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13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**

15 UNITED STATES SECURITIES
16 AND EXCHANGE COMMISSION,

17 Plaintiff,

18 v.

19 WESTERN INTERNATIONAL
20 SECURITIES, INC., NANCY COLE,
21 PATRICK EGAN, ANDY
GITIPITYAPON, STEVEN
GRAHAM, and THOMAS SWAN,

22 Defendants,

Case No. 2:22-cv-04119

COMPLAINT

JURY DEMAND

23
24 Plaintiff Securities and Exchange Commission (“SEC”) alleges:

25 **JURISDICTION AND VENUE**

26 1. The SEC brings this action pursuant to authority conferred on it by
27 Sections 21(d) and (e) of the Securities Exchange Act of 1934 (“Exchange Act”), 15
28 U.S.C. §§ 78u(d) and 78u(e), to restrain and enjoin the defendants Western

1 International Securities, Inc. (“Western”), Nancy Cole, Patrick Egan, Andy
2 Gitipityapon, Steven Graham, and Thomas Swan (together, “Defendants”) from
3 engaging in the acts, practices, and courses of business described in this Complaint
4 and acts, practices, and courses of business of similar purport and object.

5 2. The Court has jurisdiction over this action pursuant to Sections 21(d)
6 and 21(e) of the Exchange Act, 15 U.S.C. §§ 78u(d), 78u(e).

7 3. Venue is proper in this district pursuant to Section 27(a) of the Exchange
8 Act, 15 U.S.C. § 78aa(a), because certain of the transactions, acts, practices and
9 courses of conduct constituting violations of the federal securities laws occurred
10 within this district.

11 4. Defendants have, directly and indirectly, made use of the means or
12 instrumentalities of interstate commerce, of the mails, or of the facilities of a national
13 securities exchange in connection with the transactions, acts, practices and courses of
14 business alleged in this complaint.

15 5. There is a reasonable likelihood that Defendants will, unless enjoined,
16 continue to engage in the transactions, acts, practices and courses of business set forth
17 in this complaint, and transactions, acts, practices and courses of business of similar
18 purport and object.

19 SUMMARY

20 6. This matter concerns violations by Western and five of its registered
21 representatives of the Best Interest Obligation under Rule 15l-1(a) of the Securities
22 Exchange Act of 1934 (“Regulation Best Interest” or “Reg BI”) in connection with
23 their recommendations to retail customers to purchase an unrated debt security
24 known as an L Bond.

25 7. L Bonds were corporate bonds offered by GWG Holdings, Inc.
26 (“GWG”). L Bonds were high risk, illiquid, and only suitable for customers with
27 substantial financial resources. The L Bonds relevant to this Complaint paid fixed
28 interest rates of between 5.50% and 8.50%, depending on the maturity period of the

1 bond. GWG offered maturity periods of two, three, five, or seven years.

2 8. Between July of 2020 and April of 2021, registered representatives of
3 Western recommended and sold approximately \$13.3 million in L Bonds to retail
4 customers.

5 9. These recommendations violated Regulation Best Interest in several
6 ways. Regulation Best Interest requires that a broker, dealer, or associated person act
7 in the best interest of a retail customer when making a recommendation of a securities
8 transaction (“Reg BI’s Best Interest Obligation”). Firms comply with Reg BI’s Best
9 Interest Obligation only if they comply with four component obligations (“Reg BI’s
10 Component Obligations”): the Disclosure Obligation, the Care Obligation, Conflict of
11 Interest Obligation, and the Compliance Obligation. Similarly, associated persons of
12 broker-dealers comply with Reg BI’s Best Interest Obligation only if they comply
13 with the Disclosure Obligation and the Care Obligation.

14 10. Reg BI’s Care Obligation requires a broker, dealer, or associated person
15 of a broker or dealer, in making a recommendation of a securities transaction, to
16 exercise reasonable diligence, care, and skill to understand the potential risks,
17 rewards, and costs associated with the recommendation.

18 11. Western and its registered representatives Nancy Cole, Patrick Egan,
19 Andy Gitipityapon, Steven Graham, and Thomas Swan (together, the “Registered
20 Representative Defendants”) failed to comply with this aspect of their Care
21 Obligation, because they failed to exercise reasonable diligence, care, and skill to
22 understand the risks, rewards, and costs associated with L Bonds. At the time they
23 recommended L Bonds to retail customers, the Registered Representative Defendants
24 did not understand key risks associated with L Bonds and GWG.

25 12. Reg BI’s Care Obligation also requires a broker, dealer, or associated
26 person, in recommending a securities transaction to a retail customer, to exercise
27 reasonable diligence, care, and skill to have a reasonable basis to believe the
28 recommendation is in the best interests of that customer, based on the customer’s

1 investment profile and the potential risks, rewards, and costs associated with the
2 recommendation. Defendants failed to comply with this component of the Care
3 Obligation as well, by recommending L Bonds to at least seven retail customers
4 without a reasonable basis to believe L Bonds were in those customers' best interests.
5 Among other things, these customers had moderate-conservative or moderate risk
6 tolerances, investment objectives that did not include speculation, limited investment
7 experience, limited liquid net worth, and/or they were retired. The Registered
8 Representative Defendants nevertheless recommended L Bonds to these seven
9 customers without reasonable bases for doing so.

10 13. Reg BI's Compliance Obligation, another Component Obligation of the
11 Best Interest Obligation, requires brokers or dealers to (a) establish, (b) maintain, and
12 (c) enforce written policies and procedures reasonably designed to achieve
13 compliance with Reg BI. Western failed to comply with its Compliance Obligation.
14 Its written policies and procedures were not reasonably designed to achieve
15 compliance with Reg BI's Care Obligation. Western's written policies and
16 procedures merely recited the objectives of Reg BI, without offering registered
17 representatives specific guidance tailored to Western's operations. Western also had
18 inadequate procedures for enforcing what limited policies it had regarding
19 compliance with the Care Obligation of Reg BI.

20 14. The SEC brings this civil enforcement action seeking permanent
21 injunctions, disgorgement and prejudgment interest, and civil penalties against
22 Western and the Registered Representative Defendants, based on their violations of
23 Rules 15l-1(a)(1) of the Exchange Act, and, in the alternative, against Western as a
24 control person pursuant to Section 20(a) of the Exchange Act.

25 DEFENDANTS

26 15. **Western International Securities, Inc. ("Western")** is a California
27 corporation with its headquarters in Pasadena, California. It is registered with the
28 Commission as an investment adviser and a broker-dealer. Through its registered

1 representatives and advisers, Western sells various securities to retail customers,
2 including alternative investments, such as L Bonds. As of May 2020, Western is
3 owned by Atria Wealth Solutions, Inc. (“Atria”), a wealth management solutions
4 holding company.

