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JUDGE SWAIN

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION,

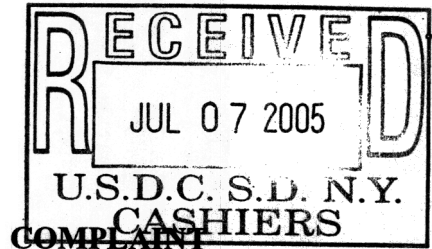
Plaintiff,

against -

SCOTT A. CHRISTIAN,

Defendant. :

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:



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Plaintiff Securities and Exchange Commission ("Commission") alleges the following
against Defendant Scott A. Christian ("Christian"):

SUMMARY

1. Between January 2001 and September 2003, Christian, a registered representative at Trautman Wasserman and Co., Inc. ("Trautman Wasserman"), a broker-dealer, engaged in fraudulent late trading and deceptive market timing of mutual funds.

2. Specifically, Christian allowed customers of Trautman Wasserman to submit mutual fund orders after 4:00 p.m. Eastern Time, but he executed the trades as if the orders had been received before 4:00 p.m. This practice, which permits customers to make advantageous trading decisions based on information they learn after the close of the market, is known as late trading. Christian falsified required books and records to make it appear as if the orders had been submitted before 4:00 p.m.

3. Further, Christian helped customers circumvent mutual fund complexes' restrictions on active trading, such as market timing. In particular, many mutual fund complexes prohibit active trading of their mutual funds. Several mutual funds sent letters to Christian and Trautman Wasserman directing them to stop actively trading the funds. Christian then helped his customers evade detection as market timers by opening multiple accounts for the same customer, and by using multiple identification numbers for himself and others engaged in executing mutual fund trades at Trautman Wasserman. As a result of these activities, mutual fund complexes were fooled into allowing Christian's customers to continue to trade in funds in which they otherwise would have been blocked from trading.

4. Christian's conduct in accepting late trades and deceiving mutual fund complexes allowed Trautman Wasserman's customers to profit at the expense of other investors in the same mutual funds. As a result of engaging in these fraudulent activities, Christian earned substantial compensation.

VIOLATIONS OF FEDERAL SECURITIES LAWS

5. By virtue of the conduct alleged herein:

(a) Christian, directly or indirectly, singly or in concert, has engaged in transactions, acts, practices, or courses of business that constitute violations of Section 17(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. § 77q(a), Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5; and

(b) Christian, directly or indirectly, singly or in concert, has engaged in acts, practices, or courses of business that have aided and abetted violations of Sections 10(b),

15(c), and 17(a) of the Exchange Act, 15 U.S.C. §§ 78j(b), 78o(c), and 78q(a), and Rules 10b-3, 10b-5, and 17a-3, 17 C.F.R. §§ 240.10b-3, 240.10b-5, and 240.17a-3.

NATURE OF PROCEEDINGS AND RELIEF SOUGHT

6. The Commission brings this action pursuant to the authority conferred upon it by Section 20(b) of the Securities Act, 15 U.S.C. § 77t(b), and Section 21(d) of the Exchange Act, 15 U.S.C. § 78u(d), and seeks a permanent injunction to restrain and enjoin the defendant from engaging in the transactions, acts, practices, and courses of business alleged herein. The Commission seeks an order requiring defendant to disgorge his ill-gotten gains and to pay prejudgment interest thereon. The Commission also seeks the imposition of civil monetary penalties pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d) of the Exchange Act, U.S.C. § 78u(d)(3), against the defendant. Finally, the Commission seeks all other just and appropriate relief.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this action pursuant to Sections 20(b), 20(d), and 22(a) of the Securities Act, 15 U.S.C. §§ 77t(b), 77t(d), and 77v(a), and Sections 21(d), 21(e), and 27 of the Exchange Act, 15 U.S.C. §§ 78u(d), 78u(e), and 78aa.

8. Venue lies in this district pursuant to Section 22(a) of the Securities Act, 15 U.S.C. § 77v(a), and Section 27 of the Exchange Act, 15 U.S.C. § 77aa. Certain of the transactions, acts, practices, and courses of business occurred in the Southern District of New York. For instance, Trautman Wasserman maintained its principal place of business in New York, New York. Additionally, Christian resides in New York, New York.

