts, practices, transactions, and courses of business alleged in this Complaint occurred within this District, including the operations of Upright, Upright Trust, and the Fund, and offers, purchases, and sales of shares of the Fund.

DEFENDANTS

17. **Upright** is a New Jersey corporation with its principal place of business in East Hanover, New Jersey. Upright has been registered with the Commission as an investment adviser since March 1991. In its most recent amendment to its Form ADV,¹ filed on July 1, 2024, Upright reported more than

¹ The Form ADV is a document that investment advisers file with the Commission that provides information about the adviser and its business operations, as well as other disclosures.

\$62 million in regulatory assets under management across 42 advisory clients, including its client Upright Trust.

18. **Chiueh**, age 67, resides in East Hanover, New Jersey. Chiueh is Upright’s founder and owner and, during the Relevant Period, was its president and the sole person controlling Upright.

19. Chiueh was also the chief executive officer (“CEO”), portfolio manager, and Board chairman of Upright Trust during the Relevant Period. He was also the chief compliance officer (“CCO”) during the Relevant Period, except from March 2023 through April 1, 2024.

20. During the Relevant Period, Chiueh was the sole person who made investment decisions for Upright Trust’s funds, including the Fund, and received compensation from Upright for making investment decisions for the Fund.

21. During the Relevant Period, Chiueh reviewed and approved Upright Trust’s filings with the Commission before they were submitted.

OTHER RELEVANT ENTITIES

22. **Upright Trust** is a Delaware business trust formed by Chiueh in 1998. Upright Trust has been registered as an open-end investment company with the Commission since April 1998. Upright Trust consists of three series funds, including the Fund. Upright Trust’s investment adviser was Upright, which made

investment decisions for Upright Trust's series funds, including the Fund, in exchange for an advisory fee based on assets under management.

23. **Upright Growth Fund** is a series of Upright Trust that operates as an open-end, management investment company, otherwise known as a mutual fund. The Fund is and was, during the Relevant Period, listed on NASDAQ under the ticker symbol UPUPX. The Fund's shares were continuously offered and sold to investors, primarily retail investors, during the Relevant Period. As of December 31, 2024, the Fund held net assets of approximately \$22.9 million.

FACTS

I. BACKGROUND ON MUTUAL FUNDS

24. An investment company is a company that issues securities and primarily invests in securities.

25. Congress enacted the Investment Company Act to provide for the registration and regulation of investment companies to protect investors from purchasing securities without the benefit of certain information about the securities, the investment company, and its management. *See* Investment Company Act Section 1(b) [15 U.S.C. § 80a-1(b)].

26. An investment company registered with the Commission pursuant to the Investment Company Act is known as a registered investment company.

27. A mutual fund is a type of registered investment company that pools money from many investors and invests the money in some combination of stocks, bonds, short-term money-market instruments, and/or other assets. The securities and other assets owned by a mutual fund are known collectively as its portfolio.

28. A mutual fund's portfolio is managed by a Commission-registered investment adviser. A mutual fund's investment adviser owes a fiduciary duty to its client, the fund. This duty includes an affirmative duty of utmost good faith and a duty to act in the best interest of its client, as well as an obligation to provide full and fair disclosure of all material facts and to employ reasonable care.

29. Each mutual fund share represents an investor's proportionate ownership of the mutual fund's portfolio and of the income and capital gains the portfolio generates. Investors in a mutual fund are also referred to as shareholders.

30. Under the Investment Company Act, mutual funds must disclose to the investing public information about itself and its objectives.

31. Investment Company Act Section 8(a) [15 U.S.C. § 80a-8(a)] requires that a mutual fund file with the Commission a registration statement containing information that the Commission "prescribe[s] as necessary or appropriate in the public interest or for the protection of investors." Such information includes a recital of the mutual fund's policies, including "a recital of all investment policies of the registrant . . . which are changeable only if authorized by shareholder vote"

and “a recital of all policies of the registrant . . . in respect of matters which the registrant deems matters of fundamental policy.” Investment Company Act Sections 8(b)(2) and (b)(3) [15 U.S.C. §§ 80a-8(b)(2) and 80a-8(b)(3)].

32. Pursuant to Investment Company Act Section 13(a)(3) [15 U.S.C. § 80a-13(a)(3)], no mutual fund shall, “unless authorized by the vote of a majority of its outstanding voting securities . . . deviate from its policy in respect of concentration of investments in any particular industry or group of industries as recited in its registration statement, deviate from any investment policy which is changeable only if authorized by shareholder vote, or deviate from any policy recited in its registration statement” that it deems, under Investment Company Act Section 8(b)(3) [15 U.S.C. § 80a-8(b)(3)] “matters of fundamental policy.”

33. Registered investment companies are governed by a board of directors, who are also referred to as trustees when the registered investment company is organized as a trust (like Upright Trust).

34. Independent directors play a critical role in overseeing a fund’s operations and protecting the interests of a fund’s investors. Thus, Investment Company Act Section 10(a) [15 U.S.C. § 80a-10(a)] requires that a mutual fund have a board of directors with no more than 60% of the board being “interested persons” of the fund.

35. In relevant part, Investment Company Act Section 2(a)(19)(A)(i) [15 U.S.C. § 80a-2(a)(19)(A)(i)] defines an “interested person” as an affiliated person of the registered investment company, which, under Investment Company Act Section 2(a)(3) [15 U.S.C. § 80a-2(a)(3)], includes any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities.

II. THE FUND’S PRIOR VIOLATIONS OF ITS CONCENTRATION POLICY

A. The Fund Had a Concentration Policy With a 25% Limit.

36. Upright Trust filed its registration statement with the Commission on April 1, 1998.

37. According to this registration statement, which includes a prospectus for the Fund, one of the Fund’s fundamental policies is the Concentration Policy with a 25% limit—that is, that “the Fund may not invest more than 25% of its total assets in one industry.”

38. The Fund’s Statements of Additional Information (“SAIs”) filed with the Commission are incorporated by reference into the Fund’s prospectuses.

39. Since the Fund began in 1998, the Fund’s SAIs have stated that the Fund’s fundamental policies “cannot be changed without approval by a ‘majority of the outstanding voting securities’ (as defined in the Investment Company Act of 1940) of the Fund.”

40. Since the Fund began in 1998 and until February 27, 2020, the Fund's SAIs have stated that one of the Fund's fundamental policies is that the Fund may not invest more than 25% of its total assets in securities of companies principally engaged in any one industry.

41. Subsequent SAIs filed in 2021, 2022, and 2023 purport to reflect a 50% limit for the Concentration Policy.

42. However, during these years Defendants did not obtain shareholder approval to change the Concentration Policy limit from 25% to 50%.

43. Though the Board solicited proxy votes from its shareholders in August 2018 (the "2018 Proxy Solicitation"), the 2018 Proxy Solicitation did not purport to attempt to change the Concentration Policy.

44. Thus, during the Relevant Period, the Fund had as a fundamental policy the Concentration Policy with a 25% limit.

B. By at Least Early 2019, Commission Staff Notified Defendants that the Fund Was Violating Its Concentration Policy, Among Other Securities Laws.

