

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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In the matter of the application of :

JIAN WU, :

Petitioner, :

Index No.: _____

for an Order pursuant to Section 3102(c) of the :

Civil Practice Law and Rules to compel

disclosure in aid of arbitration from :

PETITION

TWO SIGMA INVESTMENTS, LP, :

Respondent.

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Petitioner Jian Wu, by and through his undersigned counsel, Clark Smith Villazor LLP, files this Petition seeking disclosure in aid of arbitration pursuant to Civil Practice Law and Rules 3102(c) and respectfully alleges as follows:

INTRODUCTION

1. Petitioner has commenced this special proceeding pursuant to CPLR 3102(c) to compel disclosure in aid of arbitration from Respondent Two Sigma Investments, LP (“Two Sigma” or “Respondent”). Petitioner is a quantitative researcher employed at Two Sigma, an investment advisor. Petitioner seeks the identity of any and all persons employed by Two Sigma who sent false and defamatory emails, or directed or approved such emails to be sent, about or related to Petitioner on or around October 6, 2023, October 10, 2023, and December 18, 2023 using the investor-relations@twosigma.com email account, and who otherwise participated in the publication of such false and defamatory statements (the “Unidentified Individuals”).

2. The October 6, 2023, October 10, 2023, and December 18, 2023 emails contained false and defamatory statements about Petitioner, including that he engaged in “intentional

misconduct” that caused \$170 million of purported negative impacts to Two Sigma’s investors by making unauthorized changes to certain trading models. In truth and in fact, as Two Sigma, and the as-yet Unidentified Individuals well knew, Two Sigma had no policy or practice covering the changes that Petitioner made and any purported loss was a result of Two Sigma’s abysmally weak controls and reckless investment decisions. Two Sigma, and the as-yet Unidentified Individuals, also continued their defamatory conduct by confirming Petitioner’s identity to the *Wall Street Journal* and other media outlets, which broadly publicized the false statements about Petitioner.

3. Petitioner is an extraordinarily talented individual who performed for Two Sigma at an exceptionally high level. He was compensated accordingly, earning \$385,000 in 2018, \$500,000 in 2019, \$4.2 million in 2020, \$2.75 million in 2021, and approximately \$23 million in 2022. Two Sigma’s defamatory statements have significantly damaged Petitioner’s professional reputation, potentially rendering him unemployable in the hedge fund industry. Petitioner will commence arbitration proceedings to hold Two Sigma and the Unidentified Individuals accountable for their wrongful conduct.

4. To aid in that arbitration and present a proper case to the arbitrator, Petitioner requests an Order pursuant to CPLR 3102(c): (a) compelling Respondent Two Sigma to designate, within 10 days of the issuance of the Order and pursuant to the provisions of 22 N.Y.C.R.R. 202.20-d, a corporate representative (the “Corporate Designee”) with knowledge of the facts and circumstances surrounding (i) the drafting, approving, and sending of emails on or around October 6, 2023, October 10, 2023, and December 18, 2023 from the investor-relations@twosigma.com email account which are about, are related to, or reference Petitioner (whether expressly named or not), (ii) the identities of any and all persons who sent emails,

directed emails to be sent, and/or approved emails to be sent on or around October 6, 2023, October 10, 2023, and December 18, 2023 from the investor-relations@twosigma.com email account which are about, are related to, or reference Petitioner (whether expressly named or not), (iii) the identities of any and all persons employed by Two Sigma who spoke to any reporter or representative of the *Wall Street Journal* or any other news organization or media outlet between August 1, 2023 and November 30, 2023 in connection with the emails sent on or around October 6, 2023 and October 10, 2023 from the investor-relations@twosigma.com email account about, related to, or referencing Petitioner; (b) compelling Respondent Two Sigma to produce to Petitioner, within 30 days of the issuance of the Order and pursuant to the provisions of 22 N.Y.C.R.R. 202.20-d, the Corporate Designee for a deposition to be taken by Petitioner regarding the above-enumerated matters; (c) compelling Two Sigma to produce to Petitioner, within 20 days after the issuance of the Order, any and all documents and communications that relate to, or were sent in connection with, the drafting, approval, and sending of emails sent on or around October 6, 2023, October 10, 2023, and December 18, 2023 from the investor-relations@twosigma.com email account which are about, are related to, or reference Petitioner (whether expressly named or not); and (d) granting such other and further relief as the Court deems just and proper.

PARTIES

5. Petitioner is an individual who resides and is domiciled in New York and has been employed by Respondent Two Sigma as a quantitative researcher since April 2018.

