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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

ROBERT J. SUCARATO

d/b/a/ NEW YORK FINANCIAL COMPANY,

Defendant.

COMPLAINT

Plaintiff Securities and Exchange Commission (the "Commission"), 701 Market Street, Philadelphia, Pennsylvania, 19106, alleges as follows against defendant Robert J. Sucarato ("Sucarato"), whose last known address is One Richmond Street, Apartment 1090, New Brunswick, New Jersey, 08901:

SUMMARY

1. This case involves a fraudulent scheme involving the offer and sale of hedge fund investments by Sucarato, an investment adviser, doing business as New York Financial Company ("NYFC"). From at least February 2005 through July 2007, Sucarato raised at least \$1,728,954 from several investors. Sucarato, holding himself out as

President of NYFC, offered investments in two hedge funds purportedly managed by NYFC, the Strategic Fund and the Diversified Strategic Fund (collectively the “Funds”). To perpetrate his fraudulent scheme, Sucarato made numerous false and misleading representations to both potential and current clients, including statements regarding the financial health of NYFC, the “historical” rates of return for the funds, how and where the investors’ principal investments would be held, and NYFC’s status as a registered investment adviser.

2. Instead of investing the approximately \$1.7 million of client funds, Sucarato misappropriated approximately \$494,000 for his own personal use and purposes. Sucarato further lost client funds by making risky investments in commodity options and securities. Despite having never invested the funds or losing the funds that were invested, Sucarato provided false quarterly account statements to clients in which he showed extremely successful hedge funds and claimed huge returns on the investors’ individual investments.

3. By knowingly or recklessly engaging in the conduct described in this Complaint, Defendant Sucarato violated, and unless restrained and enjoined will continue to violate, Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. §§ 77e(a), e(c), and q(a)], 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, Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 (“Advisers Act”) [15 U.S.C. §§80b-6(1), (2)], and Section 7(a) of the Investment Company Act of 1940 (“Investment Company Act”) [15 U.S.C. § 80a-7(a)].

JURISDICTION AND VENUE

4. The Commission brings this action pursuant to Sections 20(b) and 20(d) of the Securities Act [15 U.S.C. § 77t(b), 77t(d)], Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)], Section 209(d) and (e) of the Advisers Act [15 U.S.C. § 80b-9(d)], and Section 42(d) and (e) of the Investment Company Act [15 U.S.C. § 80a-41] to enjoin such transactions, acts, practices, and courses of business, and to obtain disgorgement, prejudgment interest, civil money penalties and such other and further relief as the Court may deem just and appropriate.

5. This Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act [15 U.S.C. §§ 77t(b) and 77v(a)], Sections 21(d), 21(e) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), 78u-1 and 78aa], Section 214 of the Advisers Act [15 U.S.C. §§ 80b-9(d), 80b-14], and Section 44 of the Investment Company Act [15 U.S.C. § 80a-43].

6. Venue in this district is proper under Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)], Section 27 of the Exchange Act [15 U.S.C. § 78aa], Section 214 of the Advisers Act [15 U.S.C. § 80b-14], and Section 44 of the Investment Company Act [15 U.S.C. § 80a-43]. Certain of the transactions, acts, practices, and courses of business constituting the violations alleged herein occurred within the District of New Jersey and elsewhere, and were effected, directly or indirectly, by making use of the means or instruments or instrumentalities of transportation or communication in interstate commerce, or of the mails, or the facilities of a national securities exchange.

DEFENDANT AND RELEVANT ENTITY

7. Robert J. Sucarato, age 40, has a last known place of residence in New

Brunswick, New Jersey, and is the owner and operator of NYFC, based in New York, New York. Sucarato has never been registered with the Commission in any capacity. From June 1994 to May 1995, Sucarato was employed as a registered representative (stock broker) at a Financial Industry Regulatory Authority ("FINRA") member firm. In 1997, Sucarato was subject to a disciplinary hearing by FINRA, fined \$20,000 and barred from association with any FINRA member in any capacity.

