

NO. 10237
FILED 2/8/01
U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS
CLERK'S OFFICE
100 STATE STREET
ROOM 1000
BOSTON, MA 02109

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

GORDON J. ROLLERT,

Defendant.

**CIVIL ACTION
NO. _____**

01 - 10237 *JLT DPW*

COMPLAINT

Plaintiff Securities and Exchange Commission ("Commission"), for its Complaint against Defendant Gordon J. Rollert ("Rollert"), alleges the following:

SUMMARY

1. This action involves an investment advisory fraud conducted by Rollert, the former principal of registered investment advisers Standard Asset Group, LP and its successor Sage Advisory Services, LLC (collectively, "Sage"), and Standard Asset Group, Inc. and its successor Standard Group Holdings, LLC (collectively, "Standard"). Between August 1993 and April 1997, Rollert defrauded Sage and Standard's largest investment advisory client, the Pakachoag Church ("Pakachoag"), by misappropriating approximately \$894,000 in soft dollar credits generated from trading in a Sage soft dollar account that Rollert had established at Reynders, Gray & Co. ("Reynders, Gray"), a registered broker-dealer. In addition, between 1990 and 1995, Rollert fraudulently induced Pakachoag to invest \$250,000 in Sage by, among other things, failing to provide it with material financial information, falsely inflating the value of his contribution to

(1)

Sage, and falsely promising to provide it with annual financial reports. Moreover, in 1995 and 1996, Rollert fraudulently induced Pakachoag to restructure its \$250,000 investment in Sage without disclosing, among other things, his practice of misappropriating the soft dollar credits -- which belonged to the church -- for his own use.

2. To generate large amounts of soft dollar credits, Rollert churned Pakachoag's equity portfolio and breached his fiduciary duty of best execution by directing that Pakachoag be charged commissions averaging 30 cents a share, a price five times higher than the average industry rate charged by brokers for soft dollar transactions.

3. In addition, between August 1993 and at least March 1997, Sage and Standard filed with the Commission investment adviser registration forms, Forms ADV, which failed to disclose their soft dollar practices. Rollert directed the preparation of and signed all of the Forms ADV and amendments thereto filed by Sage and Standard during this period.

4. By engaging in the conduct described in this Complaint, Rollert violated Section 17(a) of the Securities Act of 1933 ("Securities Act"), Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 thereunder and Section 207 of the Investment Advisers Act of 1940 ("Advisers Act"). In addition, Rollert aided and abetted Sage's violations of Sections 206(1) and (2) of the Advisers Act.

5. Unless enjoined and restrained, Rollert will continue to engage in the violations of federal securities laws alleged in this Complaint. Accordingly, the Commission seeks entry of a permanent injunction against Rollert prohibiting further violations of the federal securities laws. The Commission also seeks disgorgement of all ill-gotten gains Rollert received as a result of the conduct alleged in this Complaint, plus prejudgement interest thereon. The Commission further seeks the imposition of civil monetary penalties against Rollert due to the egregious nature of his

fraud.

JURISDICTION

6. The Commission brings this action pursuant to Section 20(b) of the Securities Act [15 U.S.C. § 77t(b)], Sections 21(d) and 21(e) of the Exchange Act [15 U.S.C. § 78u(d) and 78u(e)] and Sections 209(d) and 209(e) of the Advisers Act [15 U.S.C. § 80b-9(d) and 80b-9(e)].

7. This Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)], Sections 21(d) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d) and 78aa] and Section 214 of the Advisers Act [15 U.S.C. § 80b-14]. Additionally, the acts and practices alleged herein occurred primarily within the District of Massachusetts.

8. Rollert has, directly or indirectly, made use of the means or instrumentalities of interstate commerce, of the mails, or the facilities of national securities exchanges in connection with the conduct alleged herein.