6. Respondent Two Sigma is a Delaware limited partnership and at all times relevant to this action did business in the State of New York. Two Sigma maintains its principal place of business at 100 Avenue of the Americas, 16th Floor, New York, New York 10013.

JURISDICTION AND VENUE

7. This Court has jurisdiction over Respondent Two Sigma pursuant to CPLR 301 in that it has its principal place of business in the State of New York and CPLR 302 in that it transacts business within the State of New York.

8. Venue is proper in New York County pursuant to CPLR 503 and 506.

9. Section 8(I) of the Invention, Non-Disclosure, and Non-Competition Agreement between Petitioner and Respondent, dated March 7, 2018 (the “Agreement”), provides that “[n]othing herein shall preclude the parties from seeking provisional remedies in connection with or in aid of arbitration in court; provided that any such action between the parties are brought in accordance with Section 8(J) of this Agreement, and provided further that each party irrevocably waives, to the fullest extent permitted by applicable law, any objection or opposition to the other party’s motion to seal and/or close to the public any portion of the record or any hearings, motions, or trials in connection with such action.”

10. Pursuant to Section 8(J)(i) of the Agreement, both Petitioner and Respondent consented and agreed that “the courts of the State of New York and/or the United States District Court for the Southern District of New York shall have exclusive jurisdiction over each of the parties hereto and over the subject matter of any such proceedings, the exclusive venue of any such proceedings shall be the County and State of New York, and each party irrevocably waives any and all right to plead or contend lack of personal jurisdiction in those courts or that such proceedings have been brought in an incorrect or inconvenient venue.”

11. As this is a special proceeding seeking provisional remedies in connection with and in aid of arbitration, venue is proper in New York County.

FACTS

Petitioner's Background

12. Petitioner grew up in Hefei, Anhui province in China before attending college at Tsinghua University—one of the most prominent research and engineering institutions in Asia—where he received a Bachelor of Engineering degree in Automation.

13. In 2011, Petitioner moved to the United States to pursue a Ph.D. at the University of Southern California and, in 2013, transferred to Cornell University to finish his education. Upon completion of his dissertation in 2017, Petitioner received his Ph.D. in Operations Research and Information Engineering from Cornell University and sought employment in the financial industry where he could use his mathematical and engineering skills to develop complex quantitative models to drive successful financial performance.

14. Petitioner was initially employed as a quantitative researcher at a large hedge fund before accepting a position as a quantitative researcher at Respondent Two Sigma on or around March 7, 2018. Petitioner began working at Two Sigma in or around April 2018.

15. While employed by Two Sigma, Petitioner was promoted, first, to Vice President of Quantitative Research in or around January 2021, and then to Senior Vice President of Quantitative Research in or around January 2023.

16. On or around August 31, 2023, as explained further below, Two Sigma placed Petitioner on administrative leave, demanded the return of his Two Sigma-issued devices, and cut off his access to Two Sigma's facilities and networks.

Two Sigma's Business¹

17. Two Sigma was founded in or around 2001 by John A. Overdeck and David M. Siegel and is known colloquially as a quantitative hedge fund manager. Two Sigma is an investment adviser registered with the SEC since in or around April 2009.

18. Two Sigma specializes in process-driven, systematic investment management, generally by performing quantitative analysis to build mathematical strategies. Two Sigma primarily develops and uses quantitative mathematical “models” (also known as “trading models”) to implement its trading strategies to seek to achieve the mandates of its clients and earn investment returns. Such quantitative mathematical models rely on patterns inferred from historical prices and other financial data in evaluating prospective investments.

19. These models consist of highly complex mathematical computations and are typically implemented using high-powered computers that generate an output that assists Two Sigma in the purchase and sale of securities and other financial instruments for the investment portfolios managed by Two Sigma.

20. The Two Sigma employees who develop these models write them using, among others, the Java programming language, which is often referred to as a “model code” or “model source code.”

21. Two Sigma provides its advisory services with respect to a broad range of securities and financial instruments including U.S. and non-U.S. equity and equity-related securities, bonds and other fixed income securities, exchange traded products, debt instruments, FX, futures, currency contracts, futures options, spot trades, forward contracts, warrants, options, SPACs, repurchase agreements, reverse purchase agreements, swaps, convertible instruments,

¹ The allegations contained in paragraphs 17-23, 25 were obtained from Two Sigma's publicly available disclosures and documents.

inflation protection instruments, mortgage exchange contracts, commodities, derivatives on virtual currencies and/or other digital assets, U.S. and non-U.S. money market funds and money market instruments, and insurance-linked securities.

22. Two Sigma's clients include private investment funds, consisting of both commingled vehicles (including employees' securities companies) and funds of one (typically organized as Delaware limited partnerships, Delaware limited liability companies, Cayman Islands exempted companies, or other similar structures).

