

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF VIRGINIA**

SECURITIES AND EXCHANGE COMMISSION,)	
)	
	Plaintiff,)
v.)	
)	
JOHN M. DONNELLY, TOWER ANALYSIS, INC.,)	
NASCO TANG CORP., AND NADIA CAPITAL)	
CORP.,)	
)	
	Defendants, and)
)	Civil Action No. 3:09CV0015
)	
BLUE LOGIC OPERATING)	
PARTNERS LP, NADIA CAPITAL OPERATING)	
PARTNERS LP, DEBORAH B. DONNELLY,)	
SAMUEL P. FLEMING, AND)	
FLEMING-AOD, INC.,)	
)	
	Relief Defendants.)
)	

AMENDED COMPLAINT

Plaintiff Securities and Exchange Commission (“Commission” or “SEC”) alleges as follows:

SUMMARY OF ALLEGATIONS

1. The Commission files this emergency action to halt an ongoing fraud by defendants John M. Donnelly (“Donnelly”), Tower Analysis, Inc. (“Tower Analysis”), Nasco Tang Corp. (“Nasco Tang”) and Nadia Capital Corp. (“Nadia Capital”) (collectively, “Defendants”).

2. Since 1998, Defendant Donnelly has engaged in a Ponzi scheme to defraud investors by paying returns to certain investors out of principal received from other investors. Defendant Donnelly orchestrated the scheme through entities that he controlled, including Defendants Tower Analysis, Nasco Tang and Nadia Capital. Donnelly controls each of these

entities, while Nasco Tang in turn controls relief defendant Blue Logic Operating Partners LP (“Blue Logic”) and Nadia Capital controls relief defendant Nadia Capital Operating Partners LP (“Nadia Capital Partners”).

3. During the relevant time period, Defendant Donnelly represented to investors that he would pool their funds to trade in, among other things, stock and bond index derivatives, and claimed to generate annual investment returns of as much as 22%. In fact, Donnelly has done almost no trading, instead distributing money to investors from the principal of other investors. In order to maintain the fraudulent scheme, Donnelly sent monthly statements to investors showing fictitious returns and sent annual tax forms to investors, causing them to pay income taxes on these fictitious returns.

4. Donnelly recently has admitted to an investor that (1) he did not have the investor’s money; (2) account statements he had sent to the investor from March 2002 through February 2009 were fictitious; (3) he never actually executed any trades on the investor’s behalf; and (4) he had used the investor’s funds to make distributions to other investors.

5. Donnelly received at least \$11.2 million from approximately 31 investors during the course of the scheme. Although investors withdrew some money during the relevant period, the remaining investor funds appear to have been dissipated by Donnelly and the other Defendants. During the last three years, Donnelly paid himself approximately \$1 million in salary and fees from investor funds.

6. Donnelly is currently in the process of raising additional funds from new investors based on fictitious returns previously reported to defrauded investors. Unless temporarily restrained and preliminarily enjoined, Donnelly and the other Defendants will continue to violate the antifraud provisions of the federal securities laws and attempt to hide and dissipate assets.

7. By virtue of their conduct, Defendants have violated and, unless restrained and enjoined, will continue to violate, 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”) and Rule 10b-5 thereunder [15 U.S.C. § 78j(b); 17 C.F.R. § 240.10b-5].

8. Likewise, relief defendants Blue Logic, Nadia Capital Partners, and Deborah B. Donnelly (collectively “Original Relief Defendants”), must be temporarily restrained and preliminarily enjoined, to ensure that Donnelly does not disperse or otherwise hide assets held in the name of the relief defendants that were procured through Donnelly’s fraudulent scheme.

DEFENDANTS

9. **John M. Donnelly**, age 52, resides in Charlottesville, Virginia. Donnelly is President and sole owner of Defendants Tower Analysis, Nasco Tang, and Nadia Capital. Donnelly does not appear to have any professional experience in trading securities or managing an investment fund, nor has he ever been associated with a registered investment adviser or broker-dealer.

10. **Tower Analysis** was incorporated in 1995 in Virginia, and its offices are located in Charlottesville, Virginia. Tower Analysis is wholly owned and controlled by Donnelly. Beginning in 1998, Donnelly solicited investors for an investment fund called the **Tower** fund. Tower Analysis has acted as the general partner for the Tower fund investment partnership, although the limited partnership was never formalized and no limited partnership agreement was executed among the partners. Tower Analysis is not registered as an investment adviser or otherwise registered with the Commission in any capacity, and the Tower fund’s securities are not traded on any exchange or registered with the Commission.

