

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SECURITIES AND EXCHANGE
COMMISSION

Plaintiff

v.

EDWARD THOMAS JUNG and
E. THOMAS JUNG PARTNERS, LTD.,
also d/b/a ETJ PARTNERS, LTD.,

Defendants

Case No.

01C 4645

JUDGE NORDBERG

MAGISTRATE JUDGE LEVIN

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CLERK
U.S. DISTRICT COURT

COMPLAINT

Plaintiff, the United States Securities and Exchange Commission ("Commission"),
alleges as follows:

DOCKETED
JUN 20 2001

INTRODUCTION

1. From July 1994 through September 1998, ("relevant period"), defendant Edward Thomas Jung ("Jung"), individually and acting through his broker-dealer, defendant E. Thomas Jung Partners, Ltd., also doing business as ETJ Partners, Ltd. ("ETJ Partners"), engaged in a scheme to defraud investors in a private, unregistered hedge fund, Strategic Income Fund, L.L.C. ("the Fund"). Beginning in July 1994 and continuing to February 1998, Jung was responsible for issuing a series of false performance reports used to solicit investors for the Fund that materially overstated his prior trading record and that of the Fund. In addition, from January 1995 to September 1998, while falsely stating that investor assets would be used solely to conduct the Fund's business and to collateralize trading on behalf of the Fund, Jung, acting through ETJ Partners, placed the Fund's assets in ETJ Partners' account and used the Fund's

assets to pay the expenses of running ETJ Partners and to collateralize his own personal margin trading. Jung's personal trading resulted in substantial losses and, in September 1998, ETJ Partners' clearing firm seized control of the account and liquidated the Fund's assets to cover ETJ Partners' margin call. This misappropriation by Jung and ETJ Partners resulted in the loss of more than \$21 million invested by 60 investors.

2. Jung and ETJ Partners, directly and indirectly, engaged in and, unless enjoined, will continue to engage in acts, practices and courses of business which are violations of Sections 17(a)(1), 17(a)(2) and 17(a)(3) of the Securities Act of 1933 ("Securities Act")[15 U.S.C. §77q(a)(1), §77q(a)(2) and §77q(a)(3)], Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act")[15 U.S.C. §78j(b)], Rule 10b-5 promulgated thereunder [17 C.F.R. 240.10b-5]. ETJ Partners, aided and abetted by Jung, directly and indirectly, also engaged in, and unless enjoined, will continue to engage in acts practices or courses of business which constitute violations of Section 15(c)(1) of the Exchange Act [15 U.S.C. §78o(c)(1)] and Rule 15c1-2 thereunder [17 C.F.R. 240.15c1-2]. Jung, directly or indirectly, also engaged in transactions, practices and courses of business which are violations of Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 ("Advisers Act")[15 U.S.C. §§88b-6(1), 80b-6(2)].

3. The Commission brings this action to enjoin such transactions, acts, practices and courses of business and for other relief, pursuant to Sections 20(b) and 20(d) of the Securities Act [15 U.S.C. §77t(b) and §77t(d)], Section 21(d) and 21(e) of the Exchange Act [15 U.S.C. §78u(d)], and Sections 209(d) and 209(e) of the Advisers Act [15 U.S.C. §80b-9(d) and §80b-9(e)].

JURISDICTION

4. This Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act [15 U.S.C. §77v(a)], Section 27 of the Exchange Act [15 U.S.C. §78aa], and Section 214 of the Advisers Act [15 U.S.C. §80b-14].

5. Defendants, directly and indirectly, made use of the means and instrumentalities of interstate commerce and of the mails in connection with the acts, practices and courses of business alleged herein in the Northern District of Illinois and elsewhere.

6. Defendants will, unless enjoined, continue to engage in the acts, practices, and courses of business set forth in this complaint and acts, practices, and courses of business of similar purport and object.

THE DEFENDANTS

7. Jung, age 56, is a resident of Chicago, Illinois. Since about 1980, Jung has been a trader at the Chicago Board Options Exchange ("CBOE"). During the relevant period, Jung was the sole general partner and control person of ETJ Partners, a registered broker-dealer and market maker at the CBOE. From June 1994 until October 1998, Jung was also sole manager of the Fund, responsible for all of its investment decisions. During this time, Jung was not registered with the Commission as an investment adviser.

