UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

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ADMINISTRATIVE PROCEEDING
File No. 3-15446

In the Matter of

J.S. OLIVER CAPITAL MANAGEMENT, L.P., IAN O. MAUSNER, and DOUGLAS F. DRENNAN

Respondents.

RESPONSE TO COMPLAINT

The accusations made in the SEC complaint are baseless and are entirely without any factual basis or merit. We reject all of the allegations in the strongest of terms and respectfully request a summary judgement dismissal of all charges.

The allegations are not only baseless and without merit but the facts clearly and absolutely contradict the claims and are black and white in terms of showing J.S. Oliver's innocence in these issues. If any entities should be examined, it should be Howard Rice and Instinet but the SEC shies away from confronting the true culprits if they are large and powerful. Instead, they have requested over a million documents over a period of over 4 years draining our firm of our time and resources over issues in which we did everything in our power to be compliant.

Herewith the facts relating to soft dollars and trade allocations:

Soft Dollars:

For the entirety of every single submission, JS Oliver and its employees always sought full approval and vetting from both Howard Rice and from Instinet and the billing records and email records fully verify this as does every single current and former employee of JSO.

An examination of the billing records from Howard Rice shows extensive and numerous consultations and time spent on soft dollars including conference calls and emails. There are literally tens if not hundreds of soft dollar billing entries. **JSO and its employees are not lawyers nor are they knowledgeable in all of the details and subtleties of the soft dollar rules and relied entirely on counsel's and broker's guidance and recommendations.**

A very important example is the conference call and billing entry exclusively and specifically devoted to the lump sum payment to Gina Mausner. Howard Rice fully vetted and approved this payment. They approved it because Gina Mausner, as the General Counsel and CCO, had an employment contract and a buyout of that contract and a gradual tapering of her involvement was worked out. It was done solely to deal with her employment functions and had nothing to do with the divorce.

Further, Instinet, as evidenced by the email strings, also fully vetted and approved the Gina Mausner expense payment. They had several departments involved, including legal, and Instinet had several conversations with Howard Rice. So, they too, after fully vetting the expense, approved it. Further, every part of her payment was part of her employment agreement with JSO which included among other things payment for an assistant and nanny.

The other specifics presented are equally unfounded: the payment for the St. Regis was an annual payment to exclusively pay for hotel rooms and reduced

the cost to the firm by approximately $30,000. So instead of paying a much higher per night rate, JSO's expense was dramatically reduced by paying an annual fee that bought approximately 50-60 room nights. It was purely a business decision to reduce hotel expense. Pure and simple, black and white. Also, this was fully disclosed to both Howard Rice and Instinet and fully approved by both.

As far as the rent is concerned, not only was it fully vetted and approved by Howard Rice and Instinet but such an expense is clearly included in the disclosure language in our documents. One can argue about how much was the fair rent but a 5,000 square foot office with presentation room, entertainment areas, etc commanded a premium rent during the period in question and the rent level was also fully vetted and approved by our counsel. Again, we fully relied on the expertise of our counsel. We raised and then lowered the rent (the SEC conveniently omits the fact that we also lowered the rent) based upon what the firm could afford as well as a fair value for the house.

Re Doug Drennan, firstly Mausner never instructed him to misrepresent or to edit anything. Secondly, Mr. Drennan did perform research for JSO and as such was a perfectly proper submission for soft dollar reimbursement. His non research activity was a negligible percentage of his time. Additionally, submitting his expense was fully vetted through Howard Rice and through Instinet.

Overall, it was Instinet that approached JSO in January of 2009 to begin non 28E soft dollar payments. They were the ones who said that they could do it and encouraged JSO to submit those expenses. JSO's response as it always was in regards to any and every soft dollar submission and payment was " if the lawyers and broker approve it and it is totally legal, then we are fine doing it". JSO cannot be held responsible for the advice and guidance of its lawyers and brokers who encouraged JSO to do these soft dollar submissions.

This is a classic example of a complete and pure reliance on counsel

situation. The facts are undeniable as are all of the testimony that JSO's intent was to fully and completely abide by the rules and completely relied on the alleged expertise of Howard Rice and of Instinet. JSO paid Howard Rice tens of thousands of dollars to provide sound advice and guidance on their soft dollar activity and relied entirely on that advice. It is Howard Rice and Instinet that is fully responsible for any wrongdoing that occurred. J.S. Oliver, Mausner and Drennan are completely innocent of any wrongdoing.