11. **Nasco Tang** was incorporated in 2004 in Virginia, and its offices are located in Charlottesville, Virginia. Nasco Tang is wholly owned and controlled by Donnelly. Nasco Tang is the general partner of Relief Defendant **Blue Logic** limited partnership. Nasco Tang is not registered as an investment adviser or otherwise registered with the Commission in any capacity.

12. **Nadia Capital** was incorporated in 2008 in Virginia and operates out of Charlottesville, Virginia. Nadia Capital is wholly owned and controlled by Donnelly. Nadia Capital is the general partner of Relief Defendant **Nadia Capital Partners**. Nadia Capital is not registered as an investment adviser or otherwise registered with the Commission in any capacity.

RELIEF DEFENDANTS

13. Relief Defendant **Blue Logic** is a Virginia limited partnership operating out of Charlottesville, Virginia. Beginning in 2005, Donnelly solicited investors for the **Blue Logic** investment fund. Blue Logic's securities are not traded on any exchange or registered with the Commission.

14. Relief Defendant **Nadia Capital Partners** is a Virginia limited partnership operating out of Charlottesville, Virginia. Since sometime in late 2008, Donnelly has been soliciting investors for the **Nadia Capital Partners** investment fund. Nadia Capital Partners' securities are not traded on any exchange or registered with the Commission.

15. Relief Defendant **Deborah B. Donnelly**, age 52, resides in Charlottesville, Virginia, and is the wife of Defendant **John Donnelly**. The Donnellys jointly own a residence and real property near Charlottesville, both of which were purchased since the inception of Donnelly's fraudulent scheme. On at least one occasion, funds were wired from a joint bank account in the name of John and Deborah Donnelly to a Tower fund investor to satisfy a withdrawal request.

16. Relief Defendant **Samuel P. Fleming**, age 43, resides in Silver Spring, Maryland. Fleming was an investor in Tower Analysis and later, Blue Logic. Fleming is the President and sole owner of Fleming-AOD, Inc.

17. Relief Defendant **Fleming-AOD, Inc.** ("Fleming-AOD") is a District of Columbia corporation operating out of Silver Spring, Maryland. Fleming-AOD was an investor in Tower Analysis and later, Blue Logic. Fleming-AOD also provided certain administrative and computer services to Defendants Donnelly and Nasco Tang.

JURISDICTION AND VENUE

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

19. Venue is proper in the Western District of Virginia because Defendant Donnelly resides in the district, operates the entity defendants within the district and uses at least one address within the district for receipt of investor funds. In addition, many of the acts and transactions constituting violations of the Securities Act and Exchange Act occurred within the district.

20. Defendants, directly and indirectly, made use of the means and instrumentalities of interstate commerce, the means or instruments of transportation or communication in interstate commerce, and/or the mails, in connection with the acts, practices and courses of business set forth in this Complaint.

FACTUAL ALLEGATIONS

21. In 1998, Donnelly approached Fleming and other individuals in Donnelly's social circle to solicit investments of \$5,000 to \$10,000 for an investment fund called the Tower fund.

Donnelly raised approximately \$100,000 from these investors. Donnelly informed his investors that he had developed complex securities market trading strategies and would be investing their funds in accordance with these strategies. Donnelly managed the Tower fund through Tower Analysis, a Virginia corporation he controlled. Donnelly operated the Tower fund as a partnership, but did not formalize this arrangement through a formal limited partnership agreement.

22. From 1998 through May 2005, Donnelly continued to solicit additional funds and investors for the Tower fund. In February 2002, Investor B began investing money in the Tower fund after learning about it from Fleming. Donnelly informed Investor B that the Tower fund was a safe investment because Donnelly did not buy and hold stocks or bonds, but instead studied the markets to identify opportunities to take short term positions that would result in small profits. Donnelly further assured Investor B that his investment would be safe by telling him that at the time he made a trade, Donnelly pre-programmed a “floor” and “ceiling” price at which he would automatically exit the position. Donnelly also told Investor B that he liquidated all of his daily trading positions to cash at the end of every trading day, thereby further reducing risk. Investor B invested his personal assets, as well as assets of his business enterprise, in the Tower fund. Donnelly provided Investor B with monthly statements that showed daily fluctuations in the value of his investments, but did not identify any specific securities purportedly traded by Donnelly.

23. In May 2005, Donnelly notified Tower fund investors, but not Investor B, that he was creating Blue Logic, a limited partnership whose general partner would be Nasco Tang, a Virginia corporation he controlled. In letters sent by Donnelly to investors in 2005 and 2006, he said that he would operate the Blue Logic partnership using the same investment strategy and on

the same terms as the Tower fund. The Blue Logic partnership agreement stated that it was an offering of unregistered securities. It also stated that 60% of earnings and losses would be allocated to the general partner (Nasco Tang), with 40% of earnings and losses going to the limited partners (the investors). The partnership agreement further stated that Blue Logic would engage “in the high risk endeavor of trading stock and bond index derivatives.”