5 16. **Nancy Cole**, age 74, is a resident of Sacramento, California. Cole has
6 worked as an independent contractor for Western as a registered representative since
7 August 2008.

8 17. **Patrick Egan**, age 56, is a resident of Alhambra, California. Egan has
9 worked as an independent contractor for Western as a registered representative since
10 1998.

11 18. **Andy Gitipityapon**, age 46, is a resident of Sherman Oaks, California.
12 Gitipityapon, has worked as an independent contractor for Western office as a
13 registered representative since April 2018.

14 19. **Steven Graham**, age 61, is a resident of Santa Clarita, California.
15 Graham has worked as an independent contractor for Western as a registered
16 representative since September 2020.

17 20. **Thomas Swan**, age 62, is a resident of Acme, Washington. Swan has
18 worked as an independent contractor for Western as a registered representative since
19 May 2008.

20 **RELATED ENTITIES**

21 21. **GWG Holdings, Inc.** (“GWG”) is a publicly traded company
22 (NASDAQ: GWGH) that has its principal executive offices in Dallas, Texas. Prior to
23 2018, GWG, through its various subsidiaries, acquired life insurance policies on the
24 secondary market. Following a series of transactions with Beneficient Company
25 Group, L.P. in 2018 and 2019, GWG’s business changed to focus on providing
26 liquidity to holders of illiquid investments and alternative assets.

27 22. **Beneficient Company Group, L.P.** (“Beneficient”), is a Dallas, Texas
28 based company. Although Beneficient was formed in 2003, it has only been

1 operating its current business model – providing liquidity to owners of alternative
2 assets and illiquid investments – since September 2017. Following a series of
3 transactions in 2018 and 2019, Beneficient’s management gained control over GWG,
4 and Beneficient became a wholly-owned subsidiary of GWG.

5 FACTS

6 **I. GWG L Bonds Are a High-Risk, Illiquid Investment.**

7 23. GWG is a financial services company. Prior to 2018, GWG’s business
8 model involved acquiring, through its various subsidiaries, life insurance policies in
9 the secondary market. That is to say, GWG purchased life insurance policies from
10 consumers who owned life insurance they no longer wanted or needed. GWG
11 purchased the policies then continued to pay the premiums and collected the policy
12 benefits upon the insured’s death.

13 24. In 2018 and 2019, GWG consummated a series of transactions with
14 Beneficient that resulted in a significant reorientation of its business. Beneficient’s
15 management gained control over GWG, Beneficient became a wholly-owned
16 subsidiary of GWG, and GWG’s business model changed. Specifically, GWG
17 stopped acquiring life insurance policies and focused instead on Beneficient’s still-
18 developing business model.

19 25. Beneficient was formed in 2003 but began its current business model in
20 September 2017. Since then, Beneficient has been in the business of offering,
21 through its subsidiaries, loans, other liquidity products, and related services to
22 customers holding illiquid alternative assets. In other words, it extends loans
23 collateralized by cash flows from illiquid alternative assets, and provides services to
24 trustees who administer the collateral.

25 26. Since 2012, GWG has raised funds for its operations by selling corporate
26 bonds – initially called Renewable Secured Debentures, but since 2015 known as L
27 Bonds – to retail customers through a network of broker-dealers.
28

1 27. A corporate bond is a debt obligation, like an “IOU.” Customers who
2 buy corporate bonds are lending money to the company issuing the bond. In return,
3 the company promises to pay interest on the principal and to return the principal
4 when the bond comes due, or “matures.”

5 28. Since 2012, GWG has offered L Bonds in four separate offerings: (1) an
6 offering of up to \$250 million in L Bonds beginning January 2012, (2) an offering of
7 up to \$1 billion in L Bonds beginning in January 2015, (3) an offering of up to \$1
8 billion in L Bonds beginning in December 2017, and (4) an offering of up to \$2
9 billion in L Bonds beginning in June 2020. The L Bonds relevant to this Complaint
10 are from the fourth offering.

11 29. L Bonds sold in the fourth offering had terms of two, three, five, and
12 seven years, and they paid fixed interest rates of between 5.50% and 8.50%,
13 depending on the maturity. The minimum investment was \$25,000.

14 30. GWG has sold nearly \$2.0 billion in L Bonds since it began selling them
15 in 2012. GWG sold approximately \$453 million in L Bonds in the fourth offering.
16 As of September 30, 2021 (the most recent data GWG made available) GWG had
17 \$1.3 billion in L Bonds outstanding.

18 31. The offering document GWG used for the fourth bond offering (the
19 “2020 Prospectus”) was 40 pages long and contained information about GWG and L
20 Bonds.

21 32. The 2020 Prospectus expressly incorporated by reference certain
22 documents, including GWG’s Form 10-K for the year ended December 31, 2019 and
23 GWG’s Form 10-Q for the quarter ended March 31, 2020.

24 33. The 2020 Prospectus disclosed several risks associated with L Bonds.
25 Among other things, investing in L Bonds involves a “high degree of risk, including
26 the risk of losing [one’s] entire investment[,]” and “[i]nvesting in L Bonds may be
27 considered speculative.”

28 34. In addition, L Bonds are an illiquid investment. No market for L Bonds

1 exists, and no such market is expected to develop. If a market for L Bonds does not
2 develop, customers may not be able to sell their L Bonds for the price they paid or at
3 all. As such, as GWG disclosed on the second page of the 2020 Prospectus, “**L**
4 **Bonds are only suitable for persons with substantial financial resources and with**
5 **no need for liquidity in this investment.**” (emphasis in original.)

6 35. Unlike many corporate bonds, L Bonds are not rated by any bond rating
7 agency. Bond rating agencies assign letter grades (*e.g.*, AAA, B, C) to bonds based
8 on their evaluation of the credit risk associated with the bonds’ issuer. No
9 independent rating agency has rated L Bonds.

10 36. GWG has a history of net losses and has not generated sufficient
11 operating and investing cash flows to fund its operations. For the year ended
12 December 31, 2019, GWG posted a net loss from operations of \$79.6 million and
13 negative operating cash flow of \$142.8 million. GWG depends on financing –
14 primarily debt financing, such as L Bonds – to fund its operations.

15 37. Beneficient has a limited operating history and generated net losses from
16 operations of \$166 million and \$167 million for the years ending December 31, 2018
17 and December 31, 2019, respectively.