9. Christian, directly or indirectly, has made use of the means or instrumentalities of interstate commerce, the means or instruments of transportation or communication in interstate

commerce, and/or the mails, in connection with the transactions, acts, practices, and courses of business alleged herein.

DEFENDANT AND RELEVANT ENTITY

Defendant

10. Christian, age 29, is a resident of New York, New York. Christian has worked as a registered representative, or broker, at Trautman Wasserman since December 2000. In January 2003, Christian became a principal of Trautman Wasserman.

Relevant Entity

11 Trautman Wasserman is a broker-dealer that has been registered with the Commission since 1993. Trautman Wasserman is a member of the NASD and the National Futures Association. Trautman Wasserman's principal place of business is located in New York, New York, and it maintains an office in San Francisco, California. From January 2001 to September 2003, Trautman Wasserman earned revenue in connection with services provided to market timing customers of more than \$22 million, which constituted approximately 75% of Trautman Wasserman's total revenue during that period.

FACTUAL ALLEGATIONS

Market Timing and Late Trading

12. "Market timing" includes (a) frequent buying and selling of shares of the same mutual fund, or (b) buying or selling mutual fund shares in order to exploit inefficiencies in mutual fund pricing. Market timing, while not illegal per se, can harm other mutual fund shareholders because it can dilute the value of their shares if the market timer is exploiting pricing inefficiencies, disrupt the management of the mutual fund's investment portfolio, and can cause the targeted mutual fund to incur costs borne by other shareholders to accommodate

frequent buying and selling of shares by the market timer. Prospectuses for mutual funds often contain representations that the fund seeks to deter timers. Mutual fund managers often maintain policies and procedures designed to detect and prevent market timing, including prohibiting purchases once a customer has placed a specified number of trades. To enforce their policies, mutual funds, among other things, may seek to identify customers and/or brokers placing excessive trades by tracking customer account numbers and/or broker identification numbers.

13. “Late trading” refers to the practice of placing orders to buy, redeem, or exchange mutual fund shares after 4:00 p.m. Eastern Time, the time as of which mutual funds typically calculate their net asset value (“NAV”), but receiving the price based on the prior NAV already determined as of 4:00 p.m. Late trading enables the trader to profit from market events that occur after 4:00 p.m. but that are not reflected in that day's NAV.

Christian’s Background in Mutual Fund Trading

14. Christian started working in the securities industry in or about September 1997. As an employee in the operations department of a large broker-dealer, Christian learned about the operational aspects of mutual fund trading, and he first became aware of the practice of market timing of mutual funds.

15. During late 1999 and into early 2000, another broker (“JW”), who was also working at the same broker-dealer and who had several large market timing customers, began to recruit Christian to work as his assistant. Christian then started to work with JW directly servicing market timing customers.

16. In or about December 2000, JW and Christian moved to Trautman Wasserman. JW and Christian then set about establishing a mutual fund trading business to cater to hedge fund customers.

Christian Executed Late Trades for Customers

17. At Trautman Wasserman, JW and Christian learned that Trautman Wasserman's clearing broker offered a mutual fund trading system that allowed Trautman Wasserman to enter mutual fund trades directly into the mutual fund industry's routing system and bypassing the clearing broker's mutual fund trading desk. (A clearing broker provides certain services, such as custody of securities and processing of securities trades, for introducing brokers such as Trautman Wasserman.) JW and Christian learned that utilizing the clearing broker's mutual fund trading system permitted the entry of mutual fund trades well after the time at which mutual fund NAVs were set, 4:00 p.m. Eastern Time. Indeed, JW and Christian learned that mutual fund trades could be entered until as late as 8:30 p.m. but still be treated as if the orders had been received from customers before 4:00 p.m.

18. Trautman Wasserman then retained a computer consultant to develop software for entering large mutual fund trades into the clearing broker's trading system.

19. JW and Christian contacted their market timing customers at their former employer, and others, to solicit their business. JW and Christian pitched the advantages of the mutual fund trading system that they were developing at Trautman Wasserman. For instance, Christian solicited a Chicago-based hedge fund to begin market timing at Trautman Wasserman. In a December 19, 2000 e-mail to a contact at the Chicago-based hedge fund, Christian highlighted the benefits of Trautman Wasserman's mutual fund trading operation, which Christian wrote included "later trading" and "an extra layer on the accounts" that would make it "more difficult for the fund companies to pick up the accounts on the exchanges."