23. As of December 31, 2022, Two Sigma had approximately \$70,802,799,201 of regulatory assets under management ("AUM"), all on a discretionary basis.

Two Sigma's Recent Operational Distress and Dysfunction

24. Despite its relative success over the past 22 years, recent internal troubles have been reported at Two Sigma and confirmed by Two Sigma's own public disclosures.

25. On or around March 31, 2023, Two Sigma filed a disclosure with the SEC describing that "[t]here have been a variety of management and governance challenges at [Two Sigma]." As a result of these challenges, Two Sigma further disclosed that "[t]he Management Committee of [Two Sigma's] general partner . . . has been unable to reach agreement on a number of topics," "[t]hese disagreements can affect [Two Sigma's] ability to retain or attract employees (including very senior employees) and could continue to impact the ability of employees to fully implement key research, engineering, or corporate business initiatives," and, "[i]f such disagreement were to continue, [Two Sigma's] ability to achieve Client mandates could be impacted over time."

26. The challenges and disagreements referenced in Two Sigma's disclosure reportedly relate to disputes between Two Sigma's co-founders, Siegel and Overdeck, regarding

the ongoing management of the firm. Public sources have reported concerns from investors and regulators about internal controls at Two Sigma, as well as reported that at least one former employee has said Two Sigma's governance functions have struggled to keep up with the swift growth in the number of employees and its funds under management.

27. The *Wall Street Journal* reported in June 2023 that “[p]eople who work for the two men feel caught in the middle. In early 2022, a group of senior modelers who report to Overdeck threatened to resign if Siegel didn’t step back at the firm Siegel called their bluff. The group, which included investment chiefs, Alex Ginsburg and Geoffrey Duncombe, ended up staying.”

28. Two Sigma has also experienced the departure of significant personnel from the firm within the past six months, suggesting further dysfunction in the firm’s operations. First, *Business Insider* reported in August 2023 that Two Sigma’s Chief Investment Officer of Equities, Alex Ginsburg, who had been with Two Sigma for over 20 years and reportedly threatened to resign in 2022, took an extended medical leave from the firm. Then, in October 2023, upon the announcement that Two Sigma intended to spin out its private equity impact-investing unit to an independent company, Two Sigma reduced the number of employees in its impact unit and Geoff Lieberthal, then a Two Sigma partner, resigned for personal reasons. More recently, upon information and belief, a Senior Vice President and Portfolio Manager left Two Sigma in December 2023, right before bonus compensation announcements.

29. The *Wall Street Journal* also recently reported in October 2023 that the U.S. Securities and Exchange Commission was investigating Two Sigma regarding its inability “to make basic management decisions” as well as the allegations in the October 6, 2023 and October 10, 2023 investor emails as described below.

Petitioner's Role at Two Sigma

30. In Petitioner's roles at Two Sigma as a Quantitative Researcher, Vice President of Quantitative Research, and Senior Vice President of Quantitative Research, he was responsible for researching, developing, and monitoring trading models which were deployed in Two Sigma's investment portfolios to implement Two Sigma's trading strategies and earn investment returns for those investment portfolios.

31. Petitioner's role was strictly a technical model research and development role, and he was not responsible for, and played no role in, the decisions as to whether his models should be deployed in Two Sigma's investment portfolios or how they should be weighted in those investment portfolios. Rather, the decision to deploy and weight models within an investment portfolio was the role and responsibility of Two Sigma's Portfolio Management & Trading Group.

32. In his role at Two Sigma, Petitioner was expressly tasked with and responsible for researching, developing, and monitoring models for six specific equity investment portfolios which had a general investment strategy of acquiring both long and short trading positions (the "Six Core Long-Short Portfolios"). Petitioner researched, developed, and monitored his models with the goal of generating alpha (i.e., obtaining returns) within the Six Core Long-Short Portfolios. Petitioner was not directed to or responsible for researching, developing, or monitoring models for any other investment portfolios at Two Sigma.

33. Petitioner researched and developed over 25 models for the Six Core Long-Short Portfolios while employed by Two Sigma.

34. As part of the process for developing a model at Two Sigma, Petitioner and all other quantitative researchers were required to submit their model theory through an approval

process known as “PAM.” Once approved, Two Sigma’s Portfolio Management & Trading Group decided how to deploy a model in Two Sigma’s investment portfolios.

35. Once a model was deployed, Two Sigma required quantitative researchers to monitor the performance of their models. In order to do this, Two Sigma granted its quantitative researchers access to certain research, data, and performance indicators about the Six Core Long-Short Portfolios.