18 38. GWG’s largest asset as of December 31, 2019, was Beneficient’s
19 goodwill (\$2.4 billion), which constituted 65% of GWG’s consolidated assets at that
20 time. Goodwill is an intangible asset that arises when a buyer acquires an existing
21 business, representing the excess consideration paid by the buyer for the business
22 over the acquired business’ identifiable net assets. Beneficient recorded this goodwill
23 when GWG obtained control of it on December 31, 2019. Eliminating goodwill,
24 which is an intangible asset that cannot be used to pay down debt, GWG’s liabilities
25 are well in excess of its assets.

26 39. GWG’s largest tangible asset is its portfolio of life insurance policies,
27 which had a face value of approximately \$2 billion and fair value of \$796 million as
28 of December 31, 2019. However, L Bonds are not directly secured by GWG’s life

1 insurance portfolio. Instead, L Bonds are primarily secured by GWG’s equity
2 ownership interests in certain GWG subsidiaries. The claims of L Bond holders to
3 assets, such as GWG’s portfolio of life insurance policies, are subordinate to the
4 interests of creditors of those entities. L Bond holders’ claims to GWG’s life
5 insurance assets are subordinate to a senior credit facility, which holds a direct
6 security interest in GWG’s life insurance portfolio. The fair value of GWG’s life
7 insurance portfolio, less the amounts owed on the senior credit facility, is insufficient
8 to repay GWG’s outstanding L Bond debt.

9 **II. GWG Suspended Sales of L Bonds.**

10 40. GWG temporarily ceased its sale of L Bonds in April of 2021 because it
11 was unable to file its 2020 Form 10-K. GWG subsequently filed its Form 10-K for
12 the year ended December 31, 2020 on November 5, 2021 and resumed selling L
13 Bonds.

14 41. On January 15, 2022, GWG filed a Form 8-K disclosing that following
15 its resumption of L Bond sales, GWG had “experienced significantly lower L Bond
16 sales than it had experienced previously” and that it “did not make the January 15,
17 2022 interest payment of approximately \$10.35 million and principal payments of
18 approximately \$3.25 million with respect to its L Bonds....” In that same filing,
19 GWG stated it had suspended further sales of L Bonds as of January 10, 2022.

20 42. On April 20, 2022, GWG filed for Chapter 11 bankruptcy. *In re: GWG*
21 *Holdings, Inc., et al.*, Case No. 22-90032 (Bankr. S.D. Tex.).

22 **III. Requirements of and Commission Guidance Regarding Reg BI**

23 43. Reg BI, which became effective on June 30, 2020, established a standard
24 of conduct for broker-dealers and associated persons when they recommend securities
25 transactions to retail customers.

26 44. The SEC issued a 175-page adopting release, offering guidance on how
27 the Commission interprets Reg BI. *See* Regulation Best Interest: The Broker-Dealer
28

1 Standard of Conduct, Exchange Act Release No. 34-86031, 84 Fed. Reg. 33318 (July
2 12, 2019) (the “Adopting Release”).

3 45. Reg BI’s Best Interest Obligation requires a broker, dealer, or a natural
4 person associated with a broker or dealer, when making a recommendation of any
5 securities transaction to a retail customer, to act in the best interest of that retail
6 customer at the time the recommendation is made, without placing the financial or
7 other interest of the broker, dealer, or associated person ahead of the interest of the
8 retail customer.

9 46. The Best Interest Obligation is satisfied only by compliance with four
10 Component Obligations: (1) Disclosure Obligation, (2) Care Obligation, (3) Conflict
11 of Interest Obligation, and (4) Compliance Obligation.

12 47. The Care Obligation requires a broker, dealer, or associated person to
13 exercise reasonable diligence, care, and skill to understand the potential risks,
14 rewards, and costs associated with a recommendation of a securities transaction to a
15 retail customer.

16 48. The Adopting Release states that what constitutes reasonable diligence
17 depends on, among other things, the complexity of, and risks associated with, the
18 recommended security.

19 49. The Care Obligation also requires a broker, dealer, or associated person
20 to exercise reasonable diligence, care, and skill to have a reasonable basis to believe
21 that their recommendation is in the best interest of the particular retail customer,
22 based on that customer’s investment profile and the potential risks, rewards, and costs
23 associated with the recommendation.

24 50. The Adopting Release states that what is in the best interest of a retail
25 customer depends on the facts and circumstances of the recommendation, including
26 “matching” the recommended security to the retail customer’s investment profile.
27 Where the “match” between the retail customer profile and the recommendation
28 appears less reasonable, it is more important for the broker to establish that it had a

1 reasonable belief that the recommendation was in the best interest of the retail
2 customer.

3 51. The Adopting Release also states that, in addition to “matching” the
4 recommendation to the customer’s suitability profile, a registered representative
5 should also exercise reasonable diligence, care, and skill to consider reasonably
6 available alternatives.

7 52. BI’s Compliance Obligation requires a broker-dealer to establish,
8 maintain, and enforce written policies and procedures reasonably designed to achieve
9 compliance with Reg BI. According to the Adopting Release, a broker “should
10 consider the nature of that firm’s operations and how to design such policies and
11 procedures to prevent violations from occurring, detect violations that have occurred,
12 and to correct promptly any violations that have occurred.”

13 **IV. Defendants’ Conduct in Selling L Bonds to Retail Customers**

14 53. Western employed numerous registered representatives, such as the
15 Registered Representative Defendants. Western exercised control over the registered
16 representatives by supervising their activities.

17 54. Between July of 2020 and April of 2021, registered representatives of
18 Western recommended and sold approximately \$13.3 million in L Bonds to retail
19 customers who were natural persons or the legal representative of a natural persons
20 and who used the recommendation primarily for personal, family, or household
21 purposes.

22 **A. Due Diligence and Training**

23 55. Prior to adding the June 2020 issuance of L Bonds to its list of approved
24 investments for registered representatives to recommend, Western’s Chief
25 Compliance Officer (“CCO”) performed due diligence. Among other things, the
26 CCO reviewed GWG’s most recent Form 10-K and a due diligence report drafted by
27 a third party (“Due Diligence Report”).
28

1 56. The Due Diligence Report contained detailed analysis of the risks and
2 rewards of L Bonds. However, the Chief Compliance Officer did not provide the
3 Due Diligence Report to Western registered representatives, supervisors, or other
4 compliance personnel.

5 57. Although the 2020 Prospectus expressly stated L Bonds were only
6 suitable for customers with “substantial financial resources,” Western did not set any
7 criteria or thresholds for its customers to invest in L Bonds. Western also did not
8 restrict the sale of L Bonds to customers with certain risk profiles or investment
9 objectives.

10 58. Prior to recommending them to customers, Western required each of its
11 registered representatives to take an online training course on L Bonds. However,
12 Western did not require registered representatives to take L Bond training on the
13 current L Bond offering if they had already taken a training for one of the prior
14 issuances of L Bonds, notwithstanding the significant changes in GWG’s business
15 and finances following its transactions with Beneficient.

