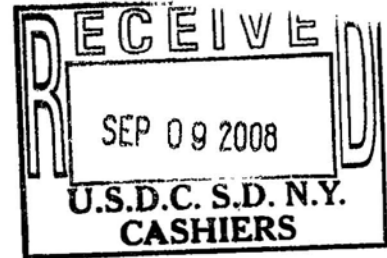


JUDGE CONNER

08 CV 7841

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

08 CV __ ()

v. :

JAMES C. DAWSON :

Defendant. :

COMPLAINT

Plaintiff, Securities and Exchange Commission (the "Commission"), alleges the following against defendant James C. Dawson ("Dawson" or "Defendant"):

SUMMARY

1. This matter concerns unfair trade allocation – also known as “cherry-picking” – by Dawson, the investment adviser to Victoria Investors, LP (“Victoria Investors”), a hedge fund, and other clients.

2. From April 2003 through October 2005, Dawson cherry-picked profitable trades for his own account. Dawson did this by purchasing securities throughout the day in a suspense

account and delaying allocation of the transactions until later in the day, after he saw whether the securities appreciated in value. Dawson then disproportionately allocated profitable trades to his personal account and allocated unprofitable trades to his advisory clients.

3. As a result of this fraudulent conduct, Dawson obtained ill-gotten gains in the form of profits on trades in his personal account and avoided losses by allocating unprofitable trades to his clients.

4. Dawson did not disclose to his advisory clients his cherry-picking scheme, or the conflicts of interest arising from it.

5. Dawson also used Victoria Investors' funds to pay for his personal expenses, which he also did not disclose to Victoria Investors.

6. By this conduct, Dawson violated 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] thereunder, and Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 ("Advisers Act") [15 U.S.C. §§ 80b-6(1), (2)].

JURISDICTION AND VENUE

7. The Commission brings this action pursuant to authority conferred by Sections 21(d), 21(e), and 27 of the Exchange Act [15 U.S.C. § 78u(d), 78u(e) and 78aa], and Section 214 of the Advisers Act [15 U.S.C. §80b-14]. The Commission seeks to permanently enjoin Dawson from violating the antifraud provisions of the federal securities laws, and seeks disgorgement and civil penalties from Dawson. Finally, the Commission seeks all other just and appropriate relief.

8. This Court has subject matter jurisdiction over this action pursuant to Section 27 of the Exchange Act [15 U.S.C. § 78aa] and Section 214 of the Advisers Act [15 U.S.C. §80b-

14].

9. The Court has personal jurisdiction of Dawson and venue is proper in this Court pursuant to Section 27 of the Exchange Act [15 U.S.C. § 78aa] and Section 214 of the Advisers Act [15 U.S.C. §80b-14]. Dawson's acts and omissions constituting the violations of the Exchange Act and the Advisers Act occurred in the Southern District of New York. In addition, Victoria Investor's office is located in the Southern District of New York, and Dawson resides in the Southern District of New York.

10. Dawson, directly and indirectly, has made use of the means and instrumentalities of interstate commerce, or of the mails, in connection with the transactions, acts, practices and courses of business alleged herein.

THE DEFENDANT

11. **Dawson**, 63, resides in Rye, New York. Since 1982, Dawson has been the sole general partner of, and investment adviser to, Victoria Investors. As of June 2006, Victoria Investors had assets of approximately \$13 million, and approximately twenty individual and institutional investors. The investors are also limited partners of Victoria Investors. Between 2003 and 2005, Dawson also provided investment advisory services to three individual clients, with combined assets under management of approximately \$2.8 million.

FACTS

Dawson's Cherry-Picking Scheme

13. As an investment adviser, Dawson owed a fiduciary duty to his clients, including Victoria Investors.

14. Victoria Investors is an unregistered hedge fund, and is a limited partnership established pursuant to the partnership laws of the state of New York.
15. Dawson is the only general partner of Victoria Investors and is vested with full and complete control over the management, business, and operations of Victoria Investors.
16. Victoria Investors' Private Offering Memorandum and the Limited Partnership Agreement have no stated investment strategy and no trading restrictions, and Dawson exercised complete discretion in executing trades on behalf of Victoria Investors and his other advisory clients.
17. Dawson's written communications with Victoria Investors' limited partners consist of quarterly letters and an annual financial report prepared by an independent auditor.
18. Victoria Investors' office in midtown Manhattan is in one room, which contains a fax machine and two desks. Dawson and a part-time employee (from late 2004 until at least February 2007) were the only people who staffed Victoria Investors' office.
19. From at least 2002 through 2005, Victoria Investors also paid a purported salary to Mr. Dawson's wife. Specifically, in 2002, Victoria Investors paid Mrs. Dawson \$144,000. In 2003, Victoria Investors paid Mrs. Dawson \$168,000. In 2004, Victoria Investors paid Mrs. Dawson \$168,000. In 2005, Victoria Investors paid Mrs. Dawson \$182,000.
20. Until approximately December 2003, Dawson used one prime broker to execute trades for all of his client accounts. In December 2003, Dawson moved to a different prime broker, which he used through 2005 to execute trades for his client accounts.
21. Beginning in April 2003, Dawson also maintained a personal account at each of these prime brokers, which he used for trading in his own proprietary account. Dawson,