36. Based on this monitoring, Two Sigma researchers often identified changes that needed to be made to different aspects of their models in order to, among other things, fix a technical problem with the code, update the data inputs, improve model performance, or make the model faster or more efficient.

37. During Petitioner’s employment at Two Sigma, he did not receive training on the policies, procedures, or practices related to or in connection making changes to models.

38. While Two Sigma appeared to follow a general practice and procedure indicating that researchers should seek approval for changes to trading models through the PAM process that involved changes to a *model code* which had been deployed in a live trading environment, there was no formal policy to that effect. Further, there was neither a policy nor a practice or procedure requiring any approval concerning changes to other aspects of a model which existed offline (i.e., not in a live trading environment), such as changes to model parameters (the weighting of certain computations) or model features (data inputs). Two Sigma’s controls, simply put, were silent on this point. The inadequacy of Two Sigma’s controls in this area is illustrative of the dysfunction at Two Sigma that flows down from the dispute between Overdeck and Siegel.

39. As a result of the lack of controls, it was a regular and common practice of Two Sigma researchers and engineers to make changes to their models without seeking approval through the PAM process.

40. Since being placed on administrative leave and being publicly accused of “intentional misconduct,” Petitioner has expressly and repeatedly requested copies of any Two Sigma policies related to model changes from Two Sigma. Two Sigma has not produced copies of any policies to Petitioner because no such policies exist.

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The Initial False and Defamatory Statements

61. The investor-relations@twosigma.com email account is a distribution list used by Two Sigma to communicate with its investors, including Two Sigma employees who invest in Two Sigma's portfolios. Petitioner himself is both an employee and an investor who receives emails from the investor-relations@twosigma.com email account. Upon information and belief, the investor-relations@twosigma.com email account is owned by Two Sigma and controlled by the Unidentified Individuals.

62. About one month after Petitioner was placed on administrative leave, on or around October 6, 2023, the Unidentified Individuals used the investor-relations@twosigma.com email account to send an email to Two Sigma investors, including Two Sigma employees, which contained false and defamatory statements about Petitioner.²

² A true and correct copy of this email is attached as Exhibit A.

63. The email read:

Dear Investor,

We write to inform you that Two Sigma determined that one of our researchers engaged in intentional misconduct by circumventing our modeling practices. The employee has been placed on administrative leave. While our portfolio impact evaluation has inherent limitations and is ongoing, preliminary results suggest that these improper actions resulted in gains to some client portfolios and losses to others. If we conclude that a fund experienced losses as a result of this misconduct, we are prepared to remediate appropriately. For clarity, this incident did not impact the accuracy of investor account statements and any remediation would be reflected as an increase to account balances. Further, this incident, including any remediation, is not expected to impact our normal operations. We take this matter extremely seriously and are reviewing this incident to determine what changes should be made to prevent similar misconduct. A review by our control functions is ongoing and we will provide you with updates when available.

Thank you for your trust and confidence in Two Sigma.

Two Sigma Investor Relations

64. The false accusation that Petitioner “engaged in intentional misconduct” and “improper actions” “by circumventing [its] modeling practices” referred to the fact that Petitioner had not submitted the parameter changes to his models through the PAM process. However, as described above, there was no Two Sigma policy, practice, or procedure requiring Petitioner to seek approval of parameter changes through the PAM process.

65. Then, less than a week later, on or around October 10, 2023, the Unidentified Individuals used the investor-relations@twosigma.com email account to send a second email to Two Sigma investors, including Two Sigma employees, which contained additional false and defamatory statements about Petitioner.³

³ A true and correct copy of this email is attached as Exhibit B.

66. The email read:

Dear Investor,

We would like to provide you with additional details and analysis regarding the researcher misconduct we communicated on Friday. Specifically, the individual violated our internal procedures by making unauthorized changes to their own models' settings. Analysis by our control functions indicate that these changes resulted in a positive impact across several of our funds, totaling approximately \$450 million. For the avoidance of doubt, those funds that experienced positive impact will retain the gains. As we stated previously, we are prepared to remediate appropriately any of our funds whose performance was negatively impacted. Our estimate of the total of these negative impacts is approximately \$170 million. Two Sigma is sufficiently capitalized to manage payment of such reimbursements without materially impacting the firm's financial health. Fund impact assessments and remediation plans are being finalized. We will follow up with details relating to your specific fund holdings in the coming weeks.

Once again, we are taking this matter extremely seriously and are taking steps to prevent similar issues from occurring in the future.