45. In 2018 and early 2019, the Commission's Division of Examinations ("Examinations") examined Upright Trust to evaluate its compliance with certain provisions of the federal securities laws.

46. Following the examination, on March 5, 2019, Examinations staff sent Chiueh, as the manager of Upright Trust, a deficiency letter ("2019 Deficiency

Letter”) to an email address in Upright’s name and hosted by Gmail. Before and during the Relevant Period, Upright maintained this email address (“Upright Email Address”), which was primarily used by Chiueh and Upright’s office manager.

47. Chiueh read the 2019 Deficiency Letter within about a week of receiving it.

48. The 2019 Deficiency Letter stated that the examination had identified deficiencies and weaknesses in controls that were described in the letter.

49. Examinations staff discussed the deficiencies and weaknesses in controls contained in the 2019 Deficiency Letter with Chiueh and Upright’s office manager during an exit interview on February 7, 2019.

50. The 2019 Deficiency Letter stated that the Examinations staff brought these findings to Chiueh’s attention for “immediate corrective action, without regard to any other actions that may result from the examination.”

51. Among other deficiencies, the 2019 Deficiency Letter stated that the Fund violated the Concentration Policy 25% limit.

52. The 2019 Deficiency Letter described the Concentration Policy itself and referred to a chart summarizing five instances in 2017 where the exercise of written options caused the Fund to purchase the securities of three companies (one of which was Company A) that represented percentages of the Fund’s total assets of between 25% and 70% at the time of those purchases.

53. The 2019 Deficiency Letter explained that these violations occurred “due to [Upright’s] recklessness” because “the Fund was forced to buy massive quantities of the underlying shares upon the options being exercised.”

54. Accordingly, the 2019 Deficiency Letter stated that the Fund “repeatedly violated its industry concentration restrictions.”

55. In a footnote right after this finding, the 2019 Deficiency Letter noted that “the Fund used inconsistent industry classifications from one reporting period to another.”

56. The 2019 Deficiency Letter added that “[t]he Fund’s deviation from this fundamental investment policy is a violation of Section 13(a)(3) of the [Investment Company Act],” that “[t]he Staff has serious concerns that [Upright] managed the Fund in a manner inconsistent with its registration statement and did not receive shareholder approval to do so,” and that Upright “should inform the Staff of the corrective action it plans to take with respect to this matter.”

57. As a result, the 2019 Deficiency Letter stated that it is the Examinations staff’s opinion that “[Upright] failed to satisfy its fiduciary duty owed to the Fund.”

58. Regarding the 2018 Proxy Solicitation, the 2019 Deficiency Letter noted that “[Upright] failed to obtain shareholder approval in advance of the Fund becoming non-diversified.”

59. The 2019 Deficiency Letter also noted that, because the Fund had repeatedly violated the Concentration Policy, the Fund's SAIs, which stated that the Fund will operate in accordance with the Concentration Policy (as well as the Fund's other fundamental policies), contained "inaccurate information" in violation of Investment Company Act Section 34(b) [15 U.S.C. § 80a-34(b)].

60. Regarding the Board, the 2019 Deficiency Letter stated that, because one of two purportedly independent trustees was also Upright Trust's CCO, that trustee could not be classified as independent for purposes of Investment Company Act Section 10(a) [15 U.S.C. § 80a-10(a)] and thus that Upright Trust had not had the requisite percentage of independent trustees as required by that statute.

61. Finally, with respect to the renewal of Upright's contracts with Upright Trust, the 2019 Deficiency Letter stated that the Examinations staff reviewed minutes of a Board meeting on August 22, 2018, that "revealed that both the investment advisory agreement and the administration contract between [Upright Trust] and [Upright] were 'pre-approved' as of October 1, 2018," and that "no documentation accompanied the minutes to substantiate the Board's renewal of both contracts" such that "the Staff could not determine what factors the Board considered to renew the contracts."

62. As a result, citing to *Gartenberg v. Merrill Lynch Asset Management*, 694 F.2d 923 (2d Cir. 1982) ("*Gartenberg*"), the 2019 Deficiency Letter added that

“[t]he apparent lack of an informed analysis related to the Board’s approval of both agreements raises concerns under Section 15(c) of the IC Act” and noted that “this is a recidivist violation.”

C. In 2021, Defendants Consented to a Commission Order Finding They Violated the Concentration Policy, Among Other Securities Laws.

63. Between 2019 and 2021, the staff of the Commission’s Division of Enforcement (“Enforcement”) investigated Defendants. The investigation focused on many of the same issues as the 2019 Deficiency Letter.

64. Beginning in April 2021, Enforcement staff provided Defendants (through their counsel) with several drafts of what would be the 2021 Order.

65. The drafts stated that the Concentration Policy was a fundamental policy of the Fund and that the Fund’s investment of more than 25% of its assets in one industry violated the Concentration Policy and Investment Company Act Section 13(a)(3) [15 U.S.C. § 80a-13(a)(3)].

66. On October 13, 2021, Defendants sent Enforcement staff offers of settlement, which Chiueh signed on behalf of both himself and Upright.

67. On November 24, 2021, the Commission issued the 2021 Order against Defendants.

68. The 2021 Order found that “Upright Trust established as a fundamental policy in its registration statements that [the Fund] would not invest

‘more than 25% of its total assets in securities of companies principally engaged in any one industry.’”

69. The 2021 Order found that Defendants violated the Concentration Policy for each month from July 2017 through June 2020 because the Fund’s total assets exceeded the 25% limit in either the “Semiconductors and Related Industries” and/or the “Pharmaceutical Preparation” industry in each month.

70. Without admitting or denying the Commission’s findings, Defendants consented to the entry of the 2021 Order, which found that, among other violations, Defendants violated Securities Act Sections 17(a)(2) and 17(a)(3) and Advisers Act Sections 206(2) and 206(4) and Rule 206(4)-8 thereunder; Upright violated Advisers Act Section 206(4) and Rule 206(4)-7 thereunder and that Chiueh caused this violation; and Defendants caused the Fund’s violations of Investment Company Act Sections 13(a)(1) and 13(a)(3).

71. As a part of the settlement, Defendants agreed to cease-and-desist from committing or causing future violations of these statutes and rules as well as to be censured.

72. Upright also consented to certain undertakings in the 2021 Order.

73. These undertakings required that Upright retain an independent compliance consultant (“ICC”) to review and recommend corrective measures for, among other topics, the monitoring of Upright’s mutual fund clients’ compliance

with the requirements of their investment policies; communications with clients, auditors, and others about possible failures to comport with fund governing documents or possible failures to comply with the law by clients or investment advisers; and detecting and addressing fraud.

74. Under the 2021 Order, Upright was required to take all necessary steps to adopt, implement, and abide by the ICC's recommendations.

75. Upright retained an ICC in March 2022.

76. The 2021 Order contained an agreement by Upright to certify its compliance with the undertakings within sixty days from the date of completion of the undertakings ("Certification Date").