DEFENDANT

9. Gordon J. Rollert, 66, of Wellesley Hills, Massachusetts, was president and controlled the business activities of Sage and Standard (collectively, the "Sage entities") from at least 1987 through at least February 2000. Rollert, who holds a Master of Business Administration degree, has been employed in the investment management business since 1965, serving as a portfolio manager and senior vice-president at several mutual fund companies prior to forming his own investment advisory business in 1978.

RELATED ENTITIES

10. Standard Group Holdings LLC, a Massachusetts limited liability company, with its principal place of business in Wellesley, Massachusetts, has been registered with the Commission as an investment adviser pursuant to Section 203(c) of the Advisers Act since August 18, 1998

(File No. 801-55808). Rollert established Standard Group Holdings LLC and its predecessor in interest, Standard Asset Group, Inc. (“SAGI”) (collectively, “Standard”), which, at all relevant times, held a controlling interest in Sage. SAGI has been registered with the Commission as an investment adviser since June 29, 1987 (File No. 801-29883). Between August 1993 and April 1997, Standard had assets under management (which includes amounts managed by Sage) ranging from approximately \$80 million to \$120 million.

11. Sage Advisory Services LLC, a Massachusetts limited liability company with its principal place of business in Wellesley, Massachusetts, has been registered with the Commission as an investment adviser pursuant to Section 203(c) of the Advisers Act since June 10, 1991 (File No. 801-39009). Initially registered with the Commission under the name Standard Asset Group LP, the firm changed its name and corporate structure in August 1996 and became Sage Advisory Services LLC. The two entities are collectively referred to in this Complaint as “Sage.” Sage was the investment adviser for all of the soft dollar securities transactions at issue, which were executed through Reynders, Gray.

12. Fund Acquisition Partners (“FA Partners”) was formed by Rollert in 1994. It is an inactive entity that Rollert used as a conduit to assist in his misappropriation of soft dollar credits.

13. Pakachoag Church, located in Auburn, Massachusetts, has been a client of Rollert and his advisory firms since 1980. The church, which has approximately 100 members and is affiliated with the United Church of Christ, was Rollert’s largest client. Rollert communicated with Pakachoag through Dennis Knight, Pakachoag’s minister, and the members of Pakachoag’s Board of Governors.

BACKGROUND

14. In late 1980, Pakachoag retained Rollert and his advisory firms as its investment adviser to manage its endowment account. During the relevant period, Pakachoag had approximately \$5 million in assets under management with the Sage entities. Management of Pakachoag's assets was roughly divided between equity securities which were managed by Sage, and fixed income securities (bonds) which were managed by Standard. Pakachoag agreed to pay an annual advisory fee consisting of a percentage of its assets under management (the fee ranged from 3/8-3/4 of 1%). Pakachoag also authorized Rollert to select brokers and to charge Pakachoag's account brokerage commissions in return for a broker's provision of research and execution services. Rollert and Pakachoag agreed that the Sage entities would not receive any compensation from Pakachoag other than the agreed-upon percentage of assets under management.

15. In mid-1993, Rollert opened a soft dollar account on behalf of Sage at Reynders, Gray's Boston office through which he placed client trades, including trades for Pakachoag's equity portfolio. Rollert and Reynders, Gray agreed that Sage would receive \$1.00 in soft dollar credits for each \$1.75 in commissions charged by Reynders, Gray for trades executed in the Sage soft dollar account.

16. Soft dollar practices are arrangements whereby an investment adviser uses commission dollars generated by its advisory clients' securities trades to pay for research, brokerage or other products, services or expenses.

17. The Exchange Act provides a safe harbor that protects an investment adviser from charges of breach of fiduciary duty for failing to obtain the lowest available commission rate when the adviser uses client brokerage commissions i.e., soft dollars, to obtain research and brokerage

services from or through a broker-dealer, discloses such use and complies with other applicable requirements. Research is generally defined as a product or service that assists an adviser in making investment decisions. The amount of commission must be reasonable in relation to the value of brokerage and research services provided.