16 **B. Recommendation Process**

17 59. When one of their customers purchased L Bonds, Western registered
18 representatives completed a client disclosure form for alternative products (the
19 “Client Disclosure Form”). These forms, which were a single page, contained
20 information about the proposed investment, including the investment amount and the
21 percentage of the customer’s net worth (defined as total assets exclusive of home,
22 home furnishings, and automobiles, minus total liabilities) and liquid net worth the
23 investment would comprise, as well as a “rationale” for the recommended
24 investment.

25 60. Western customers and their registered representatives also completed a
26 two-page Western client agreement (the “WIS Agreement”), which contained
27 information about the customer’s age, occupation, income, investment objectives,
28

1 risk profile, and investing knowledge, among other things.

2 61. For L Bonds, Western customers and their registered representatives also
3 filled out a GWG Bond Purchase Form. The GWG Bond Purchase Form contained
4 information about the customers' L Bond investment, including the dollar amount
5 and the term. They also contained information about the customer, including the total
6 amount of alternative or illiquid investments the customer held and the percentage of
7 the customer's liquid net worth that would be invested in alternative or illiquid
8 investments after their L Bond purchase.

9 62. The customer's Client Disclosure Forms, current WIS Agreement, and
10 GWG Bond Purchase Form were then reviewed and signed by a Western supervisor
11 or the supervisor's delegate.

12 63. The supervisor's, or the supervisor's delegate's, review consisted of
13 ensuring the forms were filled out completely and verifying the L Bond investment
14 did not exceed 10% of the customer's net worth.

15 64. After the supervisors' review, the transaction paperwork was submitted
16 to Western's compliance department for what they called "recordkeeping and
17 surveillance." Western's compliance department verified the required documents had
18 been submitted, there was no missing information or signatures on the forms, and that
19 an explanation was provided if the purchase exceeded 10% of the customer's net
20 worth. Western's compliance department did not examine whether an investment
21 was in the customer's best interest.

22 **C. Financial Compensation**

23 65. Western received a commission of 3.25-5% of the value of each L Bond
24 sold by its registered representatives. The registered representative received
25 approximately 85-90% of that commission, Western received approximately 10%,
26 and sometimes the registered representative's supervisor received a small percentage.

27 66. In addition, Western received a fee of .75% of the total value of each 2-
28

1 and 3-year L Bond it sold and 1% of the total value of each 5- and 7-year L Bond it
2 sold.

3 67. Defendants Cole, Egan, Gitipityapon, Graham, and Swan received
4 aggregate commissions each of between approximately \$5,400 and \$32,500 for their
5 post-June 30, 2020 sales of L Bonds.

6 68. Western received approximately \$187,000 in commissions and fees for
7 L Bond sales made after June 30, 2020.

8 **V. The Registered Representative Defendants Sold L Bonds without**
9 **Adequately Understanding the Risks Associated with the Investment.**

10 69. The Registered Representative Defendants each sold L Bonds pursuant
11 to the 2020 Prospectus. Their sales are summarized in the chart below:

| Registered Representative | L Bond Sales July 2020 – April 2021 | Commissions from L Bond Sales July 2020 – April 2021 |
|---------------------------|-------------------------------------|--|
| Nancy Cole | \$250,000 | \$10,080 |
| Patrick Egan | \$184,500 | (at least) \$5,397 |
| Andy Gitipityapon | \$330,000 | \$9,548 |
| Steven Graham | \$1,061,400 | \$32,424 |
| Thomas Swan | \$297,000 | \$12,555 |

19 70. These registered representatives recommended L Bonds to retail
20 customers, despite having an insufficient, and sometimes erroneous, understanding of
21 the investment.

22 71. The Registered Representative Defendants' knowledge of GWG and L
23 Bonds was based on information and communications from GWG and its sales
24 representatives.

25 72. Although all of the Registered Representative Defendants took a training
26 course on GWG L Bonds, four of them (Cole, Gitipityapon, Egan, and Swan) took
27 that training on a prior issuance of L Bonds, not those sold pursuant to the 2020
28

1 Prospectus.

2 73. Although Western's CCO received the Due Diligence Report, the CCO
3 did not share the report or its contents with Western's registered representatives.
4 None of the Registered Representative Defendants received or reviewed the Due
5 Diligence Report.

6 74. Each of the Registered Representative Defendants misunderstood
7 important issues regarding GWG and L Bonds, as described below. Each of these
8 issues were disclosed by GWG in the 2020 Prospectus and/or in its public filings,
9 which were incorporated therein.

10 **A. Business Combination with Beneficient**

11 75. As described above and as disclosed in the 2020 Prospectus, GWG's
12 transactions with Beneficient resulted in a "significant reorientation" of GWG's
13 business. After those transactions, GWG was no longer in the business of purchasing
14 life insurance policies on the secondary market. Rather, GWG adopted
15 Beneficient's business model of offering loans, other liquidity products, and related
16 services to customers holding illiquid alternative assets.

17 76. Despite the significance of this change, and its disclosure in the 2020
18 Prospectus, several Registered Representative Defendants failed to use reasonable
19 diligence, care, and skill to understand the business combination with Beneficient,
20 Beneficient's business, or the impact of that business combination on the L Bonds'
21 risk.

22 77. For example, Defendant Cole did not know about the business
23 combination with Beneficient until several months after she had recommended L
24 Bonds to customers. At the time she sold \$250,000 worth of L Bonds to Customers B
25 and C, she believed GWG was continuing to invest in life insurance policies.

26 78. Swan also erroneously believed that GWG was continuing to invest in
27 life insurance policies.

28 79. Defendant Egan also failed to understand GWG's transactions with

1 Beneficient, erroneously believing that they were not significant.

2 80. Defendant Graham understood that there had been a change in GWG's
3 business, but he did not adequately undertake to gain an understanding of
4 Beneficient's business or assets.

5 **B. Risk Profile of GWG L Bonds**

6 81. As described above and as disclosed in the 2020 Prospectus, investing in
7 L Bonds involves a "high degree of risk," including the risk of losing one's entire
8 investment. The 2020 Prospectus further states investing in L Bonds "may be
9 considered speculative." Notwithstanding these disclosures, several of the Registered
10 Representative Defendants did not understand the risk of L Bonds.

11 82. For example, defendants Cole and Swan both did not consider L Bonds
12 to be high risk, instead describing them as relatively safe.

13 83. Defendant Egan, on the other hand, acknowledged that the 2020
14 Prospectus described the L Bonds as high risk, but disregarded that disclosure.