Two Sigma Investor Relations

67. The false accusation that Petitioner engaged in "researcher misconduct" and "violated [Two Sigma's] internal procedures by making unauthorized changes to [his] own models' settings" referred to the fact that Petitioner had not submitted the parameter changes to his models through the PAM process. However, as described above, there was no Two Sigma policy, practice, or procedure requiring Petitioner to seek approval of parameter changes through the PAM process.

68. The accusation that Petitioner had caused "negative impacts [of] approximately \$170 million" was also false because the true cause of those negative impacts was Two Sigma's reckless decision to deploy the models Petitioner had research, developed, and monitored for performance in the Six Core Long-Short Portfolios into long-biased portfolios and non-core portfolios in order to grow Two Sigma's revenue. The parameter changes Petitioner made to his models in 2021 and 2023 had caused significant positive returns in the Six Core Long-Short

Portfolios and no losses or negative impacts, and he played no role in and had no responsibility to research, develop, monitor, or change his models to enhance the performance of any portfolios other than the Six Core Long-Short portfolios.

69. Accordingly, Two Sigma and the Unidentified Individuals falsely stated that Petitioner had “engaged in intentional misconduct” and “improper actions” “by circumventing [Two Sigma’s] modeling practices” and “violated [Two Sigma’s] internal procedures by making unauthorized changes to [his] own models’ settings” which resulted in “losses” and “negative impacts [of] approximately \$170 million.”

70. Upon information and belief, the Unidentified Individuals knew that these statements were false when they were made because (i) Two Sigma had already undertaken an internal investigation related to the parameter changes Petitioner had made to his models and interviewed him on at least three occasions, (ii) the Unidentified Individuals knew that there was no policy, practice, or procedure requiring Petitioner to seek approval of parameter changes through the PAM process, and (iii) the Unidentified Individuals knew that the Portfolio Management & Trading Group had deployed Petitioner’s models in the long-biased and non-core portfolios which caused losses to those portfolios.

71. Upon information and belief, Petitioner and other Two Sigma employees knew that Petitioner was the researcher described in the October 6, 2023 and October 10, 2023 emails as he had been put on administrative leave from Two Sigma approximately one month prior. Furthermore, Petitioner’s manager and others at Two Sigma knew that Petitioner had made parameter changes to his models and worked with Petitioner to compile a list of those parameter changes.

Statements to the Wall Street Journal and Other Media Outlets

72. After the Unidentified Individuals sent, directed, and approved the October 6, 2023 and October 10, 2023 emails, various news organizations and media outlets reported on the emails and the ongoing internal operational strife at Two Sigma. In the midst of this media coverage, the Unidentified Individuals from Two Sigma made further statements about Petitioner to the *Wall Street Journal* and other media outlets by informing them that Petitioner was the researcher described in the October 6, 2023 and October 10, 2023 emails from the investor-relations@twosigma.com email account.

73. On or about October 29, 2023, the *Wall Street Journal* published an article expressly identifying Petitioner as the “researcher at Two Sigma Investments [who] adjusted the hedge fund’s investing models without authorization.”⁴ The article also stated that unidentified “[p]eople familiar with the situation said Wu was trying to improve the firm’s performance, which would have benefited his career and potential pay.”

74. On or about October 30, 2023, the *Wall Street Journal* published another article expressly identifying Petitioner as the researcher described in the October 6, 2023 and October 10, 2023 emails from the investor-relations@twosigma.com email account.⁵

75. Upon information and belief, one or more Unidentified Individuals from Two Sigma provided Petitioner’s name to the *Wall Street Journal* and other media outlets, and described him as the individual described in the October 6, 2023 and October 10, 2023 emails from the investor-relations@twosigma.com email account.

76. Petitioner did not consent or authorize Two Sigma or the Unidentified Individuals to send the October 6, 2023 and October 10, 2023 emails from the investor-relations@twosigma.com

⁴ A true and correct copy of this email is attached as Exhibit C.

⁵ A true and correct copy of this email is attached as Exhibit D.

relations@twosigma.com email account or to identify him to the *Wall Street Journal* and other media outlets as the researcher described in those emails.

The Continuing False and Defamatory Statements

77. Approximately two months after the October 6, 2023 and October 10, 2023 emails were sent to Two Sigma investors and employees, on or around December 18, 2023, the Unidentified Individuals used the investor-relations@twosigma.com email account to send a third email to Two Sigma investors, including Two Sigma employees, which contained additional false and defamatory statements about Petitioner.⁶

78. The email read, in pertinent part:

Dear Investor,

Earlier this quarter, we communicated that one of our researchers had engaged in intentional misconduct by circumventing our modeling practices. Since that time, our internal control functions have been actively engaged in conducting a detailed impact assessment, working in partnership with our outside advisors. We are now in a position to begin account-level remediation.