8. New York Financial Company, headquartered in New York, New York, is a sole proprietorship owned and operated by Sucarato and purports to be a financial consulting and management firm that was founded by Sucarato in 1993. NYFC has never been registered with the Commission in any capacity. At all times relevant to the facts alleged in this Complaint, Sucarato had complete control over the operations of NYFC and made all the decisions with respect to investor funds.

FACTS

SUCARATO SOLICITED INVESTORS TO INVEST IN THE HEDGE FUNDS BY MAKING MATERIAL MISREPRESENTATIONS AND OMISSIONS

9. From approximately February 8, 2005, to July 9, 2007, Sucarato offered investments in the Funds to residents of New Jersey, New York and California. Sucarato never filed a registration statement describing the securities with Commission.

10. In connection with this offering, Sucarato created an Offering Memorandum that he provided to prospective investors, which described NYFC and the Funds. According to the Offering Memorandum, the Funds were designed to achieve above-average, long-term capital growth by investing in equities, bonds, and derivatives. The Diversified Strategic Fund, however, was purportedly designed to achieve growth with less risk than the Strategic Fund.

11. According to the Offering Memorandum, a qualified “Accredited Investor” could invest a minimum of \$250,000 into the funds, although subscriptions for lesser amounts were available at the discretion of Sucarato. Investments into the funds would be made by purchasing Units of the funds, with the number of Units purchased dependent on the amount of investment.

12. The Offering Memorandum provided that NYFC was entitled to a Management Fee of 1.5% of the net asset value (“NAV”) of each fund per year, calculated and payable weekly, and a Performance Fee of 20% of the increase in the NAV of the Funds, payable on a semi-annual basis.

13. In the Offering Memorandum, Sucarato claimed that NYFC was registered as an investment adviser and portfolio manager. In fact, NYFC was never registered with the Commission or any other regulator, in any capacity.

14. In addition, Sucarato stated that he graduated *magna cum laude* from New York University with a Bachelor’s Degree in Finance and Economics. In fact, New York University has no record of Sucarato ever having enrolled in any of its classes or programs.

15. Sucarato also identified three individuals in the Offering Memorandum as officers and directors of NYFC, with each purporting to have impressive credentials. Sucarato claimed that the Vice President of Trading held advanced degrees from an Ivy League academic institution and was formerly the head equity trader at a highly-regarded broker-dealer. Sucarato claimed that the President of Financial Management Consulting was the manager of the investment banking division at a major investment banking firm, and held a Masters of Business Administration degree. The Director of the

Administration Department, according to Sucarato, was a fifteen-year veteran in the financial administration field, and worked at another reputable financial institution before joining NYFC. Upon information and belief, none of the individuals were affiliated with NYFC. Instead, upon information and belief, Sucarato used their names and created embellished biographies in order to create an illusion of stability, longevity, and expertise.

16. In connection with the offering, Sucarato also created and distributed a document to current and potential clients, in which he made misrepresentations regarding the alleged “historical” rates of return for the funds (“Comparison Chart”). In this document, Sucarato claimed that the total net return for the NYFC Strategic Fund for years 1996 to 2005 ranged from 26.5% to 48.2%. He further claimed that the Strategic Fund outperformed the S&P 500 fund each year, and that it had a 10-year compounded return of over 1800%, as compared to a return of 102.7% for the S&P 500.

17. Sucarato also created and maintained a sophisticated website, where he advertised NYFC’s investment advisory services and solicited investments in the Funds. Sucarato directed potential clients to the website to learn more information about Sucarato, NYFC, and the Funds. On the website, Sucarato claimed that he had over \$7.2 billion under management and that over twenty experienced traders and additional support staff worked for NYFC. Neither of these statements was true. At all times relevant to the facts alleged in this Complaint, Sucarato was the only individual associated with NYFC.

18. Sucarato further claimed on his website to have branch offices of NYFC in New York and Chicago. In reality, the New York and Chicago offices were “virtual”

offices that provided Sucarato with little more than prestigious sounding mailing addresses, telephone services, shared receptionists, and shared conference rooms.