15 **C. Collateral Securing L Bonds**

16 84. As described above and on the first page of the 2020 Prospectus, GWG
17 L Bonds are not directly collateralized by life insurance policies. Rather, they are
18 primarily secured by GWG's equity ownership interests in certain GWG subsidiaries.
19 Although certain of those subsidiaries held life insurance policies, the L Bond
20 investors' claims to those policies were subordinate to the interests of creditors of
21 those entities. Put another way, other creditors had first claim on those life insurance
22 policies, not the L Bond investors. This was important, because the value of GWG's
23 life insurance portfolio was not sufficient to repay all of GWG's outstanding debt.

24 85. However, defendants Gitipityapon, Swan, and Egan did not understand
25 the nature of the collateral for L Bonds. They failed to appreciate the life insurance
26 policies themselves did not collateralize the bonds.

27 **D. Beneficient's Profitability**

28 86. As described above, both GWG and Beneficient had histories of

1 substantial net losses. These net losses were readily apparent in GWG's 2019 Form
2 10-K filing, which was incorporated into the 2020 Prospectus.

3 87. However, several of the Registered Representative Defendants knew
4 little, if anything, about Beneficient's finances, including its history of operating
5 losses, and did nothing to educate themselves.

6 88. For example, Egan acknowledged that he should have reviewed
7 Beneficient's financial statements and admitted he did not do so, but rather
8 erroneously assumed that Beneficient was profitable.

9 89. Defendant Gitipityapon did not know how Beneficient made its money or
10 whether it was generating revenues and did nothing to determine if it was.

11 **VI. The Registered Representative Defendants Recommended L Bonds to**
12 **Retail Customers Without a Reasonable Basis to Believe the Investments**
13 **Were in those Customers' Best Interest.**

14 90. The Registered Representative Defendants recommended L Bonds
15 without a reasonable basis to believe they were in the best interests of at least seven
16 retail customers.

17 91. For the reasons discussed above, L Bonds might be appropriate for
18 certain customers willing to accept a substantial degree of risk, who are interested in
19 investing in something that could be considered to be speculative, and who have
20 substantial financial resources and no need for liquidity. However, the Registered
21 Representative Defendants recommended L Bonds to customers who fell outside
22 those parameters.

23 92. Given the mismatch between these customers and the high-risk L Bonds,
24 these Registered Representative Defendants did not demonstrate reasonable
25 diligence, care, or skill in determining that the L Bonds were in their customers' best
26 interests.

27 **A. Customer A**

28 93. Defendant Graham recommended L Bonds to a retail customer who

1 purchased \$100,000 in two-year L Bonds in or around November 2020 (“Customer
2 A”).

3 94. Customer A was a 79-year-old retired truck driver with a moderate risk
4 tolerance whose investment objectives did not include speculation. Customer A had
5 limited general investment knowledge and limited knowledge of bonds. At the time
6 of his L Bond purchase, Customer A’s annual income was \$35,000 and his liquid net
7 worth was \$300,000. The L Bond investment comprised 10% of Customer A’s net
8 worth and 33% of his liquid net worth.

9 95. Customer A made his L Bond investment in his individual retirement
10 account and planned to use the L Bond investment primarily for personal use.

11 96. In the “rationale” section of the Client Disclosure Form for Customer
12 A’s L Bond investment, defendant Graham wrote, in full: “Customer is seeking a
13 higher rate of interest from funds sitting in a bank savings at .05%. They will utilize
14 the interest for supplemental income each month.”

15 97. Nowhere did defendant Graham document why he believed L Bonds
16 specifically were in Customer A’s best interest or why he chose to recommend L
17 Bonds to Customer A as opposed to the many other investments that offered greater
18 than .05% interest rates.

19 98. Defendant Graham’s bases for believing that \$100,000 L Bond purchase
20 was in Customer A’s best interest were unreasonable, vague, and generic. Defendant
21 Graham did not exercise reasonable diligence, care, and skill to have a reasonable
22 basis to believe his recommendation of L Bonds to Customer A were in Customer
23 A’s best interest.

24 99. Neither defendant Graham’s supervisor, the supervisor’s delegate, nor
25 Western’s compliance department raised any questions or concerns with Customer
26 A’s L bond investment.

27 **B. Customers B and C**

28 100. Defendant Cole recommended L Bonds to a married couple of retail

1 customers (“Customer B” and “Customer C”). Customers B and C collectively
2 purchased \$250,000 in two-, three-, five-, and seven-year L Bonds in or around
3 December 2020.

4 101. At the time of the recommendation, Customers B and C were 67 and 61
5 years old, respectively. Customer B was retired. Although their WIS Agreements
6 listed their risk tolerance as moderate, defendant Cole described them as “not risk
7 takers,” and “relatively conservative.” Customers B and C had investment objectives
8 that did not include speculation. They had limited general knowledge and limited
9 knowledge of bonds. According to their WIS Agreements, Customers B and C
10 collectively had an annual income of \$106,000 and a liquid net worth of
11 approximately \$760,000. The L Bond investments comprised 12% of the net worth
12 and 33% of the liquid net worth of Customers B and C.

13 102. Customers B and C made their L Bond investments in their personal
14 retirement accounts and a joint investment account, and they planned to use proceeds
15 from the L Bond investment primarily for personal use.

16 103. Defendant Cole’s bases for believing \$250,000 in L Bonds were in
17 Customers B and C’s best interest were unreasonable. Her bases included L Bonds’
18 good returns and her understanding that the L Bonds were not too risky. However,
19 defendant Cole’s understanding of L Bonds’ risk profile was based on her
20 misunderstanding of GWG’s business and the collateral for L Bonds, described
21 above. Accordingly, defendant Cole did not exercise reasonable diligence, care, and
22 skill to have a reasonable basis to believe her recommendation of L Bonds to
23 Customers B and C were in their best interest.

24 **C. Customer D**

25 104. Defendant Graham recommended L Bonds to a retail customer who
26 purchased \$100,000 in 3-year L Bonds in or around January 2021 (“Customer D”).

27 105. Customer D was a 65-year-old retiree. He had a moderate risk tolerance
28 and his investment objectives did not include speculation. Customer D’s investor

1 profile indicated – paradoxically – that he had no general investment knowledge and
2 limited knowledge of bonds. Customer D had an annual income of \$85,000, a net
3 worth of \$1,100,000, and a liquid net worth of \$500,000. The L Bonds constituted
4 9% of Customer D’s net worth and 20% of his liquid net worth.

5 106. Just three months prior to his investment in L Bonds, Customer D had
6 reported a net worth of only \$250,000. It was only after Customer D expressed
7 interest in purchasing a larger amount of L Bonds and being told by Graham he
8 would need a higher net worth to do so, that Customer D told Graham he had
9 \$800,000 in gold. Graham did not question the significant increase in Customer D’s
10 net worth and did nothing to confirm the existence of the additional assets.