8. During the relevant period, ETJ Partners was an Illinois partnership and a broker-dealer registered with the Commission, which Jung was associated with, owned and controlled. ETJ Partners originally registered with the Commission as E. Thomas Jung Partners, Ltd., but Jung changed its name to ETJ Partners, Ltd. in 1995. ETJ Partners traded and acted as a market-maker on the CBOE.

BACKGROUND

9. The Fund is a Georgia limited liability company organized in July 1994 as an unregistered, private hedge fund whose securities were sold only to accredited investors. According to its private placement memorandum ("PPM"), the Fund's objective was to "achieve trading profits primarily through investing in stock options and their equivalents." As the Fund's sole manager, Jung was responsible for all of the Fund's investment decisions. According to the PPM, Jung was only permitted to use the investors' assets to conduct the Fund's business and to collateralize trading on behalf of the Fund.

10. Most of the investors in the Fund's signed a promissory note for the amount of their investment and then pledged securities to the Fund to secure their note. Some investors contributed cash. In total, the Fund had 60 investors who invested more than \$24.8 million in cash and securities. Jung arranged to have the investors' cash and securities placed into one of nine sub-accounts he opened in ETJ Partners' name at its clearing firm. Jung traded on behalf of the Fund in a second sub-account and conducted personal trading through ETJ Partners for his own benefit in the other sub-accounts.

THE FRAUDULENT SCHEME

False Performance Data

11. In July 1994, Jung was responsible for issuing a "performance supplement" which purported to represent more than four years of trading by "the Manager [Jung] and his Affiliate, ETJ Partners." The performance supplements were distributed to potential investors along with the PPM. The PPM stressed that Jung would be solely responsible for managing the Fund's investments and that the success of the Fund depended upon "the abilities of the Manager to trade securities." Jung reviewed and approved the trading record before its use in soliciting

investors. The performance supplement was then updated from time to time to add Jung's trading on behalf of the Fund.

12. These performance supplements materially overstated Jung's and ETJ Partners' trading history. Although purporting to represent the results of all of ETJ Partners trading, the supplements were actually based on the trading in only one of ETJ Partners' nine sub-accounts and left out the costs associated with that trading. Jung knew, or was reckless in not knowing, that the results for the entire firm, including expenses, were materially worse than the results shown in the performance supplement.

13. As an example, the performance supplement dated July 1994 claimed that ETJ Partners made a profit in each of the first six months of 1994. However, the records for the entire firm revealed trading losses in three of those six months and an overall loss of capital during that period of more than \$213,000, approximately 20% of the firm's capital.

14. Jung repeated these misrepresentations in the later, updated supplements, which also misrepresented Jung's performance when trading through ETJ Partners on behalf of the Fund. These later supplements disclosed only the results of the generally profitable trading of one sub-account (out of nine sub-accounts). Defendants failed to disclose Jung's substantial trading losses in the other sub-accounts and the ETJ Partners expenses paid out of the Fund's assets. These supplements also misrepresented to investors that Jung was using the Fund's assets to produce positive annual returns when, in fact, he was incurring massive losses.

15. As an example, the supplement dated February 6, 1998 reported (under the heading "Strategic Income Fund, L.L.C. and E. Thomas Jung Partners, Ltd. Trading Record") that Jung obtained an "annualized total return" of 20.50% for 1994, 10.33% for 1995, 9.62% for 1996 and 10.54% for 1997. In fact, Jung's trading through ETJ Partners lost approximately

11.30% for 1994 (\$207,000), 40.60% for 1995 (\$1.99 million), 73.96% for 1996 (\$7.68 million) and 19.68% for 1997 (\$4.03 million).

Jung's and ETJ Partners' Misrepresentations and Misappropriation

16. Jung represented to investors in the Fund's PPM that their investments would be used solely to conduct the Fund's business and to collateralize trading on behalf of the Fund. In reality, throughout virtually the entire offering, Jung and ETJ Partners misappropriated investor funds to finance Jung's personal trading and to pay for the expenses of his broker-dealer. To accomplish this, Jung deposited investor cash and securities into one of nine ETJ Partners sub-accounts. Jung set up all of these sub-accounts, including the Fund's, in the name of ETJ Partners so that all of the sub-accounts would be cross-margined with the others. Then, Jung used ETJ Partners' sub-accounts other than the Fund's to conduct personal margin trading for his own benefit, collateralized by the Fund's assets. In doing so, Jung subjected the Fund's assets to substantial, additional risk not disclosed in the PPM. Jung's personal trading steadily lost money, thereby ever increasing the risk of a margin call for the Fund's assets. However, Jung never disclosed this fact to investors.