24. Donnelly does not appear to have opened a new brokerage account in the name of Blue Logic or Nasco Tang. Instead, he continued to maintain brokerage accounts only in the name of Tower Analysis.

25. Between May 2005 and December 2006, approximately 30 Tower fund investors transferred their account balances into Blue Logic. As of December 2008, the total amount that Blue Logic investors were led to believe was in their accounts was approximately \$3 million, based upon the account balances that Donnelly reported to investors.

26. Investor B, apparently the largest investor in the Tower fund, was not offered the opportunity to invest in Blue Logic, and his investments remained in the Tower fund. During the period from February 2002 to present, Investor B deposited approximately \$11.2 million into his Tower fund accounts and withdrew approximately \$7.6 million from those accounts. Throughout this period, he received monthly statements from Tower Analysis. These statements showed changes in the value of Investor B’s accounts, including changes on each day that Donnelly purportedly traded, but did not show the actual securities that Donnelly traded. The end of year statements sent to Investor B showed the following annual returns that Donnelly purportedly generated in the Tower fund:

2002	22.482%
2003	[Account Statement is currently unavailable]
2004	19.063%

2005	18.524%
2006	19.908%
2007	14.653%
2008	12.630%

27. The January 1, 2009 statements sent to Investor B by Donnelly showed a balance of over \$2.3 million in the Tower fund account held in the name of his business enterprise and over \$6.3 million in his personal Tower fund account.

28. In September 2008, Donnelly created Nadia Capital, a Virginia corporation under his control, to serve as the general partner of Nadia Capital Partners, a new limited investment partnership. Donnelly's marketing materials state that Nadia Capital Partners will engage in derivative trading of U.S. Treasury bonds and notes, the S&P 500, and the NASDAQ 100. The materials also state that, "using his background in astrophysics, Donnelly developed a proprietary model of financial markets using algorithms derived from the quantification of a fractal wave frequency model which he named Blue Logic. The combination of this trading technique in tandem with disciplined risk management can, and has, resulted in substantial earning opportunities for clients since 1998." The materials further state that Nadia Capital and Blue Logic achieved an average annual return of over 19% for the period of 2002 through September 2008. The partnership agreement for Nadia Capital Partners is materially identical to that which Donnelly used for Blue Logic. Donnelly also is offering new investors promissory notes, on which Nadia Capital would offer to pay 12.5% interest for five years on loans of \$100,000 or more.

29. In late January 2009, Investor B became concerned about the funds he had invested with the Tower fund after seeing media reports regarding various financial frauds, and telephoned Donnelly to request that Donnelly cash out his investments. During a series of

conversations in late January and early February 2009, Donnelly confessed to Investor B that (1) he did not have Investor B's money; (2) that all of the statements he had sent to Investor B from March 2002 through February 2009 were fictitious; and (3) that Donnelly never actually executed any trades for the Tower fund.

30. Donnelly also told Investor B that with help from a new investor, Investor C, Donnelly would begin to execute trades using a pool of money recently solicited from wealthy investors for Nadia Capital Partners. Donnelly told Investor B that Nadia Capital Partners would begin trading by the end of February 2009, generating returns of 200%, which would enable Donnelly to repay Investor B by the end of March 2009. Donnelly also informed Investor B that he currently had a trading account in the name of Nadia Capital that contained \$1 million in funds, and that Investor C, who purportedly had agreed to work with Donnelly, was soliciting additional investors by showing them the statements of profits generated by Tower Analysis.

31. On February 9, 2009, Donnelly again admitted to Investor B that he never actually made any trades, and admitted that he had used funds paid into Tower Analysis by Investor B to make distributions to other investors based upon their purported trading gains. During this call, Donnelly also promised to repay Investor B from profits generated by trades he would be making on behalf of new investors.

32. Statements for brokerage accounts in the name of Tower Analysis and Nadia Capital for the period of June 2001 through February 20, 2009 reflect no securities trading in these accounts during that entire period, with the exception of a small number of trades executed during 2002. The absence of almost any trading in these accounts corroborates Donnelly's admission to Investor B that he did not engage in securities trading, that the purported gains

shown on monthly statements sent to Investor B were fictitious, and that Donnelly's purported record of generating average annual returns of 19% is false.

33. Two brokerage accounts in the name of Tower Analysis were closed on November 4, 2008, and the approximately \$200,000 remaining in those accounts was wired to a bank account in the name of Tower Analysis controlled by Donnelly. On November 12, 2008, \$190,000 was wired from a bank account in the name of Nadia Capital controlled by Donnelly to a new brokerage account in the name of Nadia Capital controlled by Donnelly. On February 20, 2009, another \$190,000 was wired into the new brokerage account in Nadia Capital's name from the bank account in Nadia Capital's name. On March 4, \$153,000 was wired from this brokerage account into a bank account in the name of Nadia Capital. The Nadia Capital brokerage account currently holds approximately \$192,000.