11 107. Customer D made his L Bond investment in his individual retirement
12 account and planned to use the investment primarily for personal use.

13 108. In the rationale included in the Client Disclosure Form for Customer D’s
14 L Bond purchase, defendant Graham wrote that Customer D was “seeking an
15 additional income stream to supplement his retirement income” and that he wanted to
16 “leverage a small portion of his IRA portfolio to accomplish this.”

17 109. However, the L Bonds were not a “small portion” of Customer D’s IRA
18 portfolio; the \$100,000 in L Bonds Customer D purchased constituted 50% of his
19 Western IRA, which was the only IRA portfolio defendant Graham was aware
20 Customer D had. Neither defendant Graham’s supervisor, his supervisor’s delegate,
21 nor Western’s compliance department identified the discrepancy.

22 110. Defendant Graham’s bases for believing that the \$100,000 L Bond
23 purchase was in Customer D’s best interest were unreasonable. They were vague,
24 generic, and premised on an erroneous assumption. Defendant Graham did not
25 exercise reasonable diligence, care, and skill to have a reasonable basis to believe his
26 recommendation of L Bonds to Customer D were in Customer D’s best interest.

27 111. Neither defendant Graham’s supervisor, the supervisor’s delegate, nor
28 Western’s compliance department raised any questions or concerns regarding

1 Customer D’s L Bond purchase.

2 **D. Customer E**

3 112. Defendant Gitipityapon recommended L Bonds to a retail customer who
4 purchased \$30,000 in 2-year L Bonds in or around August 2020 (“Customer E”).

5 113. Customer E was a 54-year-old restaurant server. Her risk tolerance was
6 moderate and her investment objectives did not include speculation. She had an
7 annual income of \$75,000, a net worth of \$400,000 and a liquid net worth of
8 \$150,000. Her \$30,000 L Bond investment represented 7.5% of her net worth and
9 20% of her liquid net worth.

10 114. Customer E purchased the L Bonds in her individual account and
11 planned to use the interest accrued from them primarily for personal purposes.

12 115. In the rationale section of the Client Disclosure Form, defendant
13 Gitipityapon wrote, in full: “Client had a CD that came due and does not need the
14 funds for a few years. She likes the interest rate of the bond and understands the risk
15 of the GWG bond. This bond meets all of her need and objectives.”

16 116. Defendant Gitipityapon’s bases for believing that the L Bond purchase
17 was in Customer E’s best interest were unreasonable, vague, and generic.
18 Accordingly, defendant Gitipityapon did not exercise reasonable diligence, care, and
19 skill to have a reasonable basis to believe his recommendation of L Bonds to
20 Customer E were in Customer E’s best interest.

21 117. Neither defendant Gitipityapon’s supervisor, the supervisor’s delegate,
22 nor Western’s compliance department raised any questions or concerns regarding
23 Customer E’s L Bond purchase.

24 **E. Customer F**

25 118. Defendant Swan recommended L Bonds to a retail customer who
26 purchased \$55,000 in seven-year L Bonds in or around August 2020 (“Customer F”).

27 119. Customer F was a 66-year-old retiree with an annual income of \$30,000.
28 Customer F’s investment objectives did not include speculation. Customer F had a

1 liquid net worth of \$550,000. Her \$55,000 L Bond investment represented
2 approximately 5% of her net worth and 10% of her liquid net worth.

3 120. Customer F purchased L Bonds directly, as an individual.

4 121. Customer F had previously informed Swan that she did not want any
5 capital risk to the money that provides the income portion of her retirement savings.

6 122. Although Customer F's WIS Agreement lists her risk profile as
7 moderate, in the Client Disclosure Form that accompanied Customer F's L Bond
8 purchase, defendant Swan described her as "a conservative investor[.]" Neither
9 defendant Swan's supervisor, the supervisor's delegate, nor Western's compliance
10 department identified this discrepancy.

11 123. During a previous review of her IRA investments with Defendant Swan,
12 Customer F had told him she wanted to earn income safely without risking her
13 principal.

14 124. Defendant Swan's bases for believing that \$55,000 L Bond purchase was
15 in Customer F's best interest were unreasonable, vague, and unsupported.
16 Accordingly, defendant Swan did not exercise reasonable diligence, care, and skill to
17 have a reasonable basis to believe his recommendation of L Bonds to Customer F
18 were in Customer F's best interest.

19 125. Neither defendant Swan's supervisor, the supervisor's delegate, nor
20 Western's compliance department raised any questions of concerns regarding
21 Customer F's L Bond purchase.

22 **F. Customer G**

23 126. Defendant Swan also recommended L Bonds to another retail customer
24 who purchased \$80,000 of 7-year L Bonds in or around August 2020 ("Customer
25 G").

26 127. Customer G was a 66-year-old retiree. Her risk tolerance was moderate-
27 conservative. Customer G identified preservation of capital as one of her investment
28 objectives, but not speculation. Customer G had an annual income of \$75,000, a net

1 worth of \$1,500,000 and a liquid net worth of \$900,000. Customer G had limited
2 general knowledge and limited knowledge of bonds.

3 128. Customer G purchased the L Bonds in her individual account and
4 planned to use the interest accrued from them primarily for personal purposes.

5 129. Defendant Swan's bases for believing that an \$80,000 L Bond purchase
6 was in Customer G's best interest were unreasonable, vague, and unsupported.
7 Accordingly, defendant Swan did not exercise reasonable diligence, care, and skill to
8 have a reasonable basis to believe his recommendation of L Bonds to Customer G
9 were in Customer G's best interest.

10 130. Neither defendant Swan's supervisor, the supervisor's delegate, nor
11 Western's compliance department raised any questions of concerns regarding
12 Customer G's L Bond purchase.

13 **G. Customer H**

14 131. Defendant Egan recommended L Bonds to a customer who invested
15 \$20,000 in 3-year L Bonds in or around August 2020 ("Customer H").

16 132. Customer H was a 75 year-old retiree with a moderate conservative risk
17 profile. Customer H had an annual income of \$50,000, a net worth of \$250,000 and a
18 liquid net worth of \$250,000. Customer H did not include speculation as an
19 investment objective and had limited knowledge of investments in general and a
20 limited knowledge of bonds. Customer H's \$20,000 L Bond purchase represented
21 8% of both his net worth and liquid net worth.

22 133. Customer H purchased the L Bonds in his individual account and
23 planned to use the interest accrued from them primarily for personal purposes.

24 134. In the rationale section of the Client Disclosure Form for Customer H's
25 L Bond investment, defendant Egan wrote, in full: "Client had extra cash in the bank
26 and wanted to earn more interest than can be done in his bank. Client will also have a
27 large cash balance in his bank account in addition to the \$20,000 at GWG."

