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11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**
13 **SAN JOSE DIVISION**
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15 SECURITIES AND EXCHANGE COMMISSION,
16 Plaintiff,
17 v.
18 YOUPLUS, INC. and SHAUKAT SHAMIM,
19 Defendants.

Case No.

COMPLAINT

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21 Plaintiff Securities and Exchange Commission (the “Commission”) alleges:

22 **SUMMARY OF THE ACTION**

23 1. Between 2018 and 2019, Shaukat Shamim and his company, YouPlus, Inc.
24 (“YouPlus”), (collectively, “Defendants”) fraudulently raised approximately \$11 million from
25 investors by making false and misleading statements about the company’s financial results and
26 future prospects.

27 2. Shamim falsely told investors that YouPlus, a private technology start-up that
28 purported to have developed a machine-learning tool to interpret and deliver customer insights

1 from videos on the internet, had earned revenue of millions of dollars. Shamim also misled
2 investors regarding the number of customers YouPlus had, and falsely told at least one investor
3 that a prominent venture capital firm had committed to lead YouPlus's Series A round of
4 financing.

5 3. Defendants' scheme unraveled in late 2019. In October 2019, after providing
6 certain investors with forged bank statements in an effort to conceal YouPlus's deteriorating
7 financial condition, Shamim confessed that, despite his prior repeated representations that
8 YouPlus had generated millions of dollars in revenue, YouPlus had in fact earned less than
9 \$500,000 in revenue since its inception in 2013. Around the same time, Shamim also said that
10 he "probably" had overstated revenue in order to get investors interested in the company.

11 4. As the scheme unraveled, Defendants' misrepresentations regarding the number
12 of YouPlus customers and the purported interest of a prominent venture capital fund in leading
13 YouPlus's Series A round of financing also came to light. For example, despite telling investors
14 that YouPlus had more than 150 customers, YouPlus had only approximately four paying
15 customers throughout the company's existence. And contrary to Defendants' representation that
16 a prominent Silicon Valley investor was interested in leading YouPlus's Series A financing,
17 YouPlus had not secured any funding for a Series A financing, let alone any commitments from
18 prominent Silicon Valley investors.

19 5. Defendants have violated, and unless restrained and enjoined will continue to
20 violate, the antifraud provisions of Section 10(b) of the Securities and Exchange Act of 1934
21 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5] and
22 Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77(q)(a)].

23 JURISDICTION AND VENUE

24 6. The Commission brings this action pursuant to Sections 20(b), 20(d), and 22(a)
25 of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77t(b), 77t(d), and 77v(a)] and
26 Sections 21(d), 21(e), and 27 of the Securities Exchange Act of 1934 ("Exchange Act")
27 [15 U.S.C. §§ 78u(d), 78u(e), and 78aa].
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1 14. Defendants raised money for YouPlus primarily through the offer and sale of
2 convertible promissory notes issued by YouPlus. The notes generally had two-year terms, paid
3 6% interest annually, and, if certain conditions were satisfied, entitled investors to convert the
4 notes to YouPlus preferred stock.

5 **B. Defendants Solicit Investors Through False and Misleading Statements**

6 15. While raising funds in 2018 and 2019, Defendants made numerous false and
7 misleading statements in both written and verbal communications to investors and prospective
8 investors.

9 **1. Defendants Misrepresent YouPlus's Financial Results and Expectations**

10 16. While raising funds from investors and pitching YouPlus to new investors in
11 2018 and 2019, Defendants repeatedly misrepresented YouPlus's financial results and future
12 revenue expectations.

13 17. For example, in or about June 2018, Shamim told certain investors that YouPlus
14 expected revenue of \$8 million in 2018 and over \$40 million in 2019. In or about September
15 2018, Shamim sent those investors a spreadsheet that purported to show actual revenue through
16 June 2018 of over \$1.5 million. The representations regarding prior revenue were false, and the
17 projections were baseless.

18 18. In or about September 2018, Shamim also sent email communications to certain
19 investors, including one of the investors to whom Shamim had sent the spreadsheet the same
20 month, representing that YouPlus earned revenue of over \$1.1 million through June 2018 and
21 that it projected revenue of \$7.8 million for 2018. Again, the representations regarding prior
22 revenue, which were not even consistent with the revenue representations contained in the
23 spreadsheet Shamim had sent, were false, and the projections were baseless.

24 19. Certain investors to whom Shamim communicated the false revenue numbers
25 made investments based on those misrepresentations. In particular, a venture fund invested a
26 total of nearly \$2 million in YouPlus in 2018 and 2019, including a \$600,000 investment in
27 December 2018. Several members of the Investment Committee of that venture fund also
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1 personally invested hundreds of thousands of dollars in YouPlus in 2018 and 2019 based on
2 Defendants' misrepresentations regarding YouPlus's purported revenue, including a \$50,000
3 investment by one member of the Investment Committee in December 2018.

4 20. Defendants' misrepresentations regarding YouPlus's revenue continued in 2019.