77. By agreement between Upright and Enforcement staff, the deadline to complete undertakings was extended from March 3, 2023, to May 2, 2023.

Therefore, the Certification Date was May 2, 2023.

78. Upright did not certify its compliance with the undertakings in the 2021 Order by the Certification Date.

79. To date, Upright has not certified its compliance with the undertakings in the 2021 Order.

III. DEFENDANTS CONTINUED TO VIOLATE THE FUND'S CONCENTRATION POLICY AFTER NOVEMBER 2021.

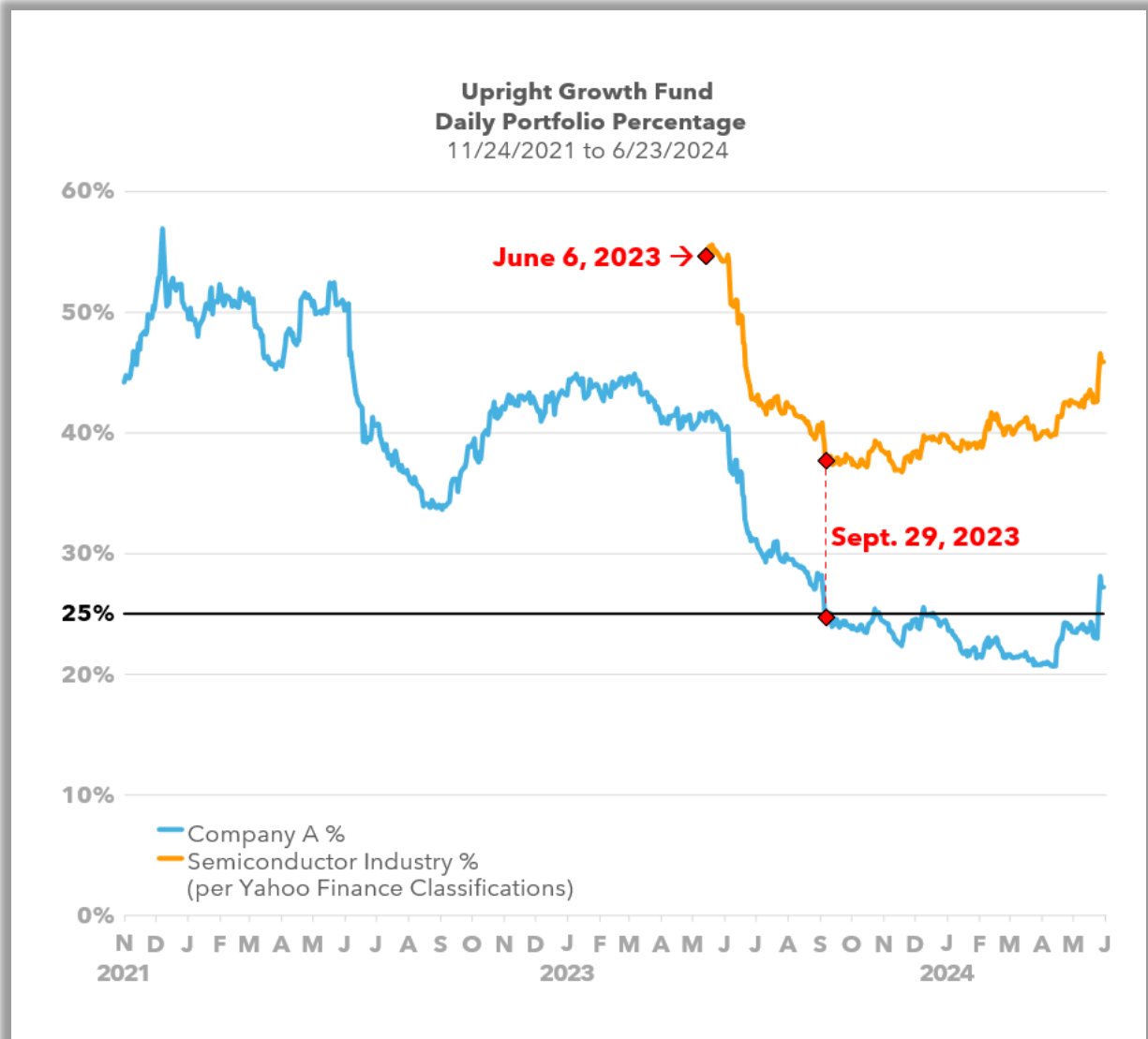
A. Defendants Continued to Overconcentrate the Fund's Assets in Company A.

80. During the Relevant Period, Defendants continued to operate the Fund in a manner that violated its Concentration Policy, a fundamental policy of the Fund, by overconcentrating its assets in not only one industry, but one issuer—Company A.

81. During the Relevant Period, Yahoo Finance classified Company A (as well as other positions the Fund held) as being in the semiconductor industry.

82. Since June 6, 2023, Chiueh stated in the Fund's annual and semiannual shareholder reports that the Fund used Yahoo Finance as its industry classification source.

83. As shown in the chart below, from at least November 24, 2021, until September 29, 2023, the Fund violated its Concentration Policy’s 25% limit by investing more than 25% of its total assets in Company A stock.



84. Defendants waited until June 28, 2023, to sell portions of the Fund’s holdings of Company A stock.

85. Defendants sold additional shares of Company A stock held by the Fund in July and September 2023.

86. Between June 28, 2023, and July 17, 2023, and then between September 25, 2023, through September 29, 2023, Defendants sold an average of approximately 30,000 shares of Company A stock per day on the 17 trading days on which the Fund A sold Company A stock.

87. The Fund's sales of Company A stock did not have a material impact on the price per share of Company A on these 17 trading days.

88. Through these sales, as reflected in the chart above in paragraph 83, the Fund's holdings of Company A stock dropped below 25% of the Fund's total assets on September 29, 2023.

89. But, on that date, the Fund still held more than 37% of its total assets in the semiconductor industry (including Company A) as classified by Yahoo Finance, Chiueh's only disclosed classification source.

90. Accordingly, as reflected in the chart above in paragraph 83, the Fund continued to violate the Concentration Policy by investing more than 25% of its assets in the semiconductor industry after September 29, 2023, and through the Relevant Period.

91. During the Relevant Period, Defendants classified Company A as "IC Design," a classification that Yahoo Finance did not use.

92. Prior to the Relevant Period, in a semiannual report for the Fund dated June 11, 2018, Defendants classified Company A as in the semiconductor industry.

93. And, in a February 2022 Company A investor presentation, which Chiueh sent to the Board by email using the Upright Email Address on October 29, 2023, Company A described itself as “[a] Global Semiconductor Company” and a “One of the Leading Semiconductor Companies in the World [.]”

94. Had Upright and Chiueh used Yahoo Finance as the Fund’s sole industry classification source, as Chiueh had represented in the Fund’s Commission filings, then Company A would have been classified as part of the semiconductor industry and the Fund’s semiconductor holdings, which consisted of Company A stock and as well as other securities, would have exceeded the 25% Concentration Policy limit until at least June 23, 2024.