20. On March 5, 2001, Christian sent an e-mail to another customer to inform him that “we are ready to go with everything. We can currently trade up until 5:30 p.m. When the new system is ready we will have the ability to send files up until 8:30 p.m.”

21 Between 2001 and September 2003, Christian and others at Trautman Wasserman accepted and entered tens of thousands of late trades for hedge fund customers.

22. Christian understood that Trautman Wasserman’s hedge fund customers benefited from late trading by factoring into their trading decisions information that became available after 4:00 p.m. Eastern Time.

23. For example, Christian and others at Trautman Wasserman routinely helped customers follow calendars of corporate earnings announcements and relayed to customers information regarding notable developments after the market close. Frequently, at a time later than 4 p.m. Eastern Time, Christian emailed or telephoned customers with the NAV computed by mutual fund companies as of 4 p.m., allowing the customers to determine their final trading strategies.

Christian Falsified Required Records

24. In carrying out late trading on behalf of Trautman Wasserman’s hedge fund customers, Christian created falsified records intended to make it appear that he had received orders to trade mutual funds prior to 4:00 p.m. Eastern Time. Beginning at approximately noon each day, hedge fund customers would send Christian and others at Trautman Wasserman spreadsheets or other forms indicating potential mutual fund trades for that day. Christian would collect the order forms as they came in and Trautman Wasserman would treat these forms as order tickets. Shortly before 4:00 p.m., Christian would time-stamp the forms to make it appear as if he had just received the orders from Trautman Wasserman’s customers.

25. Christian did not enter these orders into the clearing broker's mutual fund trading system prior to 4:00 p.m. Instead, Christian routinely waited until as late as 6:30 p.m., and sometimes later, to enter customer trades. Between 4:00 p.m. and 6:30 p.m., Christian, JW, or others at Trautman Wasserman would speak with customers to get their final trading decisions. Only then did Christian or other Trautman Wasserman personnel enter the trades into the clearing broker system. When entering the trades, Christian did not create new or modified order tickets reflecting the time the trading decisions were actually made.

Christian Engaged In Deceptive Market Timing

26. Shortly after Trautman Wasserman began large-scale market timing for customers in early 2001, mutual fund complexes began notifying Trautman Wasserman that the funds restricted or prohibited such transactions. For example, on March 16, 2001, a mutual fund complex wrote to Christian to warn him about excessive trading by Christian's customer accounts. The letter explained that excessive trading could hurt the mutual fund's performance and that the fund's prospectus therefore reserved the right to refuse an exchange request if there were more than two exchanges from the same fund in any three-month period. The letter notified Christian that "exchange activities in your client's account have become excessive and we are writing you in an effort to have you and your clients adhere to the guidelines stated in our Prospectus," and warned that further excessive trading would result in a trading freeze in those accounts.

27. In aggregate, during the period March 2001 through April 2003, Christian and Trautman Wasserman received 307 letters from forty fund families concerning excessive trading activity in 113 accounts.

28. In response, Christian engaged in activities designed to deceive mutual fund complexes and evade restrictions on mutual fund trading. Christian understood that mutual fund companies would be less likely to detect market timing by a customer if the trades occurred in numerous accounts with different account numbers and names, or if the trades came from different registered representatives. Accordingly, Christian opened and employed multiple accounts for the same market timing customers, and he entered transactions using one of numerous registered representative numbers.

29. For example, on March 7, 2001, Christian sent an email to an employee of an entity that financed mutual fund trading for one of Trautman Wasserman's customers. Christian informed the employee that he was sending her five new account opening documents, which he said "are going to be opened exactly as the ones that are currently opened." When the employee asked "Why????," Christian replied, "we will eventually have to move these monies to new accounts due to kick-outs from the fund families."

30. Similarly, in May 2002, Christian sent an e-mail to a hedge fund customer concerning a \$10 million market timing investment in certain mutual funds. In the e-mail, Christian explained that "we dropped the buys into new accounts to spread it out on our books. [T]o [the mutual fund complex] it will appear as though they are separate accounts / customers so as to avoid any issues with having too big of a position in one account."

