UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 3885 / July 31, 2014

INVESTMENT COMPANY ACT OF 1940
Release No. 31196 / July 31, 2014

ADMINISTRATIVE PROCEEDING
File No. 3-15994

In the Matter of

JASON D. HUNTLEY,

Respondent.

ORDER INSTITUTING ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTIONS 203(f) AND 203(k) OF THE INVESTMENT ADVISERS ACT OF 1940 AND SECTION 9(b) OF THE INVESTMENT COMPANY ACT OF 1940, MAKING FINDINGS, AND IMPOSING REMEDIAL SANCTIONS AND A CEASE-AND-DESIST ORDER

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 203(f) and 203(k) of the Investment Advisers Act of 1940 ("Advisers Act") and Section 9(b) of the Investment Company Act of 1940 ("Investment Company Act") against Jason D. Huntley ("Respondent").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer"), which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 203(f) and 203(k) of the Investment Advisers Act of 1940 and Section 9(b) of the Investment Company Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order ("Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds[1] that:

Summary

1. Between 2007 and 2010, Respondent, the former president of an investment advisory firm in Colorado Springs, Colorado, failed to disclose to his clients facts giving rise to material conflicts of interest in connection with multiple client investments. Specifically, Respondent: (1) failed to tell clients that he had obtained more than $2 million for a loan from a private fund in which those clients were invested; (2) recommended that clients approve a transaction involving another private fund without disclosing that he expected to receive compensation as a result of the transaction; (3) bought stock in client accounts without advising clients of the personal benefit he stood to obtain from doing so; and (4) solicited clients to participate in a large private equity investment without disclosing conflicts arising from his relationships with the other parties to the transaction. In so doing, Respondent violated Sections 206(1) and 206(2) of the Advisers Act.

Respondent

2. Respondent, age 42, is a resident of San Diego, California. From approximately 2001 until 2011, Respondent was president of Huntley Thatcher Ellsworth, Ltd., an investment adviser formerly registered with the Commission. Prior to the firm's dissolution in 2011, Respondent had primary responsibility for client accounts comprising a majority of the firm's assets under management, which exceeded $200 million prior to the 2008 market downturn.

Other Relevant Entity

3. Huntley Thatcher Ellsworth, Ltd. ("HTE") is a now-defunct Colorado corporation, which was based in Colorado Springs, Colorado, and was registered as an investment adviser with the Commission from 1997 until 2011. As of December 31, 2008, HTE provided discretionary advisory services to approximately 200 client accounts.

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[1] The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

Facts

A. *Respondent Failed to Disclose His Receipt of a Loan from a Private Fund while Clients were Invested in the Fund.*

4. Between April 2006 and June 2007, approximately 25 HTE clients – nearly all of them clients for whom Respondent acted as primary adviser – invested approximately $6.4 million in a private fund specializing in real-estate lending ("Private Fund A").

5. In July 2007, entities controlled by Respondent agreed to borrow approximately $2.5 million from a third party ("Lender") to fund the purchase of farmland in Walla Walla, Washington, which Respondent intended to develop as part of a business venture.

6. After Respondent executed promissory notes on behalf of two entities he controlled, however, it became apparent that Lender lacked sufficient liquidity to finance Respondent's loan. Lender and Respondent, together, therefore sought funding for Respondent's loan from Private Fund A.

7. In September 2007, following communications with Respondent, Private Fund A agreed to make two loans to Lender. As security for those loans, Lender assigned to Private Fund A the promissory notes executed by Respondent on behalf of the entities he controlled. Private Fund A then transmitted funds to Lender, who, in turn, passed funds through to entities controlled by Respondent. These entities then used the funds to make real estate investments in Walla Walla, Washington.

8. Respondent was aware that Private Fund A was the source of the funds he received for his real estate investment. He nonetheless continued to advise clients as to their investments in Private Fund A without disclosing that the fund had financed his personal real estate venture. The value of clients' Private Fund A positions subsequently declined more than 80%.