18. Rollert violated the federal securities laws, as detailed below, by, among other things, misappropriating Pakachoag's soft dollar credits and using them, without any disclosure, for his own personal benefit and to pay his entities' non-research and unidentified business expenses.

19. Between mid-1993 and April 1997, Rollert directed Reynders, Gray to charge Pakachoag commissions averaging \$.30 a share for soft dollar transactions. This amount was approximately five times higher than the average industry rate charged by soft dollar brokers during the period at issue. At least 87% of the trades executed through Sage's soft dollar account at Reynders, Gray were effected for Pakachoag.

20. Rollert failed to disclose his soft dollar arrangement with Reynders, Gray to Pakachoag representatives between 1993 and 1995. In early 1995, Rollert proposed that Pakachoag authorize him to enter into a "commission recapture" or "soft dollar" agreement with a broker as a means of paying some of Sage's research-type expenses.

21. Rollert did not tell Pakachoag that he had already established a soft dollar account at Reynders, Gray and had been placing soft dollar trades on Pakachoag's behalf through that account since 1993. He also failed to disclose that he had been using Pakachoag's soft dollar credits to pay the Sage entities' business expenses and for his own personal benefit.

22. In addition, in 1995, Rollert falsely assured Pakachoag that all expenses to be paid with Pakachoag's soft dollar credits would be research-related and that Pakachoag would obtain

favorable commission rates because it was an institutional account. Pakachoag representatives agreed to Rollert's proposal.

**Rollert's Misappropriation of Soft Dollars Through FA Partners
Between August 1994 and April 1997**

23. Between August 1994 and April 1997, Rollert, using FA Partners to conceal his activities, misappropriated approximately \$714,000 in soft dollars generated primarily by trades placed on behalf of Pakachoag.

24. Rollert caused Sage to submit false invoices on behalf of FA Partners to Reynders, Gray for payment of services that FA Partners purportedly had rendered to Sage.

25. FA Partners was an inactive entity that Rollert controlled. It provided no products or services to Rollert, Sage or any of its affiliates, and the amounts reflected on the invoices were arbitrarily set by Rollert. Further, while the invoices falsely reflected that FA Partners had an address at an office tower in the Boston financial district, they were faxed to Reynders, Gray from Sage's Wellesley office.

26. Based upon the invoices submitted by Rollert, Reynders, Gray issued checks payable to FA Partners from the Sage soft dollar account. Rollert personally picked up the checks made out to FA Partners at Reynders, Gray's Boston office.

27. Rollert submitted, and Reynders, Gray paid, at least two FA Partners invoices totaling \$9,000 in September 1994, at least 52 FA Partners invoices totaling \$251,000 in 1995, at least 60 FA Partners invoices totaling \$400,000 in 1996, and at least 9 FA Partners invoices totaling \$52,000 between January and April 1997.

28. Rollert deposited the checks that Reynders, Gray made payable to FA Partners into an FA Partners bank account that he controlled. During at least 1995, all of the

disbursements from the FA Partners account were payments directly to Rollert, or to other payees for his benefit, including his wife, the mortgagee for his residence, or various university clubs where he stayed while traveling. Beginning in late 1995 or early 1996, Rollert funneled the Reynders, Gray payments through the FA Partners account to a Standard bank account, and withdrew a substantial portion of those funds for himself, including at least \$236,000.

**Rollert's Misappropriation of Soft Dollars for Undisclosed
Non-Research Business Expenses Between 1993 and 1996**

29. Between at least August 1993 and late 1996, Rollert caused Sage to submit invoices to Reynders, Gray for payment of the Sage entities' non-research business expenses with soft dollar credits from the Sage soft dollar account.

30. Rollert failed to disclose to clients, including Pakachoag, in his Form ADV filings or otherwise, that he used soft dollar credits generated by trading on their behalf to pay for the Sage entities' non-research and unidentified business expenses.