28 135. Besides the rationale section of the Client Disclosure Form, defendant

1 Egan did not document anywhere his bases for believing that the \$20,000 L Bond
2 purchase was in Customer H's best interest. Nowhere did defendant Egan document
3 why he believed L Bonds specifically were in Customer H's best interest or why he
4 chose to recommend L Bonds to Customer H as opposed to the many other
5 investments that offered higher than interest rates than a bank account.

6 136. Defendant Egan's bases for believing that the \$20,000 L Bond purchase
7 was in Customer H's best interest – including that they were lower risk than other
8 alternative investments and that all of the life insurance policies held by GWG served
9 as collateral for the L Bonds – were unreasonable and not supported by the facts
10 disclosed in the 2020 Prospectus. Accordingly, defendant Egan did not exercise
11 reasonable diligence, care, and skill to have a reasonable basis to believe his
12 recommendation of L Bonds to Customer H were in Customer H's best interest.

13 137. Neither defendant Egan's supervisor, the supervisor's delegate, nor
14 Western's compliance department raised any questions or concerns regarding
15 Customer H's L Bond purchase.

16 **VII. Western's Policies and Procedures Were Insufficient.**

17 138. Reg BI's Compliance Obligation requires brokers or dealers to (a)
18 establish, (b) maintain, and (c) enforce written policies and procedures reasonably
19 designed to achieve compliance with Reg BI.

20 139. Western maintains its policies and procedures in a document called
21 "Written Supervisory Procedures" ("WSPs"). Western updated its WSPs on June 30,
22 2020 to include a section discussing the requirements of Reg BI. After that, Western
23 made no substantive changes to the Reg BI section of its WSPs during the time it was
24 selling L Bonds.

25 140. Western's parent, Atria, provided Western with draft policies and
26 procedures regarding Reg BI, which Western incorporated into its June 30, 2020
27 WSPs. Western's Reg BI policies and procedures are substantially copied from a
28

1 Small Entity Compliance Guide released to the public by the SEC in September of
2 2019. *See* <https://www.sec.gov/info/smallbus/secg/regulation-best-interest>.
3 Accordingly, they contain general language and are not tailored to Western’s
4 business. They also do not include mechanisms for enforcing the policies and
5 procedures.

6 141. For example, with respect to Reg BI’s Care Obligation, the Western
7 WSPs state registered representatives “should consider reasonably available
8 alternatives offered by [Western] in determining whether there is a reasonable basis
9 for making the recommendation.” This language is taken almost verbatim from the
10 SEC’s Small Entity Compliance Guide. Western, however, provides no explanation
11 of what may or may not constitute a reasonably available alternative and no
12 procedures or guidelines for registered representatives or supervisors to follow in
13 determining how to comply with the requirement.

14 142. As another example, Western’s WSPs contain a subsection that instructs
15 the registered representatives to take “particular care” in dispensing their Care
16 Obligation with respect to complex or risky products, such as L Bonds. This section,
17 too, is mostly taken from the SEC’s Small Entity Compliance Guide. Again, Western
18 does not elaborate or provide any specific guidance as to which investments are risky
19 or how registered representatives should exercise this “particular care[.]”

20 143. Western’s other policies and procedures – those not specifically
21 addressing Reg BI – were also insufficient. For example, Western’s WSPs state that
22 each offering “will have specific suitability standards including information such as
23 the purchaser’s income and net worth,” and instructs Western’s registered
24 representatives to ensure the purchaser meets those standards. However, Western’s
25 WSPs provide no guidance for offerings – such as L Bonds – where the issuer does
26 not establish specific suitability standards.

27 144. As another example, the WSPs directed Western’s compliance personnel
28 to “follow up with the representative and supervisor regarding inconsistencies with

1 the account paperwork,” but only “where total invested amounts exceed 10% of the
2 client’s net worth.”

3 145. Taken as a whole, Western’s policies and procedures in effect during the
4 time it was recommending L Bonds were not reasonably designed to achieve
5 compliance with Reg BI’s Care Obligation requirement that its registered
6 representatives understand the potential risks, rewards, and costs associated with their
7 recommendation of L Bonds. These failures include, but are not limited to:

8 (a) Although Western’s policies and procedures required
9 Western registered representatives to complete an online training prior to selling
10 L Bonds, this policy either was not enforced or was enforced in such a way that
11 it failed to ensure registered representatives adequately understood L Bonds.
12 Despite the “significant reorientation” of GWG’s business that was completed at
13 the end of 2019, Western’s registered representatives who took a training on a
14 previous issuance of L Bonds, prior to that reorientation, were not required to
15 take another training for the 2020 issuance.

16 (b) Western’s policies regarding its due diligence procedures
17 for alternative investments required Western’s CCO to review the Due Diligence
18 report but did not require any other Western personnel, including supervisors
19 and registered representatives, to receive or review the report. The Due
20 Diligence Report contained detailed analysis of the L Bonds and GWG and
21 could have helped Western’s supervisors and registered representatives
22 understand the risks, rewards, and costs associated with L Bonds.

23 146. In addition, Western’s policies and procedures during the time it was
24 recommending L Bonds were not adequately designed to achieve compliance with
25 Reg BI’s Care Obligation requirement that its registered representatives use
26 reasonable diligence, care, and skill to form a reasonable basis to believe L Bonds
27 were in the best interests of particular retail customers to whom they were
28 recommended. These failures include, but are not limited to:

1 (a) As discussed above, although Western’s policies and procedures
2 require its registered representatives to consider reasonably available
3 alternatives to investment recommendations, they provide no specific guidance
4 for how to do so.

5 (b) Although Western required registered representatives to provide
6 an investment “rationale” on the Client Disclosure Forms, Western policies and
7 procedures provide no guidance or instruction as to the purpose of the
8 “rationale” section of the Client Disclosure Form or what information should
9 be included.

10 (c) Although the 2020 Prospectus explained that an investment in L
11 Bonds was suitable only for persons with “substantial financial resources,”
12 Western neither provided guidance as to what constituted “substantial financial
13 resources” for the purposes of an L Bond investment, nor did its WSPs set any
14 limits on who could invest in L Bonds through Western.

15 147. Because Western’s policies and procedures were so vague, Western
16 personnel had a limited ability to enforce those policies, as required by Reg BI’s
17 Compliance Obligation. Western’s deficiencies in this regard include, but are not
18 limited to:

19 (a) Due to Western’s vague written policies, there was confusion as to
20 who, at Western, was responsible for reviewing transactions for suitability and
21 compliance with Reg BI’s Care Obligation.