31. Christian did this because he understood that the mutual fund complex would be more likely to restrict large market timing customers. Consequently, Christian used multiple account numbers to make it appear to the fund complex that the hedge fund was actually several small customers.

32. In total, Trautman Wasserman opened 140 accounts for eleven institutional customers. Christian prepared the account opening documents for many of these customers.

33. Christian further established sixteen different registered representative numbers at Trautman Wasserman to assist in deceiving mutual fund complexes as to the identity of Trautman Wasserman's hedge fund customers.

FIRST CLAIM FOR RELIEF

Violations of Section 17(a) of the Securities Act

34. The Commission realleges and incorporates by reference each and every allegation contained in Paragraphs 1 through 33 above.

35. By engaging in the conduct described above, Christian, singly and in concert with others, directly or indirectly, by use of the means or instrumentalities of interstate commerce, the mails, or any facility of any national securities exchange, in the offer or sale of securities, knowingly or recklessly:

- a. employed devices, schemes and artifices to defraud;
- b. obtained money or property by means of, or otherwise made untrue statements of material fact, or has omitted to state material facts necessary in order to make statements made, in light of the circumstances under which they were made, not misleading; and
- c. engaged in transactions, acts, practices and courses of business which operated or would have operated as a fraud or deceit upon purchasers of the securities and upon other persons.

36. By engaging in the conduct described above, Christian violated, and unless restrained and enjoined will continue to violate, Section 17(a) of the Securities Act, 15 U.S.C. §

77q(a). Among other things, Christian engaged in a scheme to defraud other shareholders of mutual funds by engaging in late trading in and deceptive market timing of mutual fund shares for his customers. By late trading, Christian and his customers were able to reap profits at the expense of other shareholders by diluting the value of their holdings. By using deceptive means to evade restrictions that mutual fund companies sought to place on market timing, Christian and his customers were able to benefit from pricing inefficiencies and cause the mutual fund to incur the costs of frequent buying and selling which ultimately the other shareholders of the funds had to bear.

SECOND CLAIM FOR RELIEF

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

37. The Commission realleges and incorporates by reference each and every allegation contained in Paragraphs 1 through 33 above.

38. By engaging in the conduct described above, Christian, singly and in concert with others, directly or indirectly, by use of the means or instrumentalities of interstate commerce, the mails, or any facility of any national securities exchange, in connection with the purchase or sale of securities, knowingly or recklessly:

- a. employed devices, schemes and artifices to defraud;
- b. made untrue statements of material fact, or omitted to state material facts necessary in order to make statements made, in light of the circumstances under which they were made, not misleading; and
- c. engaged in transactions, acts, practices or courses of business which operated or would have operated as a fraud or deceit upon purchasers of the securities, or any other persons.

39. By engaging in the conduct described above, Christian 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. Among other things, Christian engaged in a scheme to defraud other shareholders of mutual funds by engaging in late trading in and deceptive market timing of mutual fund shares for his customers. By late trading, Christian and his customers were able to reap profits at the expense of other shareholders by diluting the value of their holdings. By using deceptive means to evade restrictions that mutual fund companies sought to place on market timing, Christian and his customers were able to benefit from pricing inefficiencies and cause the mutual fund to incur the costs of frequent buying and selling which ultimately the other shareholders of the funds had to bear.

THIRD CLAIM FOR RELIEF

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

40. The Commission realleges and incorporates by reference each and every allegation contained in Paragraphs 1 through 33 above.

41. As described above, Trautman Wasserman and certain of Trautman Wasserman's hedge fund customers, singly and in concert with others, directly or indirectly, by use of the means or instrumentalities of interstate commerce, the mails, or any facility of any national securities exchange in connection with the purchase or sale of securities:

- a. employed devices, schemes and artifices to defraud;
- b. made untrue statements of material fact, or omitted to state material facts necessary in order to make statements made, in light of the circumstances under which they were made, not misleading; and

- c. engaged in transactions, acts, practices or courses of business which operated or would have operated as a fraud or deceit upon purchasers of the securities, or any other persons.