31. Between at least August 1993 and late 1996, Rollert fraudulently used soft dollar credits to pay approximately \$123,000 of non-research business expenses. These included, for example, payments to individuals who had referred clients to Sage or Standard (sometimes referred to as "marketing fees"), payments for legal, accounting, and back-office record keeping services, payments of NASD and NYSE fees, and rental payments.

32. In addition, Rollert fraudulently used soft dollar credits during this time period to pay approximately \$56,000 of the Sage entities' expenses that were undocumented and which were therefore ineligible for payment with soft dollars. In addition, payments were to individuals who provided unidentified services. For example, on August 18 and 31, 1993, on July 11, 1994, and in March 1995, Rollert submitted invoices from various individuals for thousands of dollars of

“consulting services.” On May 18, 1995 and July 5, 1995, he submitted undated invoices from vendors for unidentified services. Rollert submitted other similar invoices for unidentified services throughout the period of August 1993 to late 1996.

Churning

33. During at least 1995 and 1996, to generate soft dollar credits necessary to fund his misappropriations, Rollert engaged in excessive trading on Pakachoag’s behalf, a practice known as “churning.”

34. Rollert accumulated in Pakachoag’s portfolio large positions of stock in a company, only to sell the entire position within weeks at a price similar to the purchase price. Rollert then would repurchase shares of the same company at a similar price within weeks. Pakachoag paid high commissions and sustained a negative return for at least 1996.

35. The portfolio turnover rate for the Pakachoag subaccount was 6.3 in 1995 and 6.8 in 1996. Portfolio turnover rate is a measure of portfolio activity generally calculated by dividing the lesser of purchases or sales of securities by the average value of the portfolio securities held during the period. Portfolio turnover rate is an accepted standard for determining whether an account has been churned, and a rate in excess of 6 may be deemed indicative of churning.

36. Commissions generated in the Pakachoag subaccount at Reynders, Gray represented 80% of all commissions generated by the Sage entities in 1995, although the Pakachoag subaccount represented only 7% of the Sage entities' assets under management as of year-end 1995. For 1996, commissions generated in the Pakachoag subaccount represented 73% of all commissions generated by the Sage entities, although the Pakachoag account represented slightly over 9% of assets under management at year-end 1996.

37. The equity maintenance factor for the Pakachoag account was 20% for 1995 and

33% for 1996. The equity maintenance factor is another generally-recognized indicator of churning. It reflects the rate of return necessary for an account to break even after considering the cost of commissions. An equity maintenance factor of 15-21% may be deemed indicative of churning. Based on the commissions charged to its account, Pakachoag needed to generate a 20% rate of return during 1995 and a 33% return during 1996 to break even for the year.

Best Execution

38. Between mid-1993 and April 1997, Rollert breached his fiduciary duty of best execution by directing that Reynders, Gray charge Pakachoag commissions averaging \$.30 a share, an amount that was five times higher than the industry rate charged by soft dollar brokers during the period at issue.

Unlawful Benefits

39. Between August 1993 and April 1997, as a result of the fraudulent conduct described herein, Rollert and the Sage entities he controlled received unlawful benefits totaling at least \$894,000. This sum consisted of misappropriated soft dollar credits used to pay: FA Partners totaling approximately \$714,000; non-research business expenses totaling approximately \$123,000; and unidentified business expenses totaling approximately \$56,000.

Rollert Fraudulently Solicits Pakachoag to Invest in Sage

40. Rollert fraudulently offered and sold Pakachoag securities issued by Sage in the amount of \$250,000. Initially, in about late 1990, Pakachoag invested \$200,000 in Sage in the form of a limited partnership interest. Rollert fraudulently induced Pakachoag to invest the \$200,000 by, among other things, failing to provide it with material financial information about Sage such as income statements, a balance sheet or statements of cash flow; falsely inflating the value of his own contribution to Sage from zero to \$800,000; and falsely promising to provide

Pakachoag with annual financial reports.