95. Defendants, experienced investment advisers, knew, or recklessly disregarded, that using more than one classification provider enabled manipulation of classifications to meet concentration limits.

96. Defendants provided substantial assistance to the Fund’s violation of its Concentration Policy by maintaining investments in Company A and other companies that resulted in more than 25% of the Fund’s assets being invested in Company A and then the semiconductor industry during the Relevant Period.

B. Chiueh Knew, or Recklessly Disregarded, that the Fund Continued to Violate Its Concentration Policy.

97. As the CEO, CCO, portfolio manager, and Board chairman of Upright Trust at the time of the 2019 Deficiency Letter, 2021 Order, and ICC reports, Chiueh knew, or recklessly disregarded, that the Fund’s holdings of Company A stock, as well as the Fund’s semiconductor holdings more broadly, violated the 25% Concentration Policy limit during the Relevant Period.

98. For example, on June 17, 2022, Upright received—via the Upright Email Address—a copy of the ICC’s preliminary report pursuant to the 2021 Order (“Preliminary Report”).

99. Chiueh reviewed the Preliminary Report at or around the time he received it.

100. In the Preliminary Report, the ICC stated that Company A stock ranged from 22% to 47% of the assets across Upright Trust’s funds (including the Fund) as of March 31, 2022.

101. The Preliminary Report also stated that, with respect to the purported change to the Fund’s Concentration Policy from 25% to 50% that was reflected in prior SAIs, Upright “did not provide any proof that the shareholders approved this change in the fundamental limit, including [from the 2018 Proxy Solicitation].”

102. The Preliminary Report then recommended that Upright “amend the SAI to reflect the fundamental 25% industry limit and then manage the Fund in accordance with the policy.”

103. The Preliminary Report also stated that Upright should “[a]djust the portfolio to bring it in line with the correct fundamental policy” and that Upright “should be responsible for any losses to [the Fund] for the portfolio adjustments.”

104. The ICC recommended in the Preliminary Report that Upright use a single, reputable third-party source to provide classifications because “[t]his helps ensure [Upright] cannot manipulate the classifications and also ensures [Upright] cannot pick multiple classification providers in order to use different classifications to stay in compliance (cherry picking in order to increase exposure to a security).”

105. Upright responded to the Preliminary Report in an email dated July 18, 2022, from the Upright Email Address.

106. Upright stated in its response that it intended to engage counsel in order to “determine what steps to take to bring the fundamental 25% or 50% industry limit and manage the Fund in accordance with the policy.”

107. Upright also stated that Upright “will use the source that the fund accountant provides for industry classifications. If [Upright] sees a classification that does not describe the security, the proposed classification will be brought before the Board for approval before any changes are made.”

108. On July 19, 2022, the ICC replied to Upright’s email from the prior day and stated that “[o]nce [Upright] chooses an industry classification source, it will need to keep that source and follow it without deviation (with only very limited exceptions). The Board does not need to approve the classification source, nor can you ask the Board to approve an override of an industry classification provided by the source. The purpose in picking a reputable, third-party source is to mitigate the conflicts with [Upright] (or the Board) determining the industry classifications.”

109. Additionally, via the Upright Email Address, Upright submitted a series of proposals to the ICC on August 17, 2022, including that Upright would engage legal counsel before November 1, 2022, to conduct a proxy vote on changing the industry concentration limit.

110. On January 3, 2023, the ICC issued its final report pursuant to the 2021 Order (“Final Report”), a copy of which the ICC sent to the Upright Email Address.

111. In the Final Report, the ICC stated that it “disagrees with [Upright’s] proposals and the original recommendations still apply,” noting that “[a]fter [Upright] implements the recommendations, it can then consider a proxy to shareholders to make changes to the industry concentration limits.”

C. Defendants' Concentration Policy Violations Harmed the Fund and its Investors.

112. Defendants' decision to ignore the 2021 Order and ICC reports, and to wait until June 2023 to begin reducing the Fund's holdings of Company A stock, caused significant harm to the Fund and its investors.

113. Prior to the Relevant Period, the Fund bought its shares of Company A stock for an average price of approximately \$12.84 per share; nearly all of these purchases occurred prior to the Relevant Period.

114. Defendants waited until June 28, 2023, through September 29, 2023, to sell Company A shares, during which time Defendants sold Company A shares at a daily average rate of approximately 30,000 shares per day on 17 trading days ("Average Rate").

115. These sales did not have any material price impact on Company A's shares.

116. Between June 28, 2023, and September 29, 2023, Defendants sold 413,138 shares of Company A stock held by the Fund at an average price of \$6.54 per share during this time.

117. In light of the Fund's cost basis, these sales resulted in an actual loss to the Fund of \$2,606,716.

118. If Defendants had begun to reduce the Fund's holdings of Company A stock beginning on November 24, 2021, at the Average Rate, they would have sold

a total of 498,111 shares over the course of 17 consecutive trading days at an average price of approximately \$10.80 per share.

119. Accordingly, these hypothetical sales would have resulted in a hypothetical loss to the Fund of approximately \$1,016,322.

120. It is reasonable to assume that Defendants selling Company A stock at the Average Rate would have no price impact in November 2021 since it had no price impact when Defendants sold Company A stock at the Average Rate between June 28, 2023, and September 29, 2023.

121. Accordingly, by waiting until June 28, 2023, to begin selling its share of Company A stock, the Fund lost an additional approximately \$1,586,394.

122. During the Relevant Period, Upright charged the Fund a total of approximately \$541,087 in advisory fees, of which Chiueh received a portion personally as Upright's owner and as compensation for providing investment advice to the Fund.

123. Of this amount, Upright charged approximately \$100,169 in advisory fees on the assets in the Fund's portfolio that exceeded the 25% Concentration Policy limit.

D. Chiueh Misstated the Fund’s Concentration Policy in Filings with the Commission.

124. Chiueh prepared and approved for filing with the Commission two SAIs for the Fund that falsely stated that the Fund had a Concentration Policy of 50% during the Relevant Period.

125. On June 7, 2022, Upright Trust filed an SAI with the Commission (“June 2022 SAI”).

126. Chiueh prepared and approved for filing with the Commission the June 2022 SAI.

127. The June 2022 SAI stated that the Fund maintained a fundamental policy that it shall not invest more than 50% of its assets in any one industry.

128. On January 26, 2023, Upright Trust filed an SAI with the Commission (“January 2023 SAI”).

129. Chiueh prepared and approved for filing with the Commission the January 2023 SAI.

130. The January 2023 SAI stated that the Fund maintained a fundamental policy that it shall not invest more than 50% of its assets in any one industry.

131. Chiueh knew, or recklessly disregarded, that the statements in the June 2022 SAI and January 2023 SAI that the Fund had a 50% Concentration Policy limit were false, because, as described in paragraphs 36 through 44, the Fund’s registration statement contained a 25% Concentration Policy limit and the

Fund did not conduct a proxy vote of its shareholders to change this limit during the Relevant Period.

132. In the alternative, Chiueh was negligent as to the falsity of these statements because a reasonable investment adviser would exercise reasonable care in its disclosures of its client's fundamental investment policies, yet Chiueh failed to do so.