22 (b) Western had no written policies or procedures guiding its
23 supervisors’ review as to whether a transaction was in a customer’s best
24 interest for the purpose of complying with Reg BI.

25 (c) Western had no written policies or procedures guiding its
26 compliance department’s review of transactions under Reg BI.

27 (d) Western had no written policies or procedures guiding its
28 supervisors as to the purpose of the “rationale” in the Client Disclosure Forms,

1 what it was supposed to communicate, or how they were to review the
2 rationales to enforce compliance with Reg BI.

3 (e) Western had neither written policies nor procedures monitoring or
4 enforcing its requirement that its registered representatives review reasonably
5 available alternatives to a recommended security.

6 148. In practice, Western and its agents repeatedly did not enforce what
7 policies and procedures that Western did have to achieve compliance with Reg BI's
8 Care Obligation. For example:

9 (a) The WSPs directed Western supervisors to identify
10 "discrepanc[ies]" including when "the net worth amount is significantly
11 increased," and to request a "sufficient explanation" for the discrepancy from the
12 registered representative or "reach out to the customer for clarification."
13 However, with respect to the discrepancies described in paragraphs 106, 109,
14 and 122 above, those procedures were not followed.

15 (b) Western's WSPs directed the compliance personnel responsible
16 for conducting "surveillance" of alternative investments such as L Bonds to
17 "review and consider" due diligence material, among other things. However,
18 Western's CCO never provided compliance personnel with the Due Diligence
19 Report for L Bonds.

20 **FIRST CLAIM FOR RELIEF**

21 **Violation of Reg BI's General Obligation**

22 **[Rule 15l-1(a)(1) of the Exchange Act, 17 CFR § 240.15l-1(a)(1)].**

23 **(Against all Defendants)**

24 149. The SEC realleges and incorporates by reference paragraphs 1 through
25 148 above.

26 150. By engaging in the conduct described above Western failed to act in the
27 best interest of the retail customers by failing to establish, maintain, and enforce
28

1 written policies and procedures reasonably designed to achieve compliance with
2 Regulation Best Interest.

3 151. By engaging in the conduct described above, when making
4 recommendations of securities transaction to retail customers, defendants Western,
5 Cole, Egan, Gitipityapon, Graham, and Swan failed to act in the best interest of the
6 retail customers by failing to exercise reasonable diligence, care, and skill to
7 understand the potential risks, rewards, and costs associated with the
8 recommendation.

9 152. Also, by engaging in the conduct described above, defendants Western
10 Cole, Egan, Gitipityapon, Graham, and Swan made recommendations to retail
11 customers without exercising reasonable diligence, care, and skill to have a
12 reasonable basis to believe the recommendations were in the best interests of the
13 particular retail customer based on that retail customer's investment profile and the
14 potential risks, rewards, and costs associated with the recommendation.

15 153. The failure of Western to comply with Regulation Best Interest's
16 Compliance Obligation, and the failures of Defendants Western, Cole, Egan,
17 Gitipityapon, Graham, and Swan to comply with Regulation Best Interest's Care
18 Obligation, constitute violations of Regulation Best Interest's General Obligation.

19 154. By reason of the foregoing, Western, Cole, Egan, Gitipityapon, Graham,
20 and Swan violated, and unless restrained and enjoined will continue to violate, Rule
21 15l-1(a)(1) of the Exchange Act, 17 CFR § 240.15l-1(a)(1).

22 **SECOND CLAIM FOR RELIEF**

23 **Control Person Liability Under Section 20(a) of the Exchange Act, 15 U.S.C. §**
24 **78t(a) for Defendants Cole, Egan, Gitipityapon, Graham, and Swan's Violations**
25 **of Rule 15l-1(a)(1) of the Exchange Act, 17 CFR § 240.15l-1(a)(1).**

26 **(Against Western)**

27 155. The SEC realleges and incorporates by reference paragraphs 1 through
28 148 above.

1 156. By virtue of the foregoing, Defendants Cole, Egan, Gitipityapon,
2 Graham, and Swan committed violations of Exchange Act Rule 15l-1(a)(1) by
3 making recommendations to purchase L Bonds to retail customers while failing to
4 exercise reasonable diligence, care, and skill to (a) understand the potential risks,
5 rewards, and costs associated with the recommendation; and (b) form a reasonable
6 basis to believe that the recommendation was in the best interest of the particular
7 retail customer based on that retail customer's investment profile and the potential
8 risks, rewards, and costs associated with the recommendation.

9 157. Western exerted control over the activities of its registered
10 representatives, including the specific activity upon which the Registered
11 Representative Defendants' violations are based.

12 158. By reason of the foregoing, Western is liable as a control person for
13 Defendant Cole's, Egan's, Gitipityapon's, Graham's, and Swan's violations pursuant
14 to Section 20(a) of the Exchange Act [15 U.S.C. §78t(a)].

15 **PRAYER FOR RELIEF**

16 WHEREFORE, the SEC respectfully requests that the Court:

17 **I.**

18 Issue findings of fact and conclusions of law that Defendants committed the
19 violations alleged herein.

20 **II.**

21 Issue judgments, in forms consistent with Rule 65(d) of the Federal Rules of
22 Civil Procedure, permanently enjoining Defendants Western, Cole, Egan,
23 Gitipityapon, Graham, and Swan, and their officers, agents, servants, employees and
24 attorneys, and those persons in active concert or participation with any of them, who
25 receive actual notice of the judgment by personal service or otherwise, and each of
26 them, from violating Rule 15l-1(a)(1) of the Exchange Act, 17 CFR § 240.15l-
27 1(a)(1).
28

1 **III.**

2 Order Defendants to pay disgorgement of any unjust enrichment they received
3 as a result of the misconduct alleged, together with prejudgment interest thereon,
4 under Sections 21(d)(5) and 21(d)(7) of the Exchange Act, 15 U.S.C. §§ 78u(d)(5),
5 78u(d)(7).

6 **IV.**

7 Order Defendants to pay civil penalties under Section 21(d)(3) of the Exchange
8 Act, 15 U.S.C. § 78u(d)(3).

9 **V.**

10 Retain jurisdiction of this action in accordance with the principles of equity and
11 the Federal Rules of Civil Procedure in order to implement and carry out the terms of
12 all orders and decrees that may be entered, or to entertain any suitable application or
13 motion for additional relief within the jurisdiction of this Court.

14 **VI.**

15 Grant such other and further relief as this Court may determine to be just and
16 necessary.

17 **JURY DEMAND**

18 The SEC demands a trial by jury on all claims so triable.

19
20 Dated: June 15, 2022

21 */s/ Donald W. Searles*

22 _____
23 DONALD W. SEARLES

24 Attorneys for Plaintiff

25 United States Securities and Exchange Commission
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27
28