Accounts that experienced positive impact over the remediation period will retain the gains and accounts that experienced negative impact over the remediation period will receive a reimbursement for the losses in the form of a capital contribution or wire payment (as applicable). This includes certain accounts that have transferred, as well as accounts previously invested in a Two Sigma product group that has since been liquidated. . . .

79. This email, again, falsely stated that Petitioner “had engaged in intentional misconduct by circumventing [Two Sigma’s] modeling practices” and ascribed “negative impact[s]” experienced by Two Sigma’s investment portfolios to that “intentional misconduct.” Similar to the October 6, 2023 and October 10, 2023 emails, the December 18, 2023 email referred to the fact that Petitioner had not submitted the parameter changes to his models through the PAM process. However, as described above, the statements in the December 18, 2023 email

⁶ A true and correct copy of this email is attached as Exhibit E.

were false because there was no Two Sigma policy, practice, or procedure requiring Petitioner to seek approval of parameter changes through the PAM process, and the cause of the negative impacts was Two Sigma's reckless decision to deploy the models Petitioner had research, developed, and monitored for performance in the Six Core Long-Short Portfolios into long-biased portfolios and non-core portfolios in order to grow Two Sigma's revenue.

80. Upon information and belief, the Unidentified Individuals knew that these statements were false when they were made because (i) Two Sigma had already undertaken an internal investigation related to the parameter changes Petitioner had made to his models and interviewed him on at least three occasions, (ii) the Unidentified Individuals knew that there was no policy, practice, or procedure requiring Petitioner to seek approval of parameter changes through the PAM process, and (iii) the Unidentified Individuals knew that the Portfolio Management & Trading Group had deployed Petitioner's models in the long-biased and non-core portfolios which caused losses to those portfolios.

81. Upon information and belief, Petitioner and other Two Sigma employees knew that Petitioner was the researcher described in the December 18, 2023 email because it had already been publicly reported and confirmed by the Unidentified Individuals to the *Wall Street Journal* and other media outlets that Petitioner was the researcher described as having "engaged in intentional misconduct."

82. Petitioner did not consent or authorize Two Sigma or the Unidentified Individuals to send the December 18, 2023 email from the investor-relations@twosigma.com email account.

The Agreement and Future Arbitration Proceedings

83. The Agreement between Petitioner and Two Sigma provides for mandatory arbitration of "[a]ny controversy or claim between [Petitioner] and Two Sigma (including

without limitation Two Sigma's affiliates, officers, executives, representatives or agents) arising out of or relating to this Agreement, any breach thereof, the employment of [Petitioner], or the cessation of [Petitioner's] employment with Two Sigma."

84. Petitioner intends to initiate arbitration proceedings against Two Sigma and the Unidentified Individuals alleging defamation claims, but cannot do so without obtaining the identities of the Unidentified Individuals from Two Sigma.

NEED FOR RELIEF

85. For the foregoing reasons, and the reasons set forth in the accompanying memorandum of law and affirmation, Petitioner is entitled to disclosure in aid of arbitration pursuant to CPLR 3102(c) to obtain the identities of the Unidentified Individuals in order to present a proper case to the arbitrator.

There Are Extraordinary Circumstances Requiring Disclosure to Aid in Arbitration

86. As set forth above, Petitioner does not have knowledge of the Unidentified Individuals who wrote and sent, or who directed or approved to be sent, the false and defamatory statements in the October 6, 2023, October 10, 2023, and December 18, 2023 emails from the investor-relations@twosigma.com email account, or that spoke to reporters or representatives of the *Wall Street Journal* and other media outlets.

87. On the other hand, Two Sigma is aware of the identities of the Unidentified Individuals since Two Sigma controls the investor-relations@twosigma.com email account and access to the investor-relations@twosigma.com email account, as well as all other email and communication accounts used by Two Sigma personnel for communications related to Two Sigma business.

88. Pursuant to the Agreement, Petitioner intends to initiate arbitration proceedings against Two Sigma and the Unidentified Individuals alleging defamation claims, among other claims.

89. Because the identification of the Unidentified Individuals by Two Sigma is necessary in order for Petitioner to “present a ‘proper case’ to the arbitrator,” extraordinary circumstances exist such that the Court should grant Petitioner’s request for disclosure in aid of arbitration. *See In re VTrader Pro, LLC*, 24 Misc. 3d 828, 830-31 (N.Y. Sup. Ct. N.Y. Cty. 2009) (citation omitted).