19. Sucarato also provided current and potential clients with a forged audit report of NYFC from a major accounting firm for the years 2004 and 2005 ("Audit Report"). The Audit Report claimed that NYFC had assets totaling \$646,252,333 in 2004 and \$800,170,760 in 2005. The Audit Report, however, was completely fictitious. The accounting firm never performed any services for NYFC or Sucarato. Moreover, NYFC never had assets totaling anywhere near \$646,252,333. Upon information and belief, Sucarato created the Audit Report to persuade potential investors to invest in the Funds and to reassure current investors of the security of their investments.

20. Based on these misrepresentations, at least four individuals invested approximately \$1.7 million in the NYFC funds from at least February 8, 2005, to July 9, 2007. The clients either wired funds into bank accounts held in the name of NYFC for the purpose of investing in the NYFC funds or sent funds to NYFC in the form of a check, which Sucarato deposited into a bank account held in the name of NYFC.

A. Clients A and B

21. Clients A and B are residents of New Jersey. Clients A and B met Sucarato at a yacht club in New Jersey during the summer of 2005. Sucarato provided Clients A and B with the Offering Memorandum, Comparison Chart, and Audit Report, and directed Clients A and B to review his website. On at least one occasion, Clients A and B traveled to New York to meet with Sucarato in NYFC's New York City offices. Clients A and B invested \$450,000 with Sucarato in February of 2006.

B. Client C

22. Client C is a resident of California, who was introduced to Sucarato by Clients A and B. Prior to his investment, Sucarato provided Client C with the Audit Report, Comparison Chart, and Offering Memorandum. Client C met with Sucarato in California and in Washington. Client C invested \$600,000 with Sucarato in October of 2006.

C. Client D

23. Client D is a resident of New Jersey, who was introduced to Sucarato by Clients A and B, and Client C. Prior to making any investments in the Funds, Sucarato provided Client D with the Audit Report, Comparison Chart, and Offering Memorandum. Client D invested approximately \$210,000 with Sucarato in December of 2006.

SUCARATO FRAUDENTLY MISREPRESENTED CLIENT ACCOUNT VALUES AND FABRICATED CLIENT ACCOUNT STATEMENTS

24. In furtherance of the scheme, Sucarato provided his clients with false quarterly account statements detailing the supposed performance of the investments and of the Funds in general.

25. Sucarato provided Clients A and B with an account statement for the quarter ending March 31, 2006, that claimed that the investor's original \$450,000 investment made on February 8, 2006, had grown to \$477,749 -- or by 6% -- within approximately seven weeks. At the end of the next quarter, Sucarato provided Clients A and B with another quarterly account statement for the quarter ending June 30, 2006. This account statement stated that Clients A and B's original \$450,000 investment made on February 8, 2006, had grown to \$532,543 -- or by 18% -- by June 30, 2006. Sucarato provided Clients A and B with another account statement for the quarter ending

September 30, 2006, in which he claimed that the investment had grown to \$598,045 -- or by 33% -- by September 30, 2006. Finally, Sucarato provided Clients A and B with another quarterly account statement which claimed that the investment had grown to \$676,389 -- or 50% -- by December 31, 2006.

26. Similarly, Sucarato provided a quarterly account statement to Client C for the period ending December 31, 2006. This account statement that the investor's original \$600,000 investment made on October 10, 2006, had grown to \$673,214, or 12%, within almost three months.

27. Sucarato also included in his quarterly account statements specific trades he purportedly executed on behalf of the Funds. In Client A and B's, and Client C's quarterly account statement for the quarter ending December 31, 2006, Sucarato identified at least fifty companies in which he claimed to have purchased securities on behalf of the Strategic Fund during that quarter. In that same statement, Sucarato reported realized gains from his alleged trading that exceeded \$500 million. Upon information and belief, Sucarato never purchased the securities described in the December 31, 2006 statement, and never realized any gains on the client funds he did invest.