5 21. In or about February 2019, Shamim met a different member of the Investment
6 Committee of the venture fund that had invested \$600,000 in December 2018. Shamim falsely
7 told that Investment Committee member that YouPlus had \$8 million in recurring annual
8 revenue. Based on that representation, the venture fund made another \$800,000 investment in
9 YouPlus in March 2019.

10 22. In or about April 2019, Shamim sent purported "financial statements" to a
11 prospective investor, in which he misrepresented that YouPlus had earned revenue of \$4.6
12 million in 2018. That representation was false.

13 23. In or about May 2019, Shamim sent two different "financial models" to investors
14 that contained false revenue numbers. Shamim provided one of the members of the venture
15 fund's Investment Committee a "financial model" that falsely reflected 2019 actual revenue of
16 more than \$3.55 million through April. Shamim provided a different investor a "financial
17 model" that falsely reflected 2019 actual revenue of approximately \$3.97 million for the same
18 time period.

19 24. In or about June 2019, Shamim circulated a YouPlus "Investor and Shareholder
20 Update" to all investors that touted YouPlus's "amazing growth and market traction" and falsely
21 represented 2019 actual revenue of \$4.62 million through May with "projected revenue for 2019
22 [of] \$17.8 million."

23 25. At the time these representations were made, Defendants knew, or were reckless
24 in not knowing, that YouPlus had earned only a small fraction of the millions of dollars in
25 revenue represented to investors. Indeed, by the end of October 2019, Shamim had
26 acknowledged to the venture fund investor that YouPlus had not even earned \$500,000 in total
27 revenue since the company was founded in 2013.

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1 **2. Defendants Misrepresent YouPlus’s Customer Base**

2 26. While raising funds in 2018 and 2019, Defendants also misrepresented the size of
3 YouPlus’s customer base to investors and prospective investors.

4 27. For example, the “Investor and Shareholder Update” Shamim circulated to all
5 investors in or about June 2019 contained a chart of YouPlus’s “top ten customers by revenue.”
6 That chart falsely stated each of the ten customers identified had paid YouPlus at least hundreds
7 of thousands of dollars, including over \$1 million each by YouPlus’s purportedly three largest
8 customers, in 2019.

9 28. In or about June 2019, Shamim separately provided a spreadsheet to at least two
10 investors that purported to report YouPlus’s “customer pipeline” with nearly \$1 million in
11 “monthly realized revenue.” The spreadsheet falsely identified more than 150 purported
12 YouPlus customers, including a number of well-known Fortune 500 companies. In reality, all or
13 nearly all of the customers identified on the spreadsheet were not paying customers of YouPlus.

14 29. At the time Defendants made these representations, Defendants knew, or were
15 reckless in not knowing, that they were false and misleading. In truth, YouPlus had only
16 managed to obtain approximately four paying customers during the life of the company.

17 **3. Defendants Misrepresent YouPlus’s Future Fundraising Prospects**

18 30. While raising funds in 2019, Defendants misrepresented the status of YouPlus’s
19 ongoing fundraising efforts to investors and prospective investors.

20 31. Starting in or around spring 2019 through fall 2019, Shamim told a number of
21 YouPlus investors that the company was pursuing a Series A fundraising round. Shamim
22 suggested to investors that the fundraising efforts were going so well that he was in the fortunate
23 position of being able to “pick the investors” he wanted. This was false. In truth, Shamim had
24 not lined up any Series A fundraising commitments from prospective investors.

25 32. During the spring 2019 through fall 2019 time period, Shamim falsely told other
26 investors that YouPlus’s Series A fundraising was going well and that he did not need to raise as
27 much money as he originally thought he did because revenues were increasing so quickly. In
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1 reality, YouPlus had generated minimal revenue and had not obtained any commitments from
2 investors for a Series A fundraising.

3 33. In or about April 2019, Shamim falsely told at least one investor that YouPlus
4 had secured a commitment from a prominent Silicon Valley investor to invest \$3-4 million in
5 YouPlus's Series A financing. Based in large part on that misrepresentation, the investor
6 invested approximately \$550,000 in YouPlus in or about May 2019.

7 34. At the time Defendants made these misrepresentations about YouPlus's 2019
8 fundraising efforts, Defendants knew, or were reckless in not knowing, that the statements were
9 false and misleading. In reality, in 2019 YouPlus was running out of money to continue
10 operations and had not secured any funding for a Series A financing, let alone any commitments
11 from prominent Silicon Valley investors.

12 **C. Defendants' Fraudulent Scheme Unravels**

13 35. In or about September 2019, Shamim approached at least one YouPlus investor,
14 the venture fund that had invested \$600,000 in December 2018, with a request for what Shamim
15 characterized as emergency funding to meet payroll expenses. Although the venture fund agreed
16 to invest approximately \$250,000 at the time, the venture fund was concerned that YouPlus
17 needed additional funds to meet payroll given the revenue figures that had been represented to
18 the investor in 2018 and 2019. The venture fund requested that Shamim provide it further
19 YouPlus financial information.