17. In addition, beginning in January 1995 and continuing to September 1998, Jung used the Fund's assets to finance the expenses of his broker-dealer. During this period, ETJ Partners had no assets of its own. Thus, in order to finance ETJ Partners' operations, Jung wrote checks drawn on one of ETJ Partners' sub-accounts which were collateralized by the Fund's assets held in a different sub-account. Jung then deposited these checks into ETJ Partners' checking account and used the proceeds to pay ETJ Partners' bills. Jung never informed investors of these facts.

18. Jung's trading losses and the expenses of his broker-dealer accrued as a growing debt in ETJ Partners' sub-accounts, collateralized by the Fund's assets. Jung's trading losses and ETJ Partners' expenses resulted in substantial losses of investor capital in each year he managed the Fund. During the relevant period, these losses and expenses were never paid, continued to accrue and, as of September 1998, exceeded the value of the assets held in all of ETJ Partners' sub-accounts. As a result, ETJ Partners' clearing firm seized control of ETJ Partners' account, including the Fund's sub-account, and liquidated the assets to cover the accrued debt.

19. During the relevant period, Jung knew, or was reckless in not knowing, that without the ongoing misappropriation of the investors' assets, ETJ Partners would be out of business and he would be unable to continue trading. Nevertheless, Jung continued to conduct personal trading using investor assets in an attempt to "trade his way out" in an attempt to generate sufficient profits to return his broker-dealer to profitability.

False Quarterly Statements

20. Jung covered up the fact that he and ETJ Partners were misappropriating funds and encumbering the investors' assets as described above, and, in fact, actively misled investors about the value of their investments in order to lull them into a false sense of security. From October 1994 to July 1998, Jung disseminated quarterly statements that purportedly reflected each investor's "capital account." For those investors who had pledged securities to the Fund, their "capital account" always showed the current market value of those securities. These statements failed to reflect any reduction in the value of those capital accounts for the growing debt at ETJ Partners' clearing firm against which those securities were pledged.

21. As an example, at the end of 1996, ETJ Partners held securities worth slightly more than \$15 million and owed its clearing firm \$10.4 million. Nevertheless, the fourth quarter

statements Jung sent to investors valued the securities in each "capital account" at full market value. These statements failed to disclose that these securities were pledged to cover the debts of Jung and ETJ Partners. As a result, unbeknownst to investors, the account values shown on the statements were more than three times the actual value of the accounts when appropriately reduced for the amount of debt ETJ Partners owed to its clearing firm. Jung knew, or was reckless in not knowing, that the quarterly statements misrepresented to investors the value of their investments and omitted to state that their investments were pledged to his clearing firm to secure the growing debts arising from his own trading losses and ETJ Partners' expenses.

COUNT I

Violations of Section 17(a)(1), 17(a)(2) and 17(a)(3) of the Securities Act

22. Paragraphs 1 through 21 are realleged and incorporated by reference as though fully set forth herein.

23. From July of 1994 to at least August of 1998, Jung and ETJ Partners, in the offer or sale of securities, by the use of the means or instruments of transportation or communication in interstate commerce or by the use of the mails, directly or indirectly: employed devices, schemes, and artifices to defraud; obtained money or property by means of untrue statements of material facts and omissions to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or engaged in transactions, practices, or courses of business which would and did operate as a fraud or deceit upon the purchasers and prospective purchasers of such securities.

24. Jung and ETJ Partners knew or were reckless in not knowing of the activities described in paragraphs 22 and 23 above.

25. By reason of the activities described in paragraphs 22 through 24 above, Jung and ETJ Partners violated Section 17(a)(1), 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C. §77q(a)(1), §77q(a)(2) and §77q(a)(3)].

COUNT II

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

26. Paragraphs 1 through 21 are realleged and incorporated by reference as though fully set forth herein.

27. During the relevant period, Jung and ETJ Partners, in connection with the purchase and sale of securities, by the use of means or instrumentalities of interstate commerce, or of the mails, directly or indirectly: employed devices, schemes, or artifices to defraud; made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or engaged in acts, practices or courses of business which would and did operate as a fraud or deceit upon the purchasers and sellers of such securities as more fully discussed in paragraphs 11 through 21 above.