28. Sucarato also provided a purported balance sheet of the Strategic Fund in each of the quarterly account statements, which contained false information regarding the assets and liabilities of the fund. In Client A and B's, and Client C's same quarterly account statement for the quarter ending December 31, 2006, Sucarato falsely claimed the Strategic Fund had total assets of almost \$5 billion. Upon information and belief, the

total balance Sucarato maintained in his personal brokerage accounts at this time was approximately \$110,000.

**SUCARATO DID NOT INVEST CLIENT
FUNDS AS HE HAD REPRESENTED HE WOULD**

29. From at least February 8, 2005, to July 9, 2007, several individuals invested approximately \$1.7 million in the Funds. Rather than investing all of the monies as described in the Offering Memorandum, Sucarato used a portion of the money for a variety of personal expenses. Upon information and belief, he spent approximately \$10,000 on sporting events, approximately \$6,000 at an independent living facility for seniors in Boca Raton, Florida for his mother, thousands of dollars on a BMW automobile, and he withdrew approximately \$78,000 in cash for his personal use.

30. In addition, Sucarato deposited the remainder of the funds into personal brokerage accounts held in his own name. Sucarato lost these funds by trading in securities and commodity options. Contrary to his claims to his clients, Sucarato consistently experienced net trading losses, which totaled approximately \$850,000.

31. On February 6, 2006, Clients A and B wired \$450,000 into a bank account held in the name of NYFC ("NYFC Account") for purposes of investing in the NYFC Funds. The balance of the NYFC Account prior to this wire transfer was approximately \$6.00. Rather than investing the funds as promised, Sucarato transferred \$55,000 from the NYFC account into a personal checking account held in Sucarato's name on the same day. The next day, on February 7, 2006, Sucarato wired \$45,000 from his personal checking account into a brokerage account held in his own name ("Brokerage Account A"), all of which Sucarato eventually lost as a result of his trading. By February 28,

2006, the closing balance of Brokerage Account A was approximately \$32,000. By March 31, 2006, the closing balance of Brokerage Account A was approximately \$3,000.

32. On October 10, 2006, Client C wired \$600,000 into the NYFC Account for purposes of investing in the NYFC Funds. The balance of the NYFC Account prior to this wire transfer was approximately \$150. Approximately two weeks later, on October 27, 2006, Sucarato transferred \$455,000 to open another personal checking account held in Sucarato's name. That same day, Sucarato transferred \$450,000 to another brokerage account held in his own name ("Brokerage Account B").

33. On December 15, 2006, Client D issued a check to NYFC in the amount of approximately \$210,000 for the purpose of investing in the NYFC Funds. Sucarato deposited the check into the NYFC account on December 22, 2006. That same day, Sucarato transferred \$50,000 into his personal checking account and on December 28, 2006, Sucarato transferred another \$180,000 into his personal checking account. On December 29, 2006, Sucarato wired \$50,000 into Brokerage Account B.

34. Sucarato lost all of Client C and Client D's money that was transferred into Brokerage Account B. By December 31, 2006, the closing balance of Brokerage Account B was approximately \$110,000. Sucarato continued to lose money in this account and by the end of February of 2007, the closing balance of Brokerage Account B was approximately \$7,000. By the end of May, 2007, the closing balance of Brokerage Account B was approximately \$100.

35. In accordance with the procedure articulated by Sucarato in the Offering Memorandum, Client C and Client D each submitted proper written redemption requests seeking the return of their investments and earnings. On April 3, 2007, Client C

submitted a written redemption request. He has not yet received any of his funds. On April 4, 2007, Client D submitted a written redemption request. In response, Sucarato gave Client D a check representing the value of his investment and earnings, but the check bounced because of insufficient funds. Sucarato has not yet returned any of the funds to Client D.

FIRST CLAIM FOR RELIEF

Violations of Sections 5(a) and 5(c) of the Securities Act

36. The Commission realleges and incorporates by reference each and every allegation in paragraphs 1 through 35, inclusive, as if they were fully set forth herein.

37. From February 2005 through July 2007, Defendant Sucarato, by engaging in the conduct described above, directly or indirectly, in connection with a security for which no registration statement was in effect, and in the absence of any applicable exemption from registration:

(a) made use of a means or instrument of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;

(b) carried or caused to be carried through the mails or in interstate commerce, by any means or instrument of transportation, such security for the purpose of sale and/or for delivery after sale; and/or

(c) made use of a means or instrument of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy such security through the use or medium of a prospectus or otherwise.