Petitioner’s Meritorious Causes of Action for Defamation

90. Petitioner has meritorious causes of action against the Unidentified Individuals for defamation.

91. As explained above, the Unidentified Individuals sent false and defamatory statements about Petitioner to investors and other Two Sigma employees.

92. Specifically, on or around October 6, 2023, the Unidentified Individuals sent, or directed or approved to be sent, an email to Two Sigma investors, including Two Sigma employees, falsely stating that Petitioner “engaged in intentional misconduct” and “improper actions” “by circumventing [Two Sigma’s] modeling practices.” This was false because there was no Two Sigma policy, practice, or procedure requiring Petitioner to seek approval of parameter changes through the PAM process, such that Petitioner could not have engaged in “intentional misconduct” or “improper actions.” The Unidentified Individuals knew there was no Two Sigma policy, practice, or procedure requiring Petitioner to seek approval of parameter changes through the PAM process, and therefore knew this statement was false.

93. On or around October 10, 2023, the Unidentified Individuals sent, or directed or approved to be sent, an email to Two Sigma investors, including Two Sigma employees, falsely stating that Petitioner engaged in “researcher misconduct” and “violated [Two Sigma’s] internal procedures by making unauthorized changes to [his] own models’ settings” resulting in “negative impacts [of] approximately \$170 million.” This was false because there was no Two Sigma policy, practice, or procedure requiring Petitioner to seek approval of parameter changes through the PAM process, such that Petitioner could not have violated any internal procedures. It was also false to accuse Petitioner of causing \$170 million in negative impacts when the actual source of those negative impacts was Two Sigma’s reckless decision to forego the development of long-biased strategies and models and deploy Petitioner’s models in long-biased portfolios and non-core portfolios. Because the Unidentified Individuals knew there was no Two Sigma policy, practice, or procedure requiring Petitioner to seek approval of parameter changes through the PAM process, and knew that Two Sigma’s reckless decision to deploy Petitioner’s models into long-biased and non-core portfolios had caused the \$170 million in negative impacts, the Unidentified Individuals knew these statements were false.

94. It was clear that the October 6, 2023 and October 10, 2023 emails accused Petitioner of being the researcher who “engaged in intentional misconduct” and ascribed the \$170 million in negative impacts to that “intentional conduct” because Petitioner had been placed on administrative leave (a fact known to at least Two Sigma employees receiving the October 6, 2023 and October 10, 2023 emails), Two Sigma employees knew that Petitioner had made parameter changes to his models without submitting them through the PAM process, and Petitioner’s name was later confirmed by a Two Sigma employee to the *Wall Street Journal* and other media outlets which subsequently published the information.

95. On or around December 18, 2023, the Unidentified Individuals sent, or directed or approved to be sent, an email to Two Sigma investors, including Two Sigma employees, falsely stating that Petitioner “had engaged in intentional misconduct by circumventing [Two Sigma’s] modeling practices” and ascribed “negative impact[s]” experienced by Two Sigma’s investment portfolios to that “intentional misconduct.” This was false because there was no Two Sigma policy, practice, or procedure requiring Petitioner to seek approval of parameter changes through the PAM process, such that Petitioner could not have violated any internal procedures. It was also false to accuse Petitioner of causing negative impacts to Two Sigma’s investment portfolios when the actual source of those negative impacts was Two Sigma’s reckless decision to forego the development of long-biased strategies and models and deploy Petitioner’s models in long-biased portfolios and non-core portfolios. Because the Unidentified Individuals knew there was no Two Sigma policy, practice, or procedure requiring Petitioner to seek approval of parameter changes through the PAM process, and knew that Two Sigma’s reckless decision to deploy Petitioner’s models into long-biased and non-core portfolios had caused the negative impacts, the Unidentified Individuals knew these statements were false.

96. The December 18, 2023 also clearly attributed the “intentional misconduct” and ascribed the “negative impact[s]” to Petitioner because it had already been publicly reported and confirmed by the Unidentified Individuals to the *Wall Street Journal* and other media outlets that Petitioner was the researcher described as having “engaged in intentional misconduct.”

97. These false statements were neither privileged opinions nor statements authorized to be disseminated by Petitioner. And the Unidentified Individuals acted with actual malice in making the false and defamatory statements about Petitioner because they knowingly misrepresented—or at least acted in reckless disregard for the truth in stating—that Petitioner

engaged in intentional misconduct and caused investors negative impacts of approximately \$170 million in order to direct the blame away from Two Sigma and onto Petitioner.

98. The foregoing statements are defamatory because they subject Petitioner to public contempt, ridicule, aversion or disgrace, or induce an evil opinion of him in the minds of right-thinking persons, and deprive him of their friendly intercourse in society.