34. During the period from December 2005 through December 2008, Donnelly paid himself over \$1 million in fees and salary from Nasco Tang.

35. Donnelly caused false Form 1099s and Form 1065 Schedule Ks to be distributed to investors in the Tower fund and Blue Logic, resulting in these investors paying income taxes on fictitious investment returns.

36. From 1998 to 2009, Fleming and Fleming-AOD (collectively "Fleming Relief Defendants") made deposits totaling \$3,267,909 into two investment accounts that they held with Donnelly. During that same time period, Fleming Relief Defendants made withdrawals totaling \$3,841,526 from the two investment accounts. In addition, from 2005 to 2009, Fleming-AOD received monthly fees for providing administrative and computer services to Donnelly and Nasco Tang.

37. Certain withdrawals and fees that Fleming Relief Defendants received from Donnelly were paid with money that Donnelly received from other investors in the scheme.

38. In March 2009, this Court entered a temporary restraining order freezing the assets of the Defendants and the Original Relief Defendants and providing for other emergency relief. That same month, this Court entered a preliminary injunction, extending the previously-ordered asset freeze and enjoining the Defendants from violating Section 17(a) of the Securities Act, and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

39. In June 2009, this Court issued a permanent injunction, enjoining the Defendants from violating Section 17(a) of the Securities Act, and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

COUNT I

Violations of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)]

40. Paragraphs 1 through 39 are hereby realleged and incorporated by reference.

41. Defendants, by engaging in the conduct described above, directly or indirectly, by use of the means or instruments of transportation or communication in interstate commerce or by use of the mails, in the offer or sale of securities:

- (a) employed devices, schemes or artifices to defraud;
- (b) 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
- (c) engaged in transactions, practices, or courses of business which operated or would have operated as a fraud or deceit upon the purchasers.

42. By reason of the foregoing, Defendants, directly or indirectly, violated and, unless restrained and enjoined, will continue to violate Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

COUNT II

**Violations of Section 10(b) of the Exchange Act
And Rule 10b-5
[15 U.S.C. § 78j(b); 17 C.F.R. § 240.10b-5]**

43. Paragraphs 1 through 42 are hereby realleged and incorporated by reference.

44. Defendants, by engaging in the conduct described above, directly or indirectly, by use of the means or instruments of transportation or communication in interstate commerce, or by use of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of securities:

- (a) employed devices, schemes or artifices to defraud;
- (b) made untrue statements of material facts or 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
- (c) engaged in acts, practices, or courses of business which operated or would have operated as a fraud or deceit upon the purchasers.

45. By the reason of the foregoing, Defendants, directly or indirectly, violated, and unless restrained and enjoined will continue to violate, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder [15 U.S.C. § 78j(b); 17 C.F.R. § 240.10b-5].

COUNT III

**Claim as to Relief Defendants
Samuel P. Fleming and Fleming-AOD, Inc.
[15 U.S.C. § 78u(d)(5)]**

46. Paragraphs 1 through 45 are hereby realleged and incorporated by reference.
47. Fleming Relief Defendants received funds from Defendants which are the proceeds, or are traceable to the proceeds, of the Defendants' fraudulent conduct alleged above.
48. Certain funds that Fleming Relief Defendants received from the Defendants constitute profits gained by the Defendants as a result of their fraudulent conduct alleged above.
49. Fleming Relief Defendants do not have an ownership interest in certain of the funds that they received from the Defendants.
50. The Commission is entitled to an order, pursuant to common law equitable principles and Section 21(d)(5) of the Exchange Act [15 U.S.C. § 78u(d)(5)], requiring Fleming Relief Defendants to disgorge certain funds, in which they have no ownership interest, that were derived from profits gained by Defendants as a result of the Defendants' fraudulent conduct alleged above.

RELIEF REQUESTED

Plaintiff Securities and Exchange Commission respectfully requests that the Court:

- i. Order Defendants to disgorge an amount equal to the funds and benefits they obtained illegally as a result of the violations alleged herein, plus prejudgment interest on that amount;
- ii. Order Defendants to pay civil money penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], and Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)];
- iii. Order Original Relief Defendants and Fleming Relief Defendants to disgorge funds they hold or control, in which they have no ownership interest, that were derived from profits gained by Defendants as a result of the fraudulent conduct alleged above, plus prejudgment interest thereon; and,

iv. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted this 24th day of May, 2010,

/s/John J. Bowers
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