B. *Respondent Failed to Disclose Anticipated Compensation from a Transaction Involving Assets of Another Private Fund when Recommending that Clients Consent to the Transaction.*

9. In 2008, approximately 20 HTE clients – nearly all of them clients for whom Respondent acted as primary adviser – invested approximately $5.8 million in a "fund of funds" that invested in multiple asset-backed lending funds ("Private Fund B"). Not long after this investment, Private Fund B began to experience liquidity problems.

10. In October 2009, Respondent introduced Private Fund B's adviser to representatives of a publicly traded special purpose acquisition company (the "SPAC"). That introduction led to negotiations directly between the SPAC and Private Fund B's adviser about a potential business transaction. Respondent made clear to the parties that he expected to be compensated for the introduction should their negotiations prove fruitful.

11. In December 2009, the SPAC and Private Fund B's adviser came to terms on an agreement whereby the SPAC would acquire the assets of Private Fund B, along with several other private funds managed by the adviser. In return, Private Fund B would receive publicly traded

shares of the SPAC. That agreement explicitly contemplated the payment of a finder's fee to Respondent.

12. In late December 2009, Private Fund B's adviser sought consent from fund investors to proceed with the proposed transaction with the SPAC. Respondent recommended that his clients provide such consent, which many did. Respondent failed to disclose to his clients that he expected to be compensated for the very transaction he was recommending them to approve.

13. Following investor approval and closing of the transaction, Respondent received a purported "consulting agreement" with the SPAC, pursuant to which he received, without condition, 166,000 restricted shares of the SPAC's stock as compensation for introducing the parties to the transaction. At the then-current market price, those 166,000 shares had a value of approximately $1 million.

C. *Respondent Purchased Shares of the SPAC in Client Accounts without Disclosing That He Stood to Personally Benefit.*

14. As of January 2010, the SPAC was pursuing listing on the New York Stock Exchange ("NYSE").

15. In late January 2010, an individual associated with the SPAC ("Person A") asked Respondent to help the company achieve its NYSE-listing objective by purchasing "round lots" of the SPAC's publicly traded stock in HTE client accounts, thereby increasing the number of public shareholders in the SPAC. Respondent indicated to Person A that he was inclined to help increase the SPAC's shareholder count, but that he first needed to receive his compensation for the transaction, described above, between the SPAC and Private Fund B. The next day, Person A delivered to Respondent the purported "consulting agreement" guaranteeing Respondent 166,000 restricted shares in the SPAC "to avoid further delays."

16. Three days later, Respondent directed HTE to purchase approximately 18,000 shares of the SPAC's publicly traded stock for approximately 80 separate clients, nearly all of them clients for whom Respondent acted as primary adviser. Respondent did not disclose to clients that these stock purchases in their accounts had been requested by Person A and conditioned by Respondent upon his receipt of compensation from Person A. Nor did Respondent disclose that he owned 166,000 restricted shares in the SPAC and could potentially benefit from any improvement in the market for its stock, including its possible listing on the NYSE.

D. *Respondent Recommended a Private Equity Investment to Clients Without Disclosing Numerous Conflicts Arising from his Relationships with other Parties to the Transaction.*

17. On or about January 5, 2010, Respondent, through his dealings with Person A and another individual ("Person B"), obtained an option to buy shares in a company ("Company A"), whose shares were thinly traded on the over-the-counter market known as the "Pink Sheets." Specifically, under the terms of an option agreement to which an entity controlled by Respondent was a party:

a. The entity controlled by Respondent received the right to purchase, directly from Company A, up to $5 million worth of restricted stock in Company A at $.21 per share;

b. a separate entity ("the Call Option Entity") had the option to buy the shares from the entity controlled by Respondent at either $.50 or $.75 per share, depending on the date of the exercise; and

c. if the Call Option Entity failed to exercise its option, the entity controlled by Respondent had the right to *put* the shares to another entity ("the Put Option Entity") – i.e., force that entity to buy the shares – at $.25 per share.