28. Jung and ETJ Partners knew or were reckless in not knowing of the activities described in paragraphs 26 and 27 above.

29. By reason of the activities described in paragraphs 26 through 28 above, Jung and ETJ Partners violated Section 10(b) of the Exchange Act [15 U.S.C. §78j(b)], Rule 10b-5 promulgated thereunder [17 C.F.R. 240.10b-5].

COUNT III

Violations of Section 15(c)(1) of the Exchange Act and Rule 15c1-2 Thereunder

30. Paragraphs 1 through 21 are realleged and incorporated by reference as though fully set forth herein.

31. From January 1995 to September 1998, while acting as a broker or a dealer, ETJ Partners, aided and abetted by Jung, by the use of the mails or means or instrumentalities of interstate commerce, effected transactions in, and attempted to induce the purchase and sale of securities, by means of acts, practices or courses of business which would and did operate as a fraud or deceit upon the purchasers and sellers of such securities, made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, with knowledge or reasonable grounds to believe that such statements were untrue or misleading.

32. Jung and ETJ Partners knew or were reckless in not knowing of the activities described in paragraphs 30 and 31 above.

33. By reason of the activities described in paragraphs 30 through 32 above, ETJ Partners, aided and abetted by Jung, violated Section 15(c)(1) of the Exchange Act [15 U.S.C. §78o(c)(1)] and Rule 15c1-2 thereunder [17 C.F.R. 240.15c1-2].

COUNT IV

Violations of Sections 206(1) and 206(2) of the Advisers Act.

34. Paragraphs 1 through 21 are realleged and incorporated by reference as though fully set forth herein.

35. During the relevant period, while acting as an investment adviser, Jung, by use of the mails or the means or instrumentalities of interstate commerce, directly or indirectly:

employed devices, schemes or artifices to defraud clients and prospective clients; or engaged in transactions, practices, and courses of business which operated as a fraud or deceit upon clients and prospective clients.

36. Jung knew or was reckless in not knowing of the activities described in paragraphs 34 and 35 above.

37. By reason of the activities described in paragraphs 34 through 36 above, Jung violated Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §80b-6(1) and (2)].

WHEREFORE, the Commission requests that the Court:

I.

Find that defendants Jung and ETJ Partners committed the violations charged and alleged herein.

II.

Issue a Final Judgment of Permanent Injunction And Other Relief Against Edward Thomas Jung and ETJ Partners, Ltd. ("Final Judgment"), in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure, permanently restraining and enjoining defendants Jung and ETJ Partners, and their officers, agents, servants, employees and attorneys, and those persons in active concert or participation with any of the foregoing who receive actual notice of the Final Judgment, by personal service or otherwise, and each of them, from directly or indirectly, engaging in the transactions, acts, practices or courses of business described above, or in conduct of similar purport and object, in violation of Sections 17(a)(1), 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C. §77q(a)(1), §77q(a)(2) and §77q(a)(3)], Section 10(b) of the Exchange Act [15 U.S.C. §78j(b)], Rule 10b-5 promulgated thereunder [17 C.F.R. 240.10b-5], Section 15(c)(1) of the Exchange Act [15 U.S.C. §78o(c)(1)], Rule 15c1-2 thereunder [17 C.F.R.

240.15c1-2], and Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 ("Advisers Act") [15 U.S.C. §§88b-6(1), 80b-6(2)].

III.

Issue an order imposing upon defendants Jung and ETJ Partners appropriate civil penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. §77t(d)], Section 20(d)(3) of the Exchange Act [15 U.S.C. §78u(d)(3)] and Section 209(e) of the Advisers Act [15 U.S.C. §80b-9(e)].

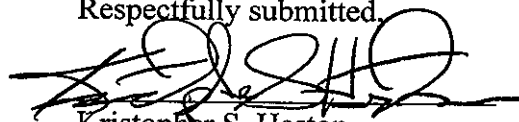
IV.

Retain jurisdiction of this action in accordance with the principals of equity and the Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders and decrees that may be entered or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

V.

Grant orders for such further relief as the Court deems appropriate.

Respectfully submitted,



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