

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 2757 / July 23, 2008**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-13092**

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**In the Matter of Thomas C. Palmer and  
Aeneas Capital Management, L.P.**

**Respondents.**

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**: ORDER INSTITUTING**  
**: ADMINISTRATIVE AND CEASE-AND-**  
**: DESIST PROCEEDINGS, MAKING**  
**: FINDINGS, AND IMPOSING**  
**: REMEDIAL SANCTIONS AND A**  
**: CEASE-AND-DESIST ORDER**  
**: PURSUANT TO SECTIONS 203(e),**  
**: 203(f), AND 203(k) OF THE**  
**: INVESTMENT ADVISERS ACT OF 1940**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 203(f) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”) against Thomas C. Palmer, and that public administrative proceedings be, and hereby are, instituted pursuant to Section 203(e) of the Advisers Act against Aeneas Capital Management, L.P. (collectively, “Respondents”).

**II.**

In anticipation of the institution of these proceedings, Respondents have submitted Offers of Settlement (the “Offers”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Sections 203(e), 203(f), and 203(k) of the Investment Advisers Act of 1940 (“Order”), as set forth below.

### **III.**

On the basis of this Order and Respondents' Offers, the Commission finds that:

#### **Summary**

These proceedings arise from the unauthorized transfers of cash from two hedge funds to satisfy margin calls of a third hedge fund. Specifically, Thomas C. Palmer ("Palmer"), while serving as the director of operations for Aeneas Capital Management, L.P. ("Aeneas"), made five unauthorized transfers of cash totaling \$13.4 million from Aeneas Evolution Portfolio, Ltd. ("Evolution") and Aeneas Portfolio Company, L.P. ("Portfolio") to a third hedge fund, Priam Holdings Ltd. ("Priam"), to satisfy Priam's margin calls. Evolution, Portfolio, and Priam are separate funds operated by Aeneas. As a result of this conduct, Palmer willfully aided and abetted and caused violations of Sections 206(1) and 206(2) of the Advisers Act. Aeneas also failed reasonably to supervise Palmer, who was responsible for making the unauthorized transfers, with a view towards preventing violations of Sections 206(1) and 206(2) of the Advisers Act. Moreover, Aeneas failed to have in place adequate policies and procedures designed to detect and prevent such unauthorized transfers of cash among funds.

#### **Respondents**

1. Thomas C. Palmer, age 39, resides in Yorktown Heights, New York and served as the director of operations for Aeneas Capital Management, L.P. As director of operations, Palmer maintained responsibility for, among other things, overseeing and managing margin balances for Evolution, Portfolio, and Priam.

2. Aeneas Capital Management, L.P. is a Delaware limited partnership. Aeneas is an investment adviser and is headquartered in Mt. Kisco, New York. During the relevant time period, Palmer was an employee of Aeneas Capital Management, L.P. and subject to its supervision. During the relevant time period, Aeneas Capital Management, L.P. employed three primary employees, including Palmer.

#### **Other Relevant Entities**

3. Aeneas Evolution Portfolio, Ltd. is a hedge fund. It is a Cayman Islands company organized on January 7, 2005. Its principal place of business is in Mt. Kisco, New York.

4. Aeneas Portfolio Company, L.P. is a hedge fund. It is a Cayman Islands limited partnership organized on February 4, 2000. Its principal place of business is in Mt. Kisco, New York.

5. Priam Holdings Ltd. is a hedge fund. It is a British Virgin Islands international business company incorporated on March 23, 2000. It is currently controlled by its prime broker.

## Facts

### **A. The Unauthorized Transfers of Cash**

6. Priam invested primarily in microcap foreign issuers that trade on the Malaysian securities exchanges. None of Priam's 14 investors was a U.S. person or entity.

7. Beginning in Spring 2006 and continuing into the summer, Priam accumulated a significant trading position in Iris Corporation, a Malaysian microcap issuer that trades on the Malaysian Stock Exchange but that does not trade on U.S. markets. Priam's position in Iris Corporation, as well as its positions in other issuers, was highly leveraged by using funds borrowed from its prime broker to trade on margin.

