

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 3141 / January 14, 2011

INVESTMENT COMPANY ACT OF 1940
Release No. 29569 / January 14, 2011

ADMINISTRATIVE PROCEEDING
File No. 3-14194

In the Matter of

MICHAEL R. PELOSI,

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS
PURSUANT TO SECTIONS 203(f) AND 203(k)
OF THE INVESTMENT ADVISERS ACT OF 1940
AND SECTION 9(b) OF THE INVESTMENT
COMPANY 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”) and Section 9(b) of the Investment Company Act of 1940 (“Investment Company Act”) against Michael R. Pelosi (“Respondent” or “Pelosi”).

II.

After an investigation, the Division of Enforcement alleges that:

A. SUMMARY

1. This matter concerns the misrepresentation of account performance returns by Pelosi, then a portfolio manager at registered investment adviser Halsey Associates, Inc. (“Halsey”) in New Haven, Connecticut.

2. From 2005 through August of 2008, Pelosi knowingly or recklessly misreported account performance returns to his investment-advisory clients. Pelosi repeatedly provided false account performance returns to clients in quarterly and annual correspondence by exaggerating account gains and minimizing performance losses. Pelosi misrepresented performance returns across various asset classes, and consistently inflated the total account performance returns for quarterly and twelve month periods.

3. On August 14, 2008, Halsey principals Kenneth Julian and James Zoldy first confronted Pelosi about the discrepancies between the performance returns that he reported in his client letters and the returns in the official account records. Pelosi initially denied altering performance returns, and deflected any responsibility for errors to the firm's administrative staff or system errors. Immediately after the meeting, Pelosi deleted electronic copies of client correspondence, which was detected by the Halsey administrative staff and ultimately restored. On August 15, 2008, hard copies of Pelosi's client correspondence also disappeared from the Halsey offices.

4. Later on August 15, 2008, Pelosi recanted his denial and admitted to Julian that he changed performance results to clients and that he had lied to his partners about sending out altered performance results. Pelosi then submitted two written apologies expressing shame and remorse for his conduct.

5. By virtue of his conduct, Pelosi willfully violated Sections 206(1) and 206(2) of the Advisers Act.

B. RESPONDENT

6. *Michael R. Pelosi*, age 46, currently a resident of Middlebury, Connecticut, was a Vice President and portfolio manager at Halsey from approximately April of 2005 until August 27, 2008. At the time of his departure from Halsey, Pelosi owned approximately 20% of the adviser.

C. OTHER RELEVANT ENTITY AND PERSONS

7. *Halsey Associates, Inc.* is an investment adviser incorporated in Connecticut. It is headquartered in New Haven, Connecticut and has been registered as an investment adviser with the Commission since 1978.

8. *Kenneth J. Julian* is the President and Chief Compliance Officer of Halsey. Julian joined Halsey in 1997, and today owns approximately 49% of the adviser.

9. *James S. Zoldy* is the Chairman and Treasurer of Halsey. Zoldy joined Halsey in 1993, and today owns approximately 51% of the adviser.

D. ALLEGATIONS

Pelosi's Responsibilities as a Portfolio Manager

10. In April 2005, Pelosi joined Halsey as a Vice President and portfolio manager and, after his first year of employment, acquired an approximately 13% ownership interest in the adviser.

11. When Pelosi joined Halsey, he brought with him approximately twenty clients from another registered investment adviser representing approximately \$60 to \$70 million in assets under management.

12. Pelosi was the sole portfolio manager for his clients' accounts at Halsey.

13. During Pelosi's association with Halsey, clients regularly received quarterly correspondence with account information.

14. Within the quarterly correspondence, Halsey clients received a letter from the portfolio manager that disclosed the performance of the account, activity within the account, and a general appraisal of the economy.

15. Clients also received account statements, which summarized assets and their respective values within the account, and a detailed portfolio appraisal, which listed securities holdings and values.

16. Clients did not receive a separate performance report from Halsey. The only place Halsey reported account performance information to clients was within the body of the letter from the portfolio manager.

17. During Pelosi's association with Halsey, the portfolio manager who managed the account was responsible for preparing and signing the client letters.

18. Administrative staff at Halsey assisted the portfolio managers with the preparation of the client correspondence, but the portfolio managers were ultimately responsible for the content of the correspondence, including the performance data.

Pelosi Misrepresented Performance Returns to Clients

19. Between 2005 and August 2008, Pelosi repeatedly exaggerated account gains and minimized performance losses to his various clients.

20. Pelosi misrepresented performance returns across various asset classes, and consistently inflated the total account performance returns for quarterly and twelve-month periods.

21. Halsey calculated performance returns to the hundredths of a percent (e.g., 0.00%). Pelosi's performance returns varied significantly from the true performance returns calculated by Halsey.

22. An analysis of Pelosi's client letters shows that, over the course of more than three years, Pelosi reported annual portfolio performance results in more than 250 instances and quarterly performance results in more than 210 instances. Of these performance representations, Pelosi inflated performance results more than 75% of the time. The size of the inflated results ranged from 0.01 percentage point (1 basis point) to

more than 4.64 percentage points (464 basis points) and, in more than half of the instances, the results were overstated by more than 0.25% (25 basis points).

Halsey Confronted Pelosi about Performance Misrepresentations

23. In approximately the end of 2007 or beginning of 2008, administrative staff first identified discrepancies between Pelosi's performance data to clients and the performance data calculated by Halsey. When the administrative staff questioned Pelosi about the discrepancies between his performance data and the performance data of the firm, Pelosi stated that he had a different way of calculating performance.