99. The foregoing statements are defamatory per se as they are statements that tend to injure Petitioner in his trade, business, and profession.

100. As a result of the foregoing false and defamatory statements, Petitioner has suffered significant reputational damage and other money damages, including but not limited to, lost future earnings, well in excess of \$25,000.

Disclosure Is Material and Necessary to Determine the Identities of Respondents in Arbitration

101. As set forth above, Petitioner does not have knowledge of the identities of the person or persons who sent and authorized the false and defamatory statements in the October 6, 2023, October 10, 2023, and December 18, 2023 emails from the investor-relations@twosigma.com email account, or that spoke to reporters or representatives of the *Wall Street Journal* and other media outlets.

102. As Two Sigma owns and controls the investor-relations@twosigma.com email account, the emails were written by Two Sigma personnel. However, there are no individual names associated with the October 6, 2023, October 10, 2023, and December 18, 2023 emails.

103. To date, Two Sigma has declined to provide Petitioner with information related to their investigation of the alleged conduct underlying the October 6, 2023, October 10, 2023, and December 18, 2023 emails. As a result, any request for the identities of the individuals at Two

Sigma who sent, or directed to be sent, the October 6, 2023, October 10, 2023, and December 18, 2023 emails would be futile.

104. Petitioner has no other means by which to ascertain the identity of the individuals who wrote and sent the false and defamatory statements in the October 6, 2023, October 10, 2023, and December 18, 2023 emails.

105. Without knowing the true identities of the person or persons that wrote and sent the false and defamatory statements in the October 6, 2023, October 10, 2023, and December 18, 2023, Petitioner is unable to allege defamation claims against them pursuant to the Agreement.

106. And, because a common law defamation claim has a one year statute of limitations under New York law, CPLR 215(3); *Hoesten v. Best*, 34 A.D.3d 143, 150 (1st Dep't 2006), the Court should order Two Sigma to promptly designate a Corporate Designee, produce the Corporate Designee for a deposition, and produce the requested documents so that Petitioner may initiate arbitration proceedings without any delay. A firm deadline for compliance with the Court' Order is "absolutely necessary for the protection of [Petitioner's] rights." *Weisz v. Weisz*, 42 Misc. 3d 391, 395 (N.Y. Sup. Ct. Kings Cty. Nov. 6, 2013) (citation omitted).

107. Upon information and belief, the information Petitioner seeks is readily available to Two Sigma.

108. The relief sought in this Petition does not unduly burden Two Sigma.

109. No previous application has been made for the relief requested herein.

PRAYER FOR RELIEF

WHEREFORE, for the foregoing reasons, and the reasons set forth in the accompanying memorandum of law and affidavit, Petitioner respectfully asks this Court to enter an Order pursuant to CPLR 3102(c):

- (a) compelling Respondent Two Sigma to designate, within 10 days of the issuance of the Order and pursuant to the provisions of 22 N.Y.C.R.R. 202.20-d, a Corporate Designee with knowledge of the facts and circumstances surrounding (i) the drafting, approving, and sending of emails on or around October 6, 2023, October 10, 2023, and December 18, 2023 from the investor-relations@twosigma.com email account which are about, are related to, or reference Petitioner (whether expressly named or not), (ii) the identities of any and all persons who sent emails, directed emails to be sent, and/or approved emails to be sent on or around October 6, 2023, October 10, 2023, and December 18, 2023 from the investor-relations@twosigma.com email account which are about, are related to, or reference Petitioner (whether expressly named or not), and (iii) the identities of any and all persons employed by Two Sigma who spoke to any reporter or representative of the *Wall Street Journal* or any other news organization or media outlet between August 1, 2023 and November 30, 2023 in connection with the emails sent on or around October 6, 2023 and October 10, 2023 from the investor-relations@twosigma.com email account about, related to, or referencing Petitioner;
- (b) compelling Respondent Two Sigma to produce to Petitioner, within 30 days of the issuance of the Order and pursuant to the provisions of 22 N.Y.C.R.R. 202.20-d, the Corporate Designee for a deposition to be taken by Petitioner regarding the above-enumerated matters;
- (c) compelling Two Sigma to produce to Petitioner, within 20 days after the issuance of the Order, any and all documents and communications that relate to, or were sent in connection with, the drafting, approval, and sending of emails sent on or around

October 6, 2023, October 10, 2023, and December 18, 2023 from the investor-relations@twosigma.com email account which are about, are related to, or reference

Petitioner (whether expressly named or not); and

- (d) granting such other and further relief as the Court deems just, equitable, and proper.

Dated: New York, New York
December 21, 2023

Respectfully submitted,

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