8. In early July 2006, the position sizes within the Priam portfolio were increased to the point where there were several margin calls that were satisfied by Palmer's requested transfers.

9. Palmer was at all relevant times the Aeneas employee with day-to-day responsibility for managing and overseeing margin balances for Evolution, Portfolio, and Priam. In an attempt to satisfy Priam's margin calls, Palmer made five separate transfers of cash to Priam from Evolution and Portfolio, despite knowing that Evolution, Portfolio, and Priam were separate funds. Palmer initiated these transfers by sending emails to Aeneas' prime broker instructing it to move the funds. The transfers totaled \$13.4 million and were as follows:

July 7, 2006:	Portfolio transferred \$100,000 to Priam
July 10, 2006:	Portfolio transferred \$2.7 million to Priam
July 12, 2006:	Portfolio transferred \$400,000 to Priam
July 13, 2006:	Portfolio transferred \$2.2 million to Priam, and Evolution transferred \$8 million to Priam

10. While the transfer of assets among funds may be permissible -- if, for example, the specific type of transfer is disclosed in the private placement memorandum and is consistent with the fiduciary obligations an investment adviser owes the fund it advises -- these transfers were neither disclosed nor consistent with Palmer's fiduciary obligations.

11. Palmer subsequently learned that Priam would incur an additional margin call due to a significant decrease in the value of Priam's portfolio. Evolution and Portfolio lacked readily transferable assets to satisfy the additional margin call. Palmer informed his supervisor, who was Aeneas' chief operating officer, of the situation and they called Priam's prime broker to let it know that Priam would be unable to satisfy the margin call.

12. The prime broker questioned the purpose of the cash transfers and was informed that the transfers were loans from Evolution and Portfolio to Priam. There was, however, no contemporaneous loan documentation to support this explanation.

13. The cash transfers were reversed in early August 2006 and the funds were sent back to Evolution and Portfolio. As a result, no investor funds were lost and Aeneas subsequently paid investors for the interest earned on the funds for the period during which they were in Priam's account. When Priam could not satisfy the subsequent margin call, Aeneas' prime broker took control of all securities positions held in Priam.

#### **B. Aeneas Failed Reasonably to Supervise Palmer**

14. Palmer reported to, and was supervised by, Aeneas' chief operating officer, who oversaw the legal and compliance functions of Aeneas. Prior to making the unauthorized transfers, Palmer tried to contact his supervisor to advise him of the margin situation. Palmer's supervisor was on vacation and Palmer was unable to reach him. Aeneas failed to have any policy in place identifying who would assume supervisory and compliance responsibilities in the absence of Palmer's supervisor.

15. Aeneas did not have any policies in place that outlined when it was permissible to transfer cash among funds. Significantly, Aeneas had neither procedures designed to detect the occurrence of cash transfers between funds nor procedures designed to determine if such transfers were permissible.

16. Aeneas did not have any policies or procedures in place for seeking approval to transfer cash between funds.

17. Aeneas failed reasonably to supervise Palmer, who knowingly made multiple unauthorized transfers of cash between funds. Aeneas did not have adequate policies and procedures designed to detect and prevent violations of the antifraud provisions of the Advisers Act, such as unauthorized transfers of cash.

## Legal Analysis

18. Section 206(1) of the Advisers Act makes it unlawful for any investment adviser to employ any device, scheme, or artifice to defraud any client or prospective client. Under Section 206(2) of the Advisers Act, it is unlawful for any investment adviser to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client. Scienter is an element of a claim under Section 206(1) but not under Section 206(2). See SEC v. Steadman, 967 F.2d 636, 641, 643 & n.5 (D.C. Cir. 1992). The scienter element of Section 206(1) may be satisfied by a showing that the investment adviser was reckless. See id. at 641-42.