24. In approximately the end of June or beginning of July 2008, Halsey administrative staff again observed discrepancies between Pelosi's performance data to clients and the performance data of the firm. At this time, Halsey administrative staff had taken greater responsibilities regarding the preparation of client correspondence, which included preparing the initial draft and inputting performance data into the letters. Between approximately the end of June or beginning of July 2008 until August 1, 2008, Halsey administrative staff began to more closely monitor Pelosi's letters to clients and make copies of outgoing correspondence where his performance data varied from the firm's data. The administrative staff did this to protect themselves in the event that the client questioned the figures at a later time.

25. On approximately August 1, 2008, Halsey administrative staff alerted Zoldy about the irregularities in performance reporting to clients by Pelosi. Between August 1, 2008 and August 14, 2008, Zoldy and Julian conducted an initial internal inquiry and determined that there was a pattern of misreporting in Pelosi's client letters and other communications.

26. On August 14, 2008, Halsey principals Julian and Zoldy first confronted Pelosi about discrepancies between the performance returns in his correspondence to clients and the Halsey account records.

27. Pelosi initially denied altering performance returns, and deflected any responsibilities for errors to the firm's administrative staff or system errors.

28. Immediately after the meeting, Julian and Zoldy instructed the administrative staff to collect all of Pelosi's correspondence so they could further investigate discrepancies in performance reporting.

29. As the administrative staff was compiling these records, Pelosi deleted electronic copies of his client correspondence.

30. The administrative staff detected the deletion of the letters almost immediately, and reported it to Zoldy.

31. Zoldy confronted Pelosi about the deleted correspondence, and Pelosi claimed that he accidentally deleted the letters while trying to print a large block of them. Pelosi was asked to leave the premises following the deletion of the files.

32. Halsey was able to restore the deleted electronic files from the back-up tapes.

33. At the close of the business day on Thursday, August 14, 2008, hard copies of Pelosi's client correspondence were collected and provided to Julian, who stored them in his office. Julian was the last Halsey employee to leave the office that day.

34. When Julian returned to the office on Friday, August 15, 2008, approximately half of the Pelosi client correspondence was missing from his office.

35. Julian questioned Pelosi about the missing letters, and Pelosi denied any involvement with their disappearance. Julian subsequently asked Pelosi to leave the office.

36. Shortly after being asked to leave, Pelosi contacted Julian and asked to meet with him outside the offices of Halsey. Julian agreed to meet Pelosi outside the Halsey offices.

37. Outside the Halsey offices, Pelosi admitted to Julian that he changed the performance figures in his client correspondence. Pelosi did not provide any reasons for why he changed the performance figures.

38. Pelosi also apologized for deleting the electronic copies of his client correspondence.

39. Later on August 15, 2008, Pelosi emailed Julian and wrote:

Beyond being embarrassed and ashamed over the matter at hand, I am deeply ashamed that I didn't just tell you yesterday in the conference room. I think I had truly (sic) deluded myself into believing that it had happened in isolated instances, but when I saw for myself, I lost it.

40. On Monday, August 18, 2008, Pelosi returned to the Halsey office and provided another written apology to Julian and Zoldy. In this letter, Pelosi wrote:

I cant (sic) tell you how many times I've wished my initial reaction was different when we met in the conference room. I was panicked, I stopped thinking clearly, and I had sincerely convinced myself that any changes that I made were isolated. I cant (sic) explain how I felt when I realized they weren't...

I'm embarrassed and ashamed by the performance issue, but I cringe at my behavior after the meeting...

I am overwhelmed with regret. I could not be more sorry (sic). It was a very dumb thing to do, but it was a mistake... Nothing like this will happen again. I hope you can believe that and I hope you think I'm worth a second chance.

41. On August 27, 2008, Halsey and Pelosi signed a separation agreement, terminating Pelosi's association and ownership with the firm. Under the terms of the agreement, Pelosi immediately resigned from his position with Halsey, but was compensated through September 30, 2008.

E. VIOLATIONS

44. As further set forth above, Pelosi willfully violated Sections 206(1) and 206(2) of the Advisers Act, which prohibit any investment adviser from defrauding any client or prospective client.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative and cease-and-desist proceedings be instituted to determine:

A. Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford Respondent an opportunity to establish any defenses to such allegations;

B. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 9(b) of the Investment Company Act and Section 203(f) of the Advisers Act including, but not limited to, civil penalties pursuant to Section 203(i) of the Advisers Act;

C. Whether, pursuant to Section 203(k) of the Advisers Act, Respondent should be ordered to cease and desist from committing or causing violations of and any future violations of Sections 206(1) and 206(2) of the Advisers Act.

IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened not earlier than 30 days and not later than 60 days from service of this Order at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondent shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If Respondent fails to file the directed answer, or fails to appear at a hearing after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against him upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f) and 201.310.

This Order shall be served forthwith upon Respondent personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 300 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Elizabeth M. Murphy
Secretary

Service List

Rule 141 of the Commission's Rules of Practice provides that the Secretary, or another duly authorized officer of the Commission, shall serve a copy of the Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 203(f) and 203(k) of the Investment Advisers Act of 1940 ("Order") and Section 9(b) of the Investment Company Act of 1940, on the Respondent and his legal agent.

The attached Order has been sent to the following parties and other persons entitled to notice:

Honorable Brenda P. Murray
Chief Administrative Law Judge
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