133. Chiueh's false statements were material because a reasonable investor in the Fund would consider statements about the Fund's fundamental policies (like this policy) to be important in making an investment decision in the Fund.

IV. DEFENDANTS' MISCONDUCT WITH RESPECT TO THE BOARD

A. Chiueh Operated Upright Trust Without the Required Number of Independent Trustees.

134. Beginning in December 2022, and continuing until on or about January 24, 2024, the Board comprised three trustees: Chiueh, Trustee 1, and Trustee 2.

135. Chiueh was an affiliated person of Upright Trust because he was its CEO, Board chairman, and investment adviser during the Relevant Period.

136. As a result, Chiueh was an "interested person" of Upright Trust under Investment Company Act Section 2(a)(19)(A)(i) [15 U.S.C. § 80a-2(a)(19)(A)(i)].

137. Trustee 1 was a trustee of Upright Trust from on or about August 22, 2018, until January 24, 2024, when Trustee 1 resigned.

138. While serving as a trustee of Upright Trust, between November 24, 2021, and January 24, 2024, Trustee 1 owned or controlled between 10.67% and 12.36% of the Fund's outstanding shares in various brokerage accounts.

139. Because Trustee 1 owned or controlled, directly or indirectly, more than 5% of the Fund's outstanding voting shares, Trustee 1 was also an affiliated person and "interested person" of the Fund under Investment Company Act Section 2(a)(19)(A)(i) [15 U.S.C. § 80a-2(a)(19)(A)(i)].

140. Chiueh was also Trustee 1's investment adviser during the Relevant Period and managed approximately \$9 million of Trustee 1's assets, in addition to Trustee 1's investments in the Upright Trust funds (including the Fund).

141. As a result, beginning in December 2022, when Upright Trust's only trustees were Chiueh, Trustee 1, and Trustee 2, and continuing through January 24, 2024, when Trustee 1 resigned, Trustee 2 was the only trustee on the Board who was not an "interested person" of Upright Trust.

142. Chiueh stated in the Fund's annual report for the period ending September 30, 2018, which Chiueh signed and certified, and which was filed with the Commission on December 26, 2018, that Trustee 1 was an "independent trustee[]" and a "[n]on-interested person' of [Upright] Trust, as defined by the Investment Company Act of 1940." Chiueh repeated this statement in an amended

version of this annual report, which he signed and certified, and which was filed with the Commission on July 19, 2019.

143. Chiueh made these same statements in the Fund’s annual and semiannual reports that he signed, certified and approved to be filed with Commission for the periods ending March 31, 2019 (filed on June 18, 2019), September 30, 2019 (filed on December 18, 2019), March 31, 2020 (filed on June 4, 2020), September 30, 2020 (filed on December 22, 2020), March 31, 2021 (filed on June 2, 2021), September 30, 2021 (filed on February 25, 2022), March 31, 2022 (filed June 10, 2022), September 30, 2022 (filed December 23, 2022), March 31, 2023 (filed June 6, 2023), and September 30, 2023 (filed March 13, 2024) (collectively, the “Reports”).

144. In each of the Reports, Chiueh separately provided information “regarding each Trustee who is an ‘interested person’ of the Trust.”

145. Chiueh listed only himself as an interested person in each of the Reports.

146. Chiueh prepared and approved each of the Reports for filing with the Commission.

147. As Trustee 1’s investment adviser, and as Upright Trust’s CEO and Board chairman during the Relevant Period, and its CCO during the Relevant Period, except from March 2023 through April 1, 2024, Chiueh knew, was reckless

in not knowing, or should have known that Trustee 1 was an interested person of Upright Trust and was thus not an independent trustee.

148. Chiueh's false statements were material because a reasonable investor in the Fund would consider statements about the independence of one of the Fund's trustees to be important when making an investment decision.

149. Upright Trust violated Investment Company Act Section 10(a) [15 U.S.C. § 80a-10(a)] when, between December 2022 and at least June 23, 2024, more than 60% of the Board's members were interested persons of Upright Trust.

150. Chiueh provided substantial assistance to Upright Trust's violation of Investment Company Act Section 10(a) [15 U.S.C. § 80a-10(a)] when, as chairman of the Board, he did not nominate any non-interested trustees between December 2022 and January 24, 2024.

151. Then, from January 24, 2024, and through at least the end of the Relevant Period, Chiueh was the only trustee on the Board.

B. Defendants Failed to Furnish the Board with Information Reasonably Necessary to Evaluate the Renewal of Upright's Advisory Contract, and Chiueh Made Misleading Statements About that Process.

152. The Investment Company Act establishes requirements for how a mutual fund enters into or renews an advisory contract with an investment adviser.

153. Pursuant to Investment Company Act Section 15(c) [15 U.S.C. § 80a-15(c)], it is unlawful for any mutual fund to enter into or renew any advisory

contract unless the terms of the contract are approved by a vote of a majority of the independent directors of the mutual fund.

154. Section 15(c) further states that “[i]t shall be the duty of the directors of a registered investment company to request and evaluate, and the duty of an investment adviser to such company to furnish, such information as may reasonably be necessary to evaluate the terms of any contract whereby a person undertakes regularly to serve or act as investment adviser of such company.”

155. In 2004, the Commission adopted a rule and form amendments requiring that, when a fund board approves or renews any advisory contract, the fund’s next shareholder report must discuss, in reasonable detail, the material factors and conclusions that supported the directors’ approval or renewal of that contract. *See Disclosure Regarding the Approval of Investment Advisory Contracts by Directors of Investment Companies*, Investment Company Act Release No. 26486 (Jun. 30, 2004). Funds must include a discussion in their shareholder reports concerning, among other things, “the nature, extent, and quality of the services to be provided by the investment adviser.” *Id.* In addition, funds must include a discussion concerning “the costs of the services to be provided and profits to be realized by the investment adviser and its affiliates from the relationship with the fund.” *Id.*

156. From November 24, 2021, through September 30, 2023, Defendants did not provide the Board with information reasonably necessary to evaluate the terms of Upright's advisory contract with Upright Trust.

157. Defendants did not provide the Board with information before Board meetings regarding the renewal of Upright's advisory contract.

158. The only information that Defendants provided to the Board during meetings to approve Upright's advisory contract concerned Upright Trust's funds' performance.

159. For example, the Board met virtually on May 26, 2022, attended by Chiueh, Upright's office manager, and three trustees (including Trustee 1 and Trustee 2).

160. One of the purposes of the Board meeting was to approve the renewal of Upright's advisory contract with Upright Trust.

161. Prior to the meeting, Chiueh did not provide the Board with information concerning Upright's advisory contract.

162. During the meeting, other than a discussion of the Upright Trust's funds' performance, Chiueh did not provide the Board with information about the renewal of Upright's advisory contract.

163. Yet, Chiueh stated in the January 2023 SAI that, during the May 26, 2022, Board meeting, the Board "was supplied with supporting information from

[Upright] in advance of the meeting[,]" that the Board discussed "the nature, quality and extent of services that [Upright] provides the Fund[]" and a "Comparison with Other Contracts and Other Clients," considered the " Cost of Services and Profits to be realized by [Upright]" and "received and considered information regarding whether [Upright] had realized economies of scale."