19. At the time of the cash transfers, Palmer knew that Priam lacked sufficient assets to satisfy the margin calls. Palmer further knew, or was reckless in not knowing, that Priam, Evolution, and Portfolio were separate funds with distinct investors and that he, on behalf of Aeneas, was not authorized to transfer cash among the funds to satisfy margin calls. Consequently, Palmer knowingly made multiple unauthorized cash transfers from Evolution and Portfolio to Priam in order to satisfy Priam's margin calls.

20. Based on the foregoing, Palmer willfully aided and abetted and caused violations of Sections 206(1) and 206(2) of the Advisers Act.

21. Section 203(e) of the Advisers Act authorizes the Commission to sanction an investment adviser that has failed reasonably to supervise, with a view to preventing violations of the federal securities laws, another person who commits such a violation, if such other person is subject to its supervision. The Commission has repeatedly emphasized that the duty to supervise is a critical component of the federal regulatory scheme. See In re Rhumblin Advisers, Advisers Act Rel. No. 1765 (Sep. 29, 1998); In re Scudder Kemper Investments, Inc., Advisers Act Rel. No. 1848 (Dec. 22, 1999) (adviser failed reasonably to supervise employee and did not have policies and procedures designed to detect and prevent employees' unauthorized trading in client accounts); In re Nicholas-Applegate Capital Management, Advisers Act Rel. No. 1741 (Aug. 12, 1998) (adviser failed reasonably to supervise employee and did not have policies and procedures designed to detect and prevent employees from engaging in improper personal trading); In re Van Kampen American Capital Asset Management, Inc., Advisers Act Rel. No. 1525 (Sep. 29, 1995) (adviser failed reasonably to supervise employee and did not have policies and procedures designed to detect and prevent employees from mispricing fund securities).

22. Aeneas failed reasonably to supervise Palmer within the meaning of Section 203(e)(6) of the Advisers Act with a view to preventing and detecting his violations of the antifraud provisions of the Advisers Act. Moreover, Aeneas failed to establish or implement

adequate procedures regarding the transfer of cash among the three funds. Aeneas' failure to supervise and lack of adequate procedures allowed Palmer to make the unauthorized cash transfers.

#### **Undertakings**

23. Respondent Palmer shall provide to the Commission, within thirty days after the end of the twelve month suspension described below, an affidavit that he has complied fully with the sanctions described in Section IV below.

#### **IV.**

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

- A. Respondent Thomas C. Palmer cease and desist from committing or causing any violations and any future violations of Sections 206(1) and 206(2) of the Advisers Act;
- B. Respondent Thomas C. Palmer be, and hereby is, suspended from association with any investment adviser for a period of twelve months, effective on the second Monday following the entry of this order;
- C. Respondent Thomas C. Palmer shall, within thirty (30) days from the date of the entry of this Order, pay a civil money penalty in the amount of \$65,000 to the United States Treasury. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. 3717. Such payment shall be: (A) made by United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA 22312; and (D) submitted under cover letter that identifies Thomas C. Palmer as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Scott W. Friestad, Associate Director, U.S. Securities and Exchange Commission, Division of Enforcement, 100 F Street, NE, Washington, DC 20549-5631;
- D. Respondent Thomas C. Palmer shall comply with the undertakings enumerated in Section III, paragraph 23 above.
- E. Respondent Aeneas Capital Management, L.P. is censured; and

F. Respondent Aeneas Capital Management, L.P. shall, within thirty (30) days from the date of the entry of this Order, pay a civil money penalty in the amount of \$150,000 to the United States Treasury. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. 3717. Such payment shall be: (A) made by United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA 22312; and (D) submitted under cover letter that identifies Aeneas Capital Management, L.P. as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Scott W. Friestad, Associate Director, U.S. Securities and Exchange Commission, Division of Enforcement, 100 F Street, NE, Washington, DC 20549-5631.

By the Commission.

Florence E. Harmon  
Acting Secretary