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Securities and Exchange Commission (SEC) Charges Investment Adviser for Undisclosed Revenue Sharing Agreements

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On April 15, 2014, the **SEC** announced charges against an **investment advisory firm,** its chief executive officer, its chief compliance officer, and another employee for **misleading investors** and breaching their fiduciary duties to clients. The SEC alleges that **Total Wealth Management** (Total Wealth) and its owner and CEO, Jacob Cooper, entered into undisclosed revenue sharing agreements through which they paid themselves kickbacks or so-called "revenue sharing fees." The SEC states that Total Wealth and Mr. Cooper failed to disclose to clients the conflicts of interest created by these agreements. The SEC alleges that Total Wealth and Mr. Cooper also materially misrepresented the extent of the due diligence conducted on the investments they recommended. The SEC also charged Total Wealth's CCO, Nathan McNamee, and investment adviser representative, Douglas Shoemaker, with **breaching their fiduciary duties and defrauding clients by failing to disclose conflicts of interest and concealing the kickbacks they received from the investments they recommended.**

In the order instituting administrative proceedings, the SEC alleges that Total Wealth and Mr. Cooper willfully violated the antifraud provisions of the federal securities laws, and Messrs. McNamee and Shoemaker violated or aided and abetted violations of the antifraud provisions. The SEC also charged Total Wealth and Messrs. Cooper, McNamee and Shoemaker with violations of Form ADV disclosure rules and the custody rule. The SEC's order seeks return of allegedly ill-gotten gains plus interest, financial penalties, an accounting and remedial relief.