20 36. On or about October 1, 2019, the venture fund invested another approximately
21 \$300,000 in YouPlus, but continued to press Shamim to provide more financial information
22 regarding the company, and to substantiate the financial information that had been previously
23 provided.

24 37. In response to the venture fund's repeated requests, Shamim did provide certain
25 YouPlus financial documents. However, the documents provided did not support Defendants'
26 previous revenue representations.

1 38. Moreover, in an effort to deceive investors and to conceal Defendants' fraudulent
2 conduct, Shamim provided the venture fund with certain falsified documents, including bank
3 statements. The bank statements were falsified to show deposits into YouPlus's bank account
4 from purportedly paying customers. In fact, the deposits were never made.

5 39. On or about October 18, 2019, several representatives of the venture fund met
6 with Shamim. At that meeting, the venture fund confronted Shamim about its concerns.
7 Shamim agreed that YouPlus had exaggerated its historical revenues and customer traction, and
8 conceded that he "got ahead of [himself]."

9 40. On or about October 25, 2019, counsel for the venture fund sent Shamim an
10 email memorializing the October 18, 2019 meeting. Counsel for the venture fund wrote that
11 Shamim had "admitted to misrepresenting both YouPlus's actual revenue earned to date, and its
12 projected revenue for the 2019 fiscal year, in order to secure the [investor's] investment in
13 YouPlus." He also noted that Shamim had "provided the [investor] with forged bank and payroll
14 statements in an effort to conceal YouPlus's true financial condition." (emphasis in original).

15 41. Shamim responded to the letter in an email sent on or about October 27, 2019.
16 Shamim conceded that despite his previous representations that YouPlus has earned millions of
17 dollars in revenue, YouPlus "did \$499,972 in sales and other revenue since inception (from both
18 USA and India)." Shamim also stated that he had personally received approximately \$1.3
19 million from the company.

20 42. On or about October 29, 2019, Shamim and counsel for the venture fund met in
21 person. At that meeting, Shamim again conceded that he had overstated YouPlus's revenue in
22 communications with investors. When asked whether he had made the false statements in order
23 to get investors interested in the company, Shamim responded that he "probably" had.

FIRST CLAIM FOR RELIEF

Violations of Section 10(b) of the Exchange Act and Rule 10b-5

By Both Defendants

1. The Commission re-alleges and incorporates by reference Paragraph Nos. 1 through 42.

2. By engaging in the conduct described above, Defendants Shamim and YouPlus, directly or indirectly, in connection with the purchase or sale of securities, by the use of means or instrumentalities of interstate commerce, or the mails, with scienter:

(a) Employed devices, schemes, or artifices to defraud;

(b) Made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and

(c) Engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon other persons, including purchasers and sellers of securities.

3. By reason of the foregoing, Defendants violated, and unless restrained and enjoined will continue to violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

SECOND CLAIM FOR RELIEF

Violations of Sections 17(a)(1), (2), and (3) of the Securities Act

By Both Defendants

4. The Commission re-alleges and incorporates by reference Paragraph Nos. 1 through 42.

5. By engaging in the conduct described above, Defendants Shamim and YouPlus, directly or indirectly, in the offer or sale of securities, by use of the means or instruments of transportation or communication in interstate commerce or by use of the mails,

(1) with scienter, employed devices, schemes, or artifices to defraud;

1 (2) obtained money or property by means of untrue statements of material
2 fact or by omitting to state a material fact necessary in order to make the
3 statements made, in light of the circumstances under which they were
4 made, not misleading; and

5 (3) engaged in transactions, practices, or courses of business which operated
6 or would operate as a fraud or deceit upon purchasers.

7 6. By reason of the foregoing, Defendants violated, and unless restrained and
8 enjoined will continue to violate, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

9 **PRAYER FOR RELIEF**

10 WHEREFORE, the Commission respectfully requests that this Court:

11 **I.**

12 Permanently enjoin Defendants Shamim and YouPlus from directly or indirectly
13 violating Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R.
14 § 240.10b-5] thereunder, and Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

15 **II.**

16 Issue an order requiring Defendants Shamim and YouPlus to disgorge all ill-gotten gains
17 or unjust enrichment derived from the activities set forth in this complaint, together with
18 prejudgment interest thereon.

19 **III.**

20 Issue an order requiring Defendants Shamim and YouPlus to pay civil monetary
21 penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)
22 of the Exchange Act [15 U.S.C. § 78u(d)(3)].

23 **IV.**

24 Prohibit Defendant Shamim from serving as an officer or director of any entity having a
25 class of securities registered with the Commission pursuant to Section 12 of the Exchange Act
26 [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act
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1 [15 U.S.C. § 78o(d)], pursuant to Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)] and
2 Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)].

3 **V.**

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

8 **VI.**

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

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12 Dated: July 20, 2020

Respectfully submitted,

13
14 /s/ Bernard B. Smyth

15 BERNARD B. SMYTH

Attorney for Plaintiff

16 SECURITIES AND EXCHANGE COMMISSION
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