Trade Allocations

The SEC's review of the trade allocations completely ignores many of the factors behind which accounts received trades despite hearing this in testimony. Margin levels, stated client risk levels, buying power, specific client directives, size of the account and therefore potential size of trades, and mandate and goals of the account were all essential and intrinsic considerations in every trade allocation.

Further, the SEC allegation that there were over $10 million in losses is truly preposterous and outrageous and entirely contradicted by the facts. The total P&L of ALL day trades doesn't even add up to that amount!

We have compiled an account by account P&L of day trades which we will be happy to provide as proof.

To illustrate how superficially and inaccurately the SEC reviewed the trading and allocations, we present the following illustration. At various times, especially during the unprecedented market environment during the specified time period, only certain accounts were permitted to be on margin. Obviously those would be the ones empowered and authorized to be on margin and sometimes they would reach their margin limit. Sometimes this would occur intraday, sometimes over night. When such a limit was reached, that account could not receive a buy transaction by rule. This did occur in many occasions and was a determining factor in many allocations. Similarly, for non margin

accounts, available cash would limit the ability of those accounts to participate in any trade. This too was a very frequent determinant in trade allocations.

Both of these factors were completely ignored by the analysis of the SEC and a trade by trade examination would show how this consideration of margin buying power and cash availability had a major determining influence on which accounts could participate. In fact, these factors would entirely remove even the possibility of any selective trade allocations.

Another major issue ignored by the SEC is the fact that the CGF fund was set up specifically to benefit from a down market. As such, it has a TOTALLY different approach and philosophy from the other accounts. It has more cash and more put options and these two factors were the primary performance differentiator during the market downturn, not trading allocations!

The other factors mentioned above also figured prominently in the trade allocation decision and were completely ignored by the SEC. They never even asked about them so they could not possibly be aware of them nor factored them into their analysis.

As further illustration: take a client mandate for example to do only a medium level of trading. In such a case as did exist with several of the clients where they did not want full participation and did not want many trades a day but did want to participate in our trading activity, we would only include these accounts in a small percentage of the trades which fit that client's mandate.

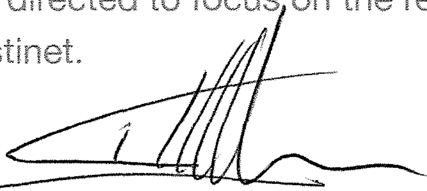
Another consideration also completely ignored by the SEC is the size of the account and therefore the possible size of the trade that could be done in the account. For example, a $10 million account cannot do a $20 million trade both because of the undue risk and lack of buying power. So certain larger trades could only be allocated to a very few of the larger accounts and sometimes only to one or two qualifying accounts. In these circumstances, there would be no possibility of any selective allocation!

Several accounts had overall mandates as well as some specific directives none of which were even requested by the SEC so they could not possibly have included it in their analysis of the trading. For example, if a client gave us a directive not to own gaming or tobacco stocks then that account would not be included in those trades. None of the general or specific client directives were even considered by the SEC which is a major error in their approach.

All of our trading policies and approach was vetted by our counsel. We specifically discussed what we were doing in our trading and how we were allocating trades and it was fully approved by Howard Rice. As such, we fully relied on counsel that our approach was fully acceptable and legal.

So overall, when one examines each trade, as one must since they cannot be looked at in one brushstroke, a clear picture evolves of a fair and considered approach to the trading, where a reasonable explanation exists for each and every trade. Especially during the highly volatile market days, client risk profile, margin buying power and limitations brought on by cash levels all played a huge determining role in allocations all of which were entirely ignored by the SEC. Not only is this an outrageous and negligent omission but examination of it is entirely exculpatory of JS Oliver and its employees.

Again, we forcefully reject all of the allegations as baseless and without merit and respectfully request that all such allegations be summarily dismissed. We also request that the SEC be admonished to cease harassing small firms like ours and be directed to focus on the real culprits in our system like Howard Rice and Instinet.



Ian O. Mausner
CEO and Senior Portfolio Manager
J.S. Oliver Capital Management
(o) 858-756-8370
(o) 800-435-1039