41. By April 1995, Pakachoag's equity investment had increased to \$250,000. In or about April 1995, and at the time of Sage's corporate restructure in August 1996, Rollert persuaded Pakachoag to restructure its investment in Sage by reducing its equity interest to 6.25% (i.e. \$62,500) and converting the balance of its investment to debt in the form of a promissory note in the amount of \$187,500.

42. At the time of the 1995 and 1996 Pakachoag re-investments, Rollert omitted to disclose material information to Pakachoag, including, among other things, his practice of misappropriating its soft dollar credits for his own use.

False Form ADV Filings

43. Investment advisers are required to file Forms ADV with the Commission and to offer to provide copies of Part II of Form ADV to clients at least annually. Form ADV Part II specifically requires disclosure of an investment adviser's soft dollar relationships, and also requires disclosure for affiliated entities. Item 12.B of Part II of Form ADV requires investment advisers to describe the "products, research and services" received from broker-dealers if the value of such products, research or services is a factor in selecting broker-dealers. Item 13.A of Part II of Form ADV requires an investment adviser to state whether it receives any direct or indirect economic benefit from a non-client (including soft dollar benefits) and, if it does, to describe the manner in which it uses the soft dollar or other benefits.

44. On March 30, 1992, Rollert filed a Form ADV for Standard Asset Group LP, Sage's predecessor (the "March 30, 1992 ADV"), which stated, in response to Item 12.B of Part II, that Standard Asset Group LP's primary goal in selecting brokers was to obtain the most favorable rates in relation to benefits received by accounts. Rollert also gave a negative response

to Item 13.A of Part II and did not provide narrative disclosure of any economic benefits received from any non-client.

45. As of August 1993, when Rollert opened the Sage soft dollar account at Reynders, Gray, he had a duty to amend the March 30, 1992 ADV to disclose his selection of a broker based on a soft dollar relationship. He failed to file any such amendment.

46. Rollert filed Forms ADV and amendments thereto on behalf of Sage on March 31, 1994, March 31, 1995, March 26, 1996 and September 17, 1996, which were false as they failed, among other things, to disclose the reasons for Sage's selection of Reynders, Gray as a broker or the fact that Sage and its related persons, Standard and Rollert, were receiving soft dollars and/or economic benefits from a non-client.

47. Rollert filed Forms ADV and amendments thereto on behalf of Standard on March 31, 1994, March 31, 1995, June 6, 1996 and March 26, 1997, which were false as they failed, among other things, to disclose that Standard and its related persons, Sage and Rollert, were receiving soft dollars and/or economic benefits from a non-client.

48. During the period at issue, Rollert directed the preparation of and signed all of the Forms ADV, and amendments thereto, filed by Sage and Standard.

FIRST CLAIM

FRAUD IN CONNECTION WITH THE PURCHASE OR SALE OF SECURITIES (Violations of Exchange Act § 10(b) and Rule 10b-5 thereunder)

49. Plaintiff repeats and realleges paragraphs 1 through 46 above.

50. Defendant Rollert, directly or indirectly, intentionally, knowingly or recklessly, by use of the means or instrumentalities of interstate commerce or of the mails: (a) has employed, or is employing devices, schemes, or artifices to defraud; (b) has made or is making untrue

statements of material facts or has omitted, or is omitting to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) has engaged, or is engaging, in acts, practices or courses of business which have operated, or are operating, as a fraud or deceit upon persons, in connection with the purchase or sale of securities as set forth above, in violation of 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.

51. Defendant Rollert's conduct involved fraud, deceit, or deliberate or reckless disregard of regulatory requirements, and resulted in substantial loss or significant risk of substantial loss to other persons, within the meaning of Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)].