164. As Chiueh well knew, or recklessly disregarded, these statements in the January 2023 SAI were false because Chiueh, the Board chairman who attended the meeting, did not provide the Board with this information either before or during the Board meeting other than information about Upright Trust's funds' performance.

165. Chiueh made these false statements to make it appear as though the Board had considered the factors set forth in *Gartenberg* for purposes of satisfying its obligations under Investment Company Act Section 15(c), when it had not.

166. In the alternative, Chiueh was negligent as to the falsity of these statements because a reasonable investment adviser would exercise reasonable care in his disclosures relating to information he provided the Board and what information the Board considered in evaluating with to renew the advisory contract, yet Chiueh failed to do so.

167. Chiueh's false statements were material because a reasonable investor in the Fund would consider statements about what a mutual fund's Board

considered when deciding whether to renew an investment adviser's advisory contract to be important when making an investment decision in the mutual fund.

168. On top of not providing the Board with the information listed in paragraphs 154-155, and 163, Defendants also withheld from the Board key information about Defendants' compliance with the securities laws and then, when Defendants did provide such information, Chiueh made misrepresentations to the Board about his conduct.

169. Chiueh did not share the 2019 Deficiency Letter with the Board either before or during the Relevant Period, despite the Examinations staff's request that Chiueh forward to them the results of any Board review undertaken in response to the 2019 Deficiency Letter.

170. Defendants also did not provide the Board with the 2021 Order until September 13, 2022—and just hours before that day's Board meeting—even though the Board met on May 26, 2022, as well.

171. It was not reasonable for the Board to sufficiently evaluate Upright's services without being furnished with the information related to Upright's securities law violations arising from its management of the Fund.

172. Although Chiueh finally did provide the Board with the 2021 Order by email from the Upright Email Address hours before the Board meeting on September 13, 2022, he misled them during the meeting about his conduct by

stating that the violation of the 25% Concentration Policy limit had been resolved four years prior, when it had not.

173. Similarly, Chiueh did not share the Preliminary Report with the Board until September 13, 2022, as an attachment to the same email that transmitted the 2021 Order.

174. When Chiueh provided the Preliminary Report to the Board, he misled the Board about the ICC's recommendations contained therein.

175. Specifically, Chiueh told the trustees that the ICC's findings in the Preliminary Report regarding the Fund's violations of its 25% Concentration Policy limit were mistaken because the Fund had allegedly conducted a shareholder vote in August 2018 to change its Concentration Policy limit.

176. As Chiueh well knew, the Fund did not conduct a shareholder vote to change its Concentration Policy limit in August 2018 and had not done so as of September 13, 2022.

C. Defendants Aided and Abetted the Retention of an Accountant for Upright Trust Without a Vote by a Majority of the Board.

177. Under Investment Company Act Section 32(a)(1) [15 U.S.C. § 80a-31(a)(1)], it is unlawful for any mutual fund to file with the Commission any financial statement signed by an independent public accountant unless such accountant was selected by the vote of a majority of the independent directors of the mutual fund's board of directors.

178. In or around September 2022, Upright Trust's audit firm, which had audited Upright Trust's financial statements since the fiscal year ending September 30, 2018, resigned.

179. On or about September 30, 2022, Chiueh identified Auditor 1 as a candidate for Upright Trust's independent public accountant.

180. Auditor 1 is a certified public accountant licensed in New Jersey. Neither Auditor 1 nor his firm have ever been registered with the Public Company Accounting Oversight Board.

181. On or about October 5, 2022, Trustee 2 met with Auditor 1 virtually to discuss Auditor 1's potential candidacy to serve as Upright Trust's independent public accountant.

182. No other member of the Board attended the October 5, 2022, meeting.

183. On or about October 24, 2022, Chiueh told Trustee 2 that he had decided to retain Auditor 1 to be Upright Trust's independent public accountant.

184. Also on or about October 24, 2022, Trustee 2 signed an engagement letter with Auditor 1. No other member of the Board signed the engagement letter.

185. The Board never voted to select Auditor 1 to be Upright Trust's independent public accountant.

186. Despite the Board never voting to select Auditor 1 to be Upright Trust's independent public accountant, on December 23, 2022, Chiueh signed,

certified, and approved for filing with the Commission Upright Trust's annual report for the period ending September 30, 2022, which included financial statements signed by Auditor 1.

187. Defendants knew, or recklessly disregarded, that Chiueh, not the independent trustees, decided to retain Auditor 1. In addition, Chiueh, as Board chairman, knew, or recklessly disregarded, that no Board vote occurred to retain Auditor 1.

188. Defendants provided substantial assistance to Upright Trust's violation by making the decision to hire Auditor 1 themselves.

FIRST CLAIM FOR RELIEF
Violations of Securities Act Sections 17(a)(1) and (3)
(Both Defendants)

189. The Commission re-alleges and incorporates by reference here the allegations in paragraphs 1 through 188.

190. Defendants, directly or indirectly, singly or in concert, in the offer or sale of securities and by the use of the means or instruments of transportation or communication in interstate commerce or the mails, (i) knowingly or recklessly have employed one or more devices, schemes or artifices to defraud, and/or (ii) knowingly, recklessly, or negligently have engaged in one or more transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon the purchaser.

191. By reason of the foregoing, Defendants, directly or indirectly, singly or in concert, have violated and, unless enjoined, will again violate Securities Act Sections 17(a)(1) and (3) [15 U.S.C. §§ 77q(a)(1) and 77q(a)(3)].

SECOND CLAIM FOR RELIEF
Violations of Exchange Act Section 10(b) and Rules 10b-5(a) and (c)
Thereunder
(Both Defendants)

192. The Commission re-alleges and incorporates by reference here the allegations in paragraphs 1 through 188.

193. Defendants, directly or indirectly, singly or in concert, in connection with the purchase or sale of securities and by the use of means or instrumentalities of interstate commerce, or the mails, or the facilities of a national securities exchange, knowingly or recklessly have (i) employed one or more devices, schemes, or artifices to defraud, and/or (ii) engaged in one or more acts, practices, or courses of business which operated or would operate as a fraud or deceit upon other persons.

194. By reason of the foregoing, Defendants, directly or indirectly, singly or in concert, violated and, unless enjoined, will again violate Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and Rules 10b-5(a) and (c) thereunder [17 C.F.R. §§ 240.10b-5(a) and 240.10b-5(c)].

THIRD CLAIM FOR RELIEF
Violations of Advisers Act Sections 206(1) and (2)
(Both Defendants)

195. The Commission re-alleges and incorporates by reference here the allegations in paragraphs 1 through 188.

196. At all relevant times, Defendants were investment advisers under Advisers Act Section 202(a)(11) [15 U.S.C. § 80b-2(a)(11)]. Defendants owed the Fund a fiduciary duty of utmost good faith and had an affirmative duty to make full and fair disclosures of all material facts, as well as a duty to act in the Fund's best interests.