38. By reason of the foregoing, Defendant Sucarato violated Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)].

SECOND CLAIM FOR RELIEF

Violations of Section 17(a) of the Securities Act

39. The Commission realleges and incorporates by reference each and every allegation in paragraphs 1 through 38, inclusive, as if they were fully set forth herein.

40. Defendant Sucarato, by engaging in the conduct described above, knowingly or recklessly, in connection with the offer or sale of securities, by the use of the means or instruments of transportation, or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) employed devices, schemes or artifices to defraud;
- (b) obtained money or property by means of untrue statements of material facts, or omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and/or
- (c) engaged in transactions, practices or courses of business which operated or would operate as a fraud or deceit upon the purchaser.

41. By engaging in the forgoing conduct, Defendant Sucarato violated Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

THIRD CLAIM FOR RELIEF

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

42. The Commission realleges and incorporates by reference each and every allegation in paragraphs 1 through 41, inclusive, as if they were fully set forth herein.

43. Defendant Sucarato, by engaging in the conduct described above, knowingly or recklessly, in connection with the purchase or sale of securities, directly or indirectly, by use of the means or instrumentalities of interstate commerce, or the mails, or the facilities of a national securities exchange:

- (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 light of the circumstances under which they were made, not misleading; and/or
- (c) engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any person in connection with the purchase or sale of any security.

44. By engaging in the foregoing conduct, Defendant Sucarato violated 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

FOURTH CLAIM FOR RELIEF

Violation of Sections 206(1) and 206(2) of the Advisers Act

45. The Commission repeats and incorporates by reference each and every allegation in paragraphs 1 through 44 inclusive, as if they were fully set forth herein.

46. From at least February 2005 through July 2007, Defendant Sucarato, while acting as an investment adviser, by engaging in the conduct described above, acting intentionally, knowingly or recklessly, directly or indirectly, by use of the mails or any means or instrumentality of interstate commerce:

- (a) employed devices, schemes or artifices to defraud any client; or

(b) engaged in transactions, practices or courses of business which operated as a fraud or deceit upon his clients and prospective clients.

47. By engaging in the foregoing conduct, Defendant Sucarato violated Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §§80b-6(1), (2)].

FIFTH CLAIM FOR RELIEF

Violations of Section 7(a) of the Investment Company Act

48. The Commission repeats and incorporates by reference each and every allegation in paragraphs 1 through 47, inclusive, as if they were fully set forth herein.

49. Defendant Sucarato, in connection with his business as an investment company, has been and may be offering to sell, selling, delivering after sale to the public, purchasing or otherwise acquiring or attempting to acquire, by the use of the mails or another means or instrumentality of interstate commerce, securities, without having registered with the Commission as investment companies.

50. By engaging in the foregoing conduct, Defendant Sucarato violated Section 7(a) of the Investment Company Act [15 U.S.C. § 80a-7(a)].

PRAYER FOR RELIEF

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

I.

Permanently restraining and enjoining Defendant Sucarato from violating Sections 5(a), 5(c), and 17(a) of the Securities Act [15 U.S.C. §§ 77e(a), e(c), and q(a)], 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, Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C.

§§80b-6(1), (2)], and Section 7(a) of the Investment Company Act [15 U.S.C. § 80a-7(a)];

II.

Ordering Defendant Sucarato to disgorge any and all ill-gotten gains together with prejudgment interest thereon, derived from the activities set forth in this Complaint.

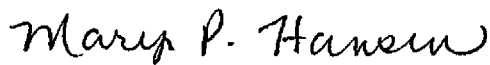
III.

Ordering Defendant Sucarato to pay civil penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)], Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)], and Section 42(e) of the Investment Company Act [15 U.S.C. § 80a-41(e)]; and

IV.

Granting such other and further relief as the Court may deem just and appropriate.

Respectfully submitted,



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