18. In mid-January 2010, Respondent solicited five HTE clients for whom he acted as primary adviser to invest in a limited liability company ("the LLC"), which Respondent had formed for the sole purpose of exercising the option he had obtained to purchase shares in Company A.

19. In recommending this investment to his clients, Respondent emphasized, among other things: (a) that the Call Option Entity was intent on exercising its option, which would generate substantial profit for members of the LLC; (b) that the Put Option Entity could be relied upon to fulfill its obligation to buy the shares if called upon to do so; and (c) that Respondent personally planned to invest his own money into the LLC. Respondent failed to disclose to his clients, however, facts that presented material conflicts of interest in recommending the investment.

20. Respondent failed to tell his clients, for instance, that the Call Option Entity was controlled by Person B; that he and Person B viewed the investment in Company A as a vehicle for generating value that would help them resolve a lawsuit they were both defending at the time; that various entities controlled by Person B had previously loaned several million dollars to entities controlled by Respondent and had made large equity investments in HTE and a winery that Respondent had founded; and that another entity controlled by Person B was loaning $500,000 to Respondent to finance Respondent's investment into the LLC.

21. Respondent also failed to disclose that the individual behind the Put Option Entity (and a driving force behind the entire transaction) was Person A; that Respondent was then seeking compensation from Person A for his role in the Private Fund B/SPAC transaction; that he intended to use compensation from the Private Fund B/SPAC transaction as collateral for the $500,000 loan from Person B, which he planned to use to fund his investment in the LLC; and that Respondent was helping Person A source other business opportunities, had been compensated in the past for such efforts, and hoped to derive additional financial benefits from his relationship with Person A in the future.

22. Respondent's clients ultimately invested a total of $1.4 million into the LLC. At Respondent's direction, the LLC then purchased approximately 9 million shares in Company A, using the $1.4 million contributed by clients and the $500,000 that an entity controlled by Respondent obtained through Person B. The investment proved to be a total loss, as the Call Option Entity failed to exercise its right to buy the shares, the Put Option Entity failed to fulfill its

obligation to do so, and the market for Company A's stock declined, leaving the LLC with 9 million shares of a thinly traded penny stock it could not sell.

Violations

23. By intentionally or recklessly failing to disclose to clients facts creating material conflicts of interest with respect to the investments described above, Respondent willfully violated Section 206(1) of the Advisers Act, which prohibits an investment adviser from employing any device, scheme, or artifice to defraud any client.

24. By the same conduct, Respondent willfully violated Section 206(2) of the Advisers Act, which prohibits an adviser from engaging in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent's Offer.

Accordingly, pursuant to Sections 203(f) and 203(k) of the Advisers Act and Section 9(b) of the Investment Company Act, it is hereby ORDERED that:

A. Respondent cease and desist from committing or causing any violations and any future violations of Sections 206(1) and 206(2) of the Advisers Act;

B. Respondent be, and hereby is:

> barred from association with any broker, dealer, investment adviser, municipal securities dealer, or transfer agent; and
>
> prohibited from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter,

with the right to apply for reentry after five (5) years to the appropriate self-regulatory organization, or if there is none, to the Commission;

C. Any reapplication for association by the Respondent will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order; and

D. Respondent shall, within ten (10) days of the entry of this Order, pay a civil money penalty in the amount of $100,000.00 to the Securities and Exchange Commission. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. 3717. Payment must be made in one of the following ways:

(1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
(2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at http://www.sec.gov/about/offices/ofm.htm; or
(3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Jason D. Huntley as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Kurt L. Gottschall, Assistant Regional Director, Asset Management Unit, Denver Regional Office, U.S. Securities and Exchange Commission, Byron G. Rogers Federal Building, 1961 Stout Street, Suite 1700, Denver, CO 80294.

By the Commission.

Jill M. Peterson
Assistant Secretary