197. Defendants, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly have: (i) knowingly or recklessly employed one or more devices, schemes, or artifices to defraud any client or prospective client, and/or (ii) knowingly, recklessly, or negligently engaged in one or more transactions, practices, and courses of business which operated or would operate as a fraud or deceit upon any client or prospective client.

198. By reason of the foregoing, Defendants, directly or indirectly, singly or in concert, violated and, unless enjoined, will again violate Advisers Act Sections 206(1) and (2) [15 U.S.C. §§ 80b-6(1) and 80b-6(2)].

FOURTH CLAIM FOR RELIEF
Violations of Section 15(c) of the Investment Company Act
(Both Defendants)

199. The Commission re-alleges and incorporates by reference here the allegations in paragraphs 1 through 133, and paragraphs 152 through 176.

200. Upright Trust is an “investment company” as defined by Section 3(a)(1) of the Investment Company Act [15 U.S.C. § 80a-3(a)(1)].

201. At all relevant times, Defendants were investment advisers under Advisers Act Section 202(a)(11) [15 U.S.C. § 80b-2(a)(11)].

202. Under Investment Company Act Section 15(c) [15 U.S.C. § 80a-15(c)], investment advisers of a registered investment company are required to furnish such information as may reasonably be necessary to evaluate the terms of any contract whereby a person undertakes regularly to serve or act as investment adviser of such company.

203. Defendants failed to furnish the Board with information prior to or during its meetings to evaluate whether to renew the advisory contract between Upright and Upright Trust, apart from information about fund performance.

204. By reason of the foregoing, Defendants, directly or indirectly, singly or in concert, violated and, unless enjoined, will again violate Investment Company Act Section 15(c) [15 U.S.C. § 80a-15(c)].

FIFTH CLAIM FOR RELIEF
Violations of Securities Act Section 17(a)(2)
(Chiueh)

205. The Commission re-alleges and incorporates by reference here the allegations in paragraphs 1 through 188.

206. Chiueh directly or indirectly, singly or in concert, in the offer or sale of securities and by the use of the means or instruments of transportation or communication in interstate commerce or the mails, knowingly, recklessly, or negligently has obtained money or property by means of one or more untrue statement of material fact or omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

207. By reason of the foregoing, Chiueh, directly or indirectly, singly or in concert, violated and, unless enjoined, will again violate Securities Act Section 17(a)(2) [15 U.S.C. § 77q(a)(2)].

SIXTH CLAIM FOR RELIEF
Violations of Exchange Act Section 10(b) and Rule 10b-5(b) Thereunder
(Chiueh)

208. The Commission re-alleges and incorporates by reference here the allegations in paragraphs 1 through 188.

209. Chiueh, directly or indirectly, singly or in concert, in connection with the purchase or sale of securities and by the use of means or instrumentalities of

interstate commerce, or the mails, or the facilities of a national securities exchange, knowingly or recklessly has made one or more untrue statements of a material fact or omitted to state one or more material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

210. By reason of the foregoing, Chiueh, directly or indirectly, singly or in concert, violated and, unless enjoined, will again violate Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and Rule 10b-5(b) [17 C.F.R. § 240.10b-5(b)].

SEVENTH CLAIM FOR RELIEF
Violations of Advisers Act Section 206(4) and Rule 206(4)-8(a)(1) Thereunder
(Chiueh)

211. The Commission re-alleges and incorporates by reference here the allegations in paragraphs 1 through 188.

212. At all relevant times, Chiueh was an investment adviser, under Advisers Act Section 202(a)(11) [15 U.S.C. § 80b-2(a)(11)], to the Fund, a pooled investment vehicle as defined in Rule 206(4)-8(b) [17 C.F.R. § 275.206(4)-8(b)].

213. Chiueh, through use of the mails or means or instrumentalities of interstate commerce, directly or indirectly, engaged in transactions, practices, and courses of business that were fraudulent, deceptive, and manipulative.

214. Chiueh knowingly, recklessly, or negligently made one or more untrue statements of a material fact or omitted to state one or more material facts

necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, to any investor or prospective investor in the pooled investment vehicle.

215. By reason of the foregoing, Chiueh, directly or indirectly, singly or in concert, violated and, unless enjoined, will again violate Advisers Act Section 206(4) [15 U.S.C. § 80b-6(4)] and Rule 206(4)-8(a)(1) thereunder [17 C.F.R. § 275.206(4)-8(a)(1)].

EIGHTH CLAIM FOR RELIEF
Aiding and Abetting Violations of Securities Act Section 17(a)(2)
(Chiueh)

216. The Commission re-alleges and incorporates by reference here the allegations in paragraphs 1 through 188.

217. As alleged above, Upright Trust violated Securities Act Section 17(a)(2) [15 U.S.C. § 77q(a)(2)].

218. Chiueh knowingly or recklessly provided substantial assistance to Upright Trust with respect to its violations of Securities Act Section 17(a)(2) [15 U.S.C. § 77q(a)(2)].

219. By reason of the foregoing, Chiueh is liable pursuant to Securities Act Section 15(b) [15 U.S.C. § 77o(b)] for aiding and abetting Upright Trust's violations of Securities Act Section 17(a)(2) [15 U.S.C. § 77q(a)(2)] and, unless enjoined, Chiueh will again aid and abet these violations.

NINTH CLAIM FOR RELIEF
Aiding and Abetting Violations of Exchange Act Section 10(b) and
Rule 10b-5(b) Thereunder
(Chiueh)

220. The Commission re-alleges and incorporates by reference here the allegations in paragraphs 1 through 188.

221. As alleged above, Upright Trust violated Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and Rule 10b-5(b) thereunder [17 C.F.R. § 240.10b-5(b)].

222. Chiueh knowingly or recklessly provided substantial assistance to Upright Trust with respect to its violations of Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and Rule 10b-5(b) thereunder [17 C.F.R. § 240.10b-5(b)].

223. By reason of the foregoing, Chiueh is liable pursuant to Exchange Act Section 20(e) [15 U.S.C. § 78t(e)] for aiding and abetting Upright Trust's violations of Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and Rule 10b-5(b) thereunder [17 C.F.R. § 240.10b-5(b)] and, unless enjoined, Chiueh will again aid and abet these violations.

TENTH CLAIM FOR RELIEF
Aiding and Abetting Violations of Investment Company Act Section 10(a)
(Chiueh)

224. The Commission re-alleges and incorporates by reference here the allegations in paragraphs 1 through 35, and paragraphs 134 through 151.

225. Upright Trust is an "investment company" as defined by Investment Company Act Section 3(a)(1) [15 U.S.C. § 80a-3(a)(1)].

226. Upright Trust had a board of directors with more than sixty percent of its members being interested persons of Upright Trust, in violation of Investment Company Act Section 10(a) [15 U.S.C. § 80a-10(a)].

227. Chiueh knowingly or recklessly provided substantial assistance to Upright Trust with respect to its violations of Investment Company Act Section 10(a) [15 U.S.C. § 80a-10(a)].