however, did not separately direct or execute trades throughout the day in each of his personal and client accounts. Rather, Dawson conducted trading through one suspense account at each of his prime brokers, and would then wait until after the market close to decide how to allocate those trades among his personal account, and his advisory client accounts. This practice of trading in a suspense account, and then making allocation decisions after the market close, gave Dawson the opportunity to steer the more profitable trades to his own account, and the less profitable or unprofitable trades to his advisory clients' accounts.

22. From April 2003 through 2005, Dawson in fact did carry out a cherry-picking scheme that advantaged his own account at the expense of his advisory clients' accounts. Dawson accomplished this by trading throughout the day in a suspense account maintained at the prime broker he was using at the time. At the end of each trading day, Dawson would allocate his trades among Victoria Investors, his individual clients, and his own personal account.

23. Dawson would wait until the close the market, when the profitability or unprofitability of his trades could be determined, to make his allocation decisions. Dawson would then transmit those decisions to his prime broker on a daily basis, at some time between the close of the market and 7 p.m., a deadline his prime broker established. Until the fall of 2005, Dawson communicated his decisions by facsimile transmission. In the fall of 2005, Dawson began submitting his allocations to his prime broker electronically instead of by fax, but Dawson continued to send the daily allocation instructions after the close of the market.

24. In November 2005, the prime broker terminated Dawson's personal account, and informed Dawson that he had until the end of 2005 to transition his accounts from the prime

broker. In January 2006, Dawson transferred his client accounts to a different prime broker, and he continues to trade for his clients' accounts with that prime broker.

Dawson's Undisclosed and Unfair Trade Allocations

25. From April 2003 through October 2005, Dawson disproportionately allocated profitable trades to his personal account and less profitable trades to advisory client accounts.

26. For example, between April 2003 and October 2005, Dawson allocated approximately 400 trades to his personal account, approximately 393 of which were profitable on the first day, for a success rate of approximately 98.3%. In contrast, Dawson allocated approximately 2,880 trades to his advisory client accounts, approximately 1,489 of which of which were profitable on the first day, for a success rate of approximately 51.7%. The trades Dawson allocated to Victoria Investors had a success rate of approximately 52.6%, and the trades Dawson allocated to his individual clients had a success rate of approximately 40.7%.

27. For example, on the following dates, Dawson allocated trades as follows:

(a) On December 15, 2004, Dawson executed day trades (i.e., a purchase and sale) in three companies: Las Vegas Sands Corporation, eBay Inc., and Freeport McMoRan Copper & Gold Inc. Dawson allocated the two profitable trades of 1000 shares of Las Vegas Sands Corporation and 1000 shares of eBay Inc. to his personal account, and allocated the unprofitable trade of 2500 shares of Freeport McMoRan Copper & Gold Inc. to one of his individual clients.

(b) On December 30, 2004, Dawson executed day trades in two companies: Las Vegas Sands Corporation and Cameco Corporation. Dawson allocated the unprofitable trade of 1000 shares of Las Vegas Sands Corp. to his individual

client, and allocated the profitable trade of 500 shares of Cameco Corporation to his personal account.

(c) On June 21, 2005, Dawson executed day trades in two companies: Fuel Cell Energy Inc. and Research In Motion Ltd. Dawson allocated the profitable trade of 1000 shares of Fuel Cell Energy Inc. to his personal account, and allocated the unprofitable trade of 1500 shares of Research In Motion Ltd. to Victoria Investors. These were the only day trades Dawson executed on that day.

(d) On June 30, 2005, Dawson executed day trades in two companies: Research In Motion Ltd. and Loews Corp. Dawson allocated the profitable trade of 500 shares of Research In Motion Inc. to his personal account and allocated the unprofitable trade of 5000 shares of Loews Corp. to Victoria Investors.

28. Dawson had no justification in allocating the unprofitable trades to his client accounts, and the profitable trades to his own account, and his actions were done to profit himself at the expense of his advisory clients. There were, for example, no significant differences in Dawson's trading strategy – either in the type of security or in the size of the trades – between the trades Dawson allocated to his personal account and the trades Dawson allocated to his clients.

29. Dawson disproportionately allocated profitable trades to his personal account to the detriment of his individual clients and his hedge fund client, Victoria Investors.