SECOND CLAIM

FRAUD IN THE OFFER OR SALE OF SECURITIES (Violations of Securities Act § 17(a))

52. Plaintiff repeats and realleges paragraphs 1 through 46 above.

53. Defendant Rollert, directly and indirectly, intentionally, knowingly and recklessly, in 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: (a) has employed, or is employing devices, schemes, or artifices to defraud; (b) has obtained, or is obtaining money or property by means of untrue statements of material fact 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 (c) has engaged, or is engaging in transactions, acts, practices or courses of business which have operated, are operating or are about to operate as a fraud or deceit upon purchasers of securities, as set forth above, in violation of Section 17(a) of the Exchange Act [15

U.S.C. § 77q(a)].

54. Defendant Rollert's conduct involved fraud, deceit, or deliberate or reckless disregard of regulatory requirements, and resulted in substantial loss or significant risk of substantial loss to other persons, within the meaning of Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)].

THIRD CLAIM

AIDING PROHIBITED TRANSACTIONS BY INVESTMENT ADVISERS (Aiding and Abetting Violations of Sections 206(1) and (2) of the Advisers Act)

55. Plaintiff repeats and realleges paragraphs 1 through 46 above.

56. As set forth above, between August 1993 and April 1997, Sage, a registered investment adviser, violated Sections 206(1) and (2) of the Advisers Act by misappropriating client assets in the form of soft dollar credits and converting those assets to the use of its principal, Rollert, and by using soft dollar credits, without disclosure to clients, to pay non-research business expenses and undocumented expenses.

57. Defendant Rollert knew, or was reckless in not knowing, that Sage's conduct was improper, and he knowingly and substantially assisted Sage in the commission of its violations.

58. By reason of the foregoing, Defendant Rollert aided and abetted violations of Sections 206(1) and (2) of the Advisers Act [15 U.S.C. §§ 80b-6(1) and (2)] by Sage and therefore is liable pursuant to Section 209(d) of the Advisers Act [15 U.S.C. § 80b-9(e)].

59. Defendant Rollert's conduct involved fraud, deceit, or deliberate or reckless disregard of regulatory requirements, and resulted in substantial loss or significant risk of substantial loss to other persons, within the meaning of Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)].

FOURTH CLAIM

**MATERIAL MISSTATEMENTS AND OMISSIONS
IN INVESTMENT ADVISER REPORTS
(Violations of Advisers Act § 207)**

60. Plaintiff repeats and realleges paragraphs 1 through 46 above.

61. As described in paragraphs 43 through 48 above, Defendant Rollert willfully made untrue statements of material facts in reports filed with the Commission or willfully omitted to state material facts in reports filed with the Commission which were required to be stated therein. Consequently, he violated Section 207 of the Advisers Act [15 U.S.C. § 80b-7].

62. Defendant Rollert's conduct involved fraud, deceit, or deliberate or reckless disregard of regulatory requirements, and resulted in substantial loss or significant risk of substantial loss to other persons, within the meaning of Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)].

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that the Court:

I.

Permanently enjoin Defendant Rollert from, directly or indirectly, violating Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, Section 17(a) of the Securities Act, and Sections 206(1) and (2) and Section 207 of the Advisers Act.

II.

Order Defendant Rollert to disgorge monies received by him as a result of the fraudulent conduct alleged herein plus prejudgment interest thereon.

III.

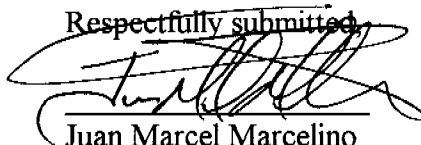
Order Defendant Rollert to pay civil penalties pursuant to Section 20(d) of the Securities

Act [15 U.S.C. §77t(d)], Section 21(d)(3) of the Exchange Act [15 U.S.C. §78u(d)(3)] and/or Section 209(e) of the Advisers Act [15 U.S.C. §80b-9(e)] in an amount to be determined by the Court.

IV.

Grant such other and further relief as the Court deems necessary and appropriate under the circumstances.

Respectfully submitted,



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