228. By reason of the foregoing, Chiueh is liable pursuant to Investment Company Act Section 48(b) [15 U.S.C. § 80a-47(b)] for aiding and abetting Upright Trust's violations of Investment Company Act Section 10(a) [15 U.S.C. § 80a-10(a)] and, unless enjoined, Chiueh will again aid and abet these violations.

ELEVENTH CLAIM FOR RELIEF
Aiding and Abetting Violation of Investment Company Act Section 13(a)(3)
(Both Defendants)

229. The Commission re-alleges and incorporates by reference here the allegations in paragraphs 1 through 133.

230. Upright Trust is an "investment company" as defined by Investment Company Act Section 3(a)(1) [15 U.S.C. § 80a-3(a)(1)], of which the Fund is a series.

231. Upright Trust, without shareholder authorization, deviated from its policy in respect of concentration of investments in any particular industry or group of industries as recited in its registration statement, deviated from any

investment policy which is changeable only if authorized by shareholder vote, and deviated from any policy recited in its registration statement pursuant to Investment Company Act Section 8(b)(3) [15 U.S.C. § 80a-8(b)(3)].

232. By reason of the foregoing, the Upright Trust violated Investment Company Act Section 13(a)(3) [15 U.S.C. § 80a-13(a)(3)].

233. Defendants knowingly or recklessly provided substantial assistance to Upright Trust's violations of Investment Company Act Section 13(a)(3) [15 U.S.C. § 80a-13(a)(3)].

234. By reason of the foregoing, Defendants are liable pursuant to Investment Company Act Section 48(b) [15 U.S.C. § 80a-47(b)] for aiding and abetting Upright Trust's violations of Investment Company Act Section 13(a)(3) [15 U.S.C. § 80a-13(a)(3)] and, unless enjoined, Defendants will again aid and abet these violations.

TWELFTH CLAIM FOR RELIEF
Aiding and Abetting Violation of Investment Company Act Section 32(a)(1)
(Both Defendants)

235. The Commission re-alleges and incorporates by reference here the allegations in paragraphs 1 through 35, and paragraphs 177 through 188.

236. Upright Trust is an "investment company" as defined by Investment Company Act Section 3(a)(1) [15 U.S.C. § 80a-3(a)(1)].

237. Upright Trust filed with the Commission financial statements signed or certified by an independent public accountant who was not selected at a meeting held within thirty days before or after the beginning of the fiscal year or before the annual meeting of stockholders in that year by the vote, cast in person, of a majority of those members of the board of directors who are not interested persons of Upright Trust.

238. By reason of the foregoing, the Upright Trust violated Investment Company Act Section 32(a)(1) [15 U.S.C. § 80a-31(a)(1)].

239. Defendants knowingly or recklessly provided substantial assistance to Upright Trust's violations of Investment Company Act Section 32(a)(1) [15 U.S.C. § 80a-31(a)(1)].

240. By reason of the foregoing, Defendants are liable pursuant to Investment Company Act Section 48(b) [15 U.S.C. § 80a-47(b)] for aiding and abetting Upright Trust's violations of Investment Company Act Section 32(a)(1) [15 U.S.C. § 80a-31(a)(1)] and, unless enjoined, Defendants will again aid and abet these violations.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that the Court enter a Final Judgment:

I.

Permanently enjoining Defendants, and their agents, servants, employees and attorneys and all persons in active concert or participation with any of them from violating, directly or indirectly, Securities Act Sections 17(a)(1) and (3) [15 U.S.C. §§ 77q(a)(1) and 77q(a)(3)], Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and Rules 10b-5(a) and (c) thereunder [17 C.F.R. §§ 240.10b-5(a) and 240.10b-5(c)], Investment Company Act Sections 13(a)(3), 15(c), and 32(a) [15 U.S.C. §§ 80a-13(a), 80a-15(c), 80a-31], and Advisers Act Sections 206(1) and (2) [15 U.S.C. §§ 80b-6(1) and 80b-6(2)] and Rule 206(4)-8(a)(1) thereunder [17 C.F.R. § 275.206(4)-8(a)(1)];

II.

Permanently enjoining Chiueh, and his agents, servants, employees and attorneys and all persons in active concert or participation with any of them from violating, directly or indirectly, Securities Act Section 17(a)(2) [15 U.S.C. § 77q(a)(2)], Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and Rule 10b-5(b) thereunder [17 C.F.R. § 240.10b-5(b)], Investment Company Act Section 10(a) [15

U.S.C. § 80a-10(a)], and Advisers Act Section 206(4) [15 U.S.C. § 80b-6(4)] and Rule 206(4)-8(a)(1) thereunder [17 C.F.R. § 275.206(4)-8(a)(1)];

III.

Ordering Defendants to disgorge all ill-gotten gains they received directly or indirectly, with pre-judgment interest thereon, as a result of the alleged violations, pursuant to Exchange Act Sections 21(d)(5) and 21(d)(7) [15 U.S.C. §§ 78u(d)(5) and 78u(d)(7)], and Section 9(e) of the Investment Company Act [15 U.S.C. 80a-9(e)];

IV.

Ordering Defendants to pay civil monetary penalties under Securities Act Section 20(d) [15 U.S.C. § 77t(d)], Exchange Act Section 21(d)(3) [15 U.S.C. § 78u(d)(3)], Advisers Act Section 209(e) [15 U.S.C. § 80b-9(e)], and Investment Company Act Section 42(e) [15 U.S.C. § 80a-41(e)];

V.

Granting any other and further relief this Court may deem just and proper.

JURY DEMAND

The Commission demands a trial by jury.

Dated: New York, New York
March 17, 2025

/s/ Debra Jaroslawicz

Corey A. Schuster

Lee A. Greenwood

Debra Jaroslawicz

Stephen B. Holden

Ming Ming Yang

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LOCAL RULE 11.2 CERTIFICATION

Pursuant to Local Civil Rule 11.2, I certify that the matter in controversy alleged against the Defendants in the foregoing Complaint is not the subject of any other civil action pending in any court, or of any pending arbitration or administrative proceeding.

Dated: New York, New York
March 17, 2025

/s/ Debra Jaroslawicz

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

-against-

**DAVID YOW SHANG CHIUEH and
UPRIGHT FINANCIAL CORP.,**

Defendants.

25 Civ. 1920

**DESIGNATION OF
AGENT FOR SERVICE**

Pursuant to Local Civil Rule 101.1(f), because the Commission does not have an office in this District, the undersigned hereby designates the United States Attorney's Office for the District of New Jersey as eligible as an alternative to the Commission to receive service of all notices or papers in this action.

Therefore, service upon the United States or its authorized designee, designee, David E. Dauenheimer, Deputy Chief, Health Care Fraud Unit, United States Attorney's Office for the District of New Jersey, 970 Broad Street, Suite

700, Newark, NJ 07102 shall constitute service upon the Commission for purposes of this action.

Dated: New York, New York
March 17, 2025

/s/ Debra Jaroslawicz

Corey A. Schuster

Lee A. Greenwood

Debra Jaroslawicz

Stephen B. Holden

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