42. Christian knowingly provided substantial assistance to Trautman Wasserman and to such customers and/or their employees, by, among other things, engaging in the conduct alleged above.

43. Pursuant to Section 20(e) of the Exchange Act, 15 U.S.C. § 78t(e), and by reason of the foregoing, Christian aided and abetted Trautman Wasserman and such customers' violations of, and unless enjoined and restrained 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.

FOURTH CLAIM FOR RELIEF

Aiding and Abetting Violations of Section 15(c) of the Exchange Act and Rule 10b-3

44. The Commission realleges and incorporates by reference each and every allegation contained in Paragraphs 1 through 33 above.

45. Trautman Wasserman is a broker within the meaning of Section 3(a)(4) of the Exchange Act, 15 U.S.C. §78c(a)(4).

46. Trautman Wasserman, while a broker, by engaging in the conduct described above, made use of the mails or means or instrumentalities of interstate commerce to effect transactions in, or to induce or attempt to induce the purchase or sale of, securities (other than commercial paper, bankers' acceptances or commercial bills) otherwise than on a national securities exchange of which Trautman Wasserman was a member, by means of manipulative, deceptive, or other fraudulent devices or contrivances.

47. Christian knowingly provided substantial assistance to Trautman Wasserman, by, among other things, engaging in the conduct alleged above.

48. Pursuant to Section 20(e) of the Exchange Act, 15 U.S.C. § 78t(e), and by reason of the foregoing, Christian aided and abetted Trautman Wasserman's violation of, and unless restrained and enjoined will continue to aid and abet violations of, Section 15(c) of the Exchange Act, 15 U.S.C. § 78o(c), and Rule 10b-3, 17 C.F.R. § 240.10b-3.

FIFTH CLAIM FOR RELIEF

Aiding and Abetting Violations of Section 17(a) of the Exchange Act and Rule 17a-3

49. The Commission realleges and incorporates by reference each and every allegation contained in Paragraphs 1 through 33 above.

50. Section 17(a)(1) of the Exchange Act, 15 U.S.C. § 78q(a)(1), and the rules promulgated thereunder delineate certain record-keeping requirements applicable to brokers and dealers. Exchange Act Rule 17a-3(a)(6)(i), 17 C.F.R. § 240.17a-3(a)(6)(i), requires that brokers and dealers maintain a "memorandum of each brokerage order, and of any other instruction, given or received for the purchase or sale of securities", showing, among other things, "the time the order was received."

51. Trautman Wasserman, by engaging in the conduct described above, failed to maintain records that registered broker-dealers are required to maintain, including without limitation memoranda of mutual fund trade orders that include accurate records of times at which the orders were received.

52. Christian knowingly provided substantial assistance to Trautman Wasserman, by, among other things, engaging in the conduct alleged above.

53. Pursuant to Section 20(e) of the Exchange Act, 15 U.S.C. § 78t(e), and by reason of the foregoing, Christian aided and abetted Trautman Wasserman's violation of, and unless enjoined will continue to aid and abet violations of, Section 17(a) of the Exchange Act, 15 U.S.C. § 78q(a), and Rule 17a-3 thereunder, 17 C.F.R. § 240.17a-3.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that the Court grant the following relief:

I.

A Final Judgment permanently restraining and enjoining Christian, his agents, servants, employees and attorneys and all persons in active concert or participation with him who receive actual notice of the injunction by personal service or otherwise, and each of them, from direct or indirect future violations of Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a), and Sections 10(b), 15(c), and 17(a) of the Exchange Act, 15 U.S.C. §§ 78j(b), 78o(c), and 78q(a), and Rules 10b-3, 10b-5, and 17a-3, 17 C.F.R. §§ 240.10b-3, 240.10b-5, 240.17a-3;

II.

A Final Judgment ordering Christian to disgorge his ill-gotten gains, plus prejudgment interest;

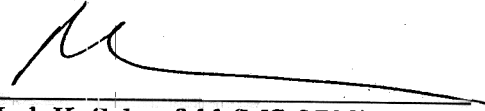
III.

A Final Judgment determining Christian must pay civil money penalties pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3); and

IV.

Such other and further relief as the Court may deem just and proper.

Dated: New York, New York
July 7, 2005



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