30. Dawson did not disclose to his individual clients or to his hedge fund client Victoria Investors (including the limited partners of Victoria Investors) his cherry-picking

scheme. Nor did he disclose to them the conflicts of interest that resulted because of his trading practices.

31. Dawson did not disclose his cherry-picking scheme, or the resulting conflicts of interest, to investors in Victoria Investors.

Dawson's Additional Undisclosed Conflicts of Interest

32. Between 2003 and 2005, Dawson also used Victoria Investors' funds to pay for personal and family expenses. For example, Dawson used Victoria Investors' funds to pay for Dawson's family cell phone bills and car service for himself and family members for non-business trips.

33. Dawson did not reimburse Victoria Investors for any of these charges.

34. Dawson did not disclose to Victoria Investors (including its limited partners) that he was using Victoria Investors assets to pay personal expenses.

35. Dawson also did not disclose his use of Victoria Investor assets to pay personal expenses to investors in Victoria Investors.

FIRST CLAIM FOR RELIEF

**Dawson Violated Section 10(b) of the Exchange Act
And Rule 10b-5 Promulgated Thereunder**

36. The Commission repeats and realleges each and every allegation contained in paragraphs 1 through 35, as if fully set forth herein.

37. As alleged more fully above, beginning no later than April 2003 through at least October 2005, Dawson, directly and indirectly, by use of the means and instrumentality of interstate commerce, and of the mails in connection with the purchase or sale of securities, knowingly or recklessly: (a) employed devices, schemes or artifices to defraud his clients; (b)

made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or (c) engaged in acts, practices and courses of business which operated or would operate as a fraud upon purchasers of securities.

38. As part of, and in furtherance of the violative conduct described above, Dawson orchestrated a cherry-picking scheme and made material misrepresentations, and failed to disclose material information, to his advisory clients (as well as investors in Victoria Investors).

39. Dawson acted knowingly or recklessly.

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

SECOND CLAIM FOR RELIEF

Dawson Violated Section 206(1) of the Advisers Act

41. The Commission repeats and realleges each and every allegation contained in paragraphs 1 through 34, as if fully set forth herein.

42. As alleged more fully above, beginning no later than April 2003 through at least October 2005, Dawson, by the use of the mails, and the means and instrumentality of interstate commerce, directly or indirectly employed devices, schemes and artifices to defraud his clients.

43. As part of, and in furtherance of the violative conduct described above, Dawson orchestrated a cherry-picking scheme and made material misrepresentations, and failed to disclose material information, to his individual clients and his hedge fund client, Victoria Investors.

44. Dawson acted knowingly or recklessly.

45. By reason of the conduct described above, Dawson violated and, unless enjoined, will continue to violate Section 206(1) of the Advisers Act [15 U.S.C. §§ 80b-6(1)].

THIRD CLAIM FOR RELIEF

Dawson Violated Section 206(2) of the Advisers Act

46. The Commission repeats and realleges each and every allegation contained in paragraphs 1 through 45, as if fully set forth herein.

47. As alleged more fully above, beginning no later than April 2003 through at least October 2005, Dawson, by the use of the mails, and the means and instrumentality of interstate commerce, directly or indirectly engaged in transactions, practices and courses of business which operated as a fraud or deceit upon his clients.

48. As part of, and in furtherance of the violative conduct described above, Dawson orchestrated a cherry-picking scheme and made material misrepresentations, and failed to disclose material information, to his individual clients and his hedge fund client, Victoria Investors.

49. Dawson acted at the least negligently.

50. By reason of the conduct described above, Dawson violated and, unless enjoined, will continue to violate Section 206(2) of the Advisers Act [15 U.S.C. §§ 80b-6(2)].

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court enter a Final Judgment:

I.

Permanently restraining and enjoining Dawson, his attorneys, agents, employees and all persons in active concert or participation with him, who receive actual notice of the Final Judgment by personal service or otherwise, and each of them from future violations of 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] and Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §§ 80b-6(1), (2)].

II.

Ordering Dawson to disgorge his ill-gotten gains plus prejudgment interest, and such other and further amount as the Court may find appropriate.

III.

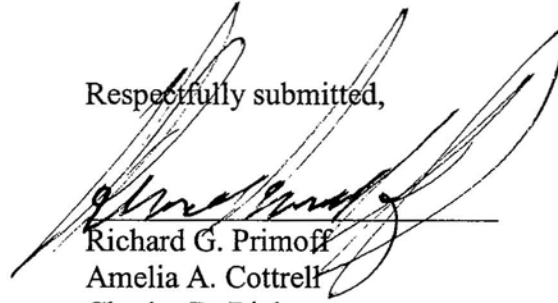
Ordering Dawson to pay a civil penalty pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. §78u(d)(3)].

IV.

Granting such other relief as this Court may deem just and proper.

Dated: September 9, 2008
New York, New York

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read 'Richard G. Primoff', is written over a horizontal line.

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