UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 9462 / October 2, 2013

SECURITIES EXCHANGE ACT OF 1934
Release No. 70595 / October 2, 2013

INVESTMENT ADVISERS ACT OF 1940
Release No. 3686 / October 2, 2013

INVESTMENT COMPANY ACT OF 1940
Release No. 30740 / October 2, 2013

ADMINISTRATIVE PROCEEDING
File No. 3-15549

In the Matter of

MANARIN INVESTMENT COUNSEL, LTD.,

MANARIN SECURITIES CORP.,

and

ROLAND R. MANARIN,

Respondents.

ORDER INSTITUTING ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 8A OF THE SECURITIES ACT OF 1933, SECTION 15(b) OF THE SECURITIES EXCHANGE ACT OF 1934, SECTIONS 203(e), 203(f), AND 203(k) OF THE INVESTMENT ADVISERS ACT OF 1940, AND SECTIONS 9(b) AND 9(f) 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 Section 8A of the Securities Act of 1933 ("Securities Act"), Section 15(b) of the Securities Exchange Act of 1934 ("Exchange Act"), Sections 203(e), 203(f), and 203(k) of the Investment Advisers Act of 1940 ("Advisers Act"), and Sections 9(b) and 9(f) of the Investment Company Act of 1940 ("Investment Company Act") against Manarin Investment Counsel, Ltd., Manarin Securities Corp., and Roland R. Manarin (collectively, "Respondents").

II.

In anticipation of the institution of these proceedings, Respondents have submitted Offers of Settlement (the "Offers"), 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 them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Section 15(b) of the Securities Exchange Act of 1934, Sections 203(e), 203(f), and 203(k) of the Investment Advisers Act of 1940, and Sections 9(b) and 9(f) 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 Respondents' Offers, the Commission finds[1] that:

Summary

1. These proceedings arise from the Respondents' misconduct in their management of three pooled investment vehicles referred to herein as "the Funds." First, from at least June 2000 through mid-2010, Manarin and his firm, Manarin Investment Counsel, Ltd. ("MIC"), breached their fiduciary duties as investment advisers by causing the Funds to buy the Class A shares of underlying mutual funds ("Investment Funds") even when the Funds were eligible to own lower-cost "institutional" shares of the very same Investment Funds. As a result, the Funds paid avoidable, and ongoing, 12b-1 fees on their Investment Fund holdings, which were passed through to MIC's affiliated broker-dealer, Manarin Securities Corp. ("MSC"). This practice was inconsistent not only with MIC's and Manarin's duty to seek best execution for the Funds, but also with multiple disclosures by the Respondents. Second, between at least October 2008 and December 2011, MSC charged its affiliated mutual fund commissions that exceeded the usual and customary broker's commission on transactions effected on a securities exchange. As a result of the foregoing conduct, Respondents violated the federal securities laws as set forth below.

Respondents

2. Manarin Investment Counsel, Ltd. ("MIC"), a Nebraska corporation headquartered in Omaha, Nebraska, has been registered as an investment adviser with the Commission since 1983.

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

According to its most recent Form ADV, MIC serves as the investment adviser to the Funds and roughly 1,300 separately managed accounts, with combined assets under management of approximately $549 million as of May 24, 2013.

3. Manarin Securities Corp. ("MSC"), a Nebraska corporation headquartered in Omaha, Nebraska, has been registered as a broker-dealer with the Commission since 1995 and is affiliated with MIC through common ownership. Throughout the relevant period, MSC acted as broker-dealer for MIC's clients, including the Funds described below. Prior to February 2012, MSC also acted as the distributor for Lifetime Achievement Fund, a mutual fund managed by MIC, and, as such, was responsible for marketing and selling fund shares.

4. Roland R. Manarin, age 69, is a resident of Omaha, Nebraska. He is the founder, owner, and President of MIC and MSC. As such, Manarin exercised control over the management and policies of both entities throughout the relevant period. Prior to February 2012, Manarin also was the President and Chairman of the Board of Lifetime Achievement Fund.

The Funds

5. Lifetime Achievement Fund ("LAF") is a mutual fund that invests principally in shares of other mutual funds. Launched by Manarin in July 2000, LAF originally was organized as a Maryland corporation and registered as an investment company with the Commission. Since April 2012, LAF has been organized as a series of Northern Lights Fund Trust III, which registered as an investment company in December 2011.

6. Pyramid I Limited Partnership ("Pyramid I") and Pyramid II Limited Partnership ("Pyramid II") are private partnerships organized under Delaware law and created by Manarin in 1989 and 1995, respectively. Like LAF, Pyramid I and Pyramid II (collectively, the "Pyramid Funds") mainly invest in shares of various mutual funds. Since December 2006, MIC has been the general partner of the Pyramid Funds. Prior to December 2006, Manarin was the general partner.

Facts

A. *Breach of Fiduciary Duty in Selection of Investment Fund Share Classes*

7. Throughout the relevant period, MIC acted as investment adviser to LAF, Pyramid I, and Pyramid II (collectively, the "Funds") and received management fees from the Funds for its services. MIC sought to achieve the Funds' capital appreciation objectives mainly by investing in a variety of equity mutual funds ("Investment Funds") and had its affiliated company, MSC, execute purchases and sales of shares of these Investment Funds.

8. Mutual funds usually offer multiple share classes with different fee structures, including, as relevant here, Class A shares and so-called "institutional" shares. Class A shares are typically available to all investors, but usually carry fees (typically 25 basis points) to cover fund distribution and/or shareholder service expenses pursuant to Section 12(b) of the Investment Company Act and Rule 12b-1 thereunder ("12b-1 fees"). Such 12b-1 fees are paid out of fund

assets, on an ongoing basis, to the fund's distributor, who passes them through to broker-dealers whose customers hold fund shares.[2]

9. By contrast, "institutional" shares are available only to investors who meet certain criteria (e.g., a minimum investment amount) and do not carry 12b-1 fees.[3] An investor who holds such shares of a given mutual fund therefore will pay lower fees over time – and keep more of his or her investment returns – than an investor who holds Class A shares of the same fund. Therefore, if a mutual fund offers institutional shares, and an investor is eligible to own them, it is generally in the investor's best interests to select the institutional share class.

10. Section 206 of the Advisers Act imposes on investment advisers a fiduciary duty to act for the benefit of their clients. *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 191 (1963). That duty includes, among other things, an obligation to seek best execution for client transactions – i.e., "to seek the most favorable terms reasonably available under the circumstances." *In the Matter of Fidelity Management Research Company*, Investment Advisers Act Rel. No. 2713 (March 5, 2008).

11. Throughout the relevant period, many Investment Funds in which the Funds held shares offered both Class A shares, which carried 12b-1 fees, and institutional shares, which did not. Although the Funds often met the eligibility criteria for institutional shares (which were set forth in Investment Fund prospectuses), MIC and Manarin consistently caused the Funds to invest instead in Class A shares with higher fees. As a result, the Funds paid approximately $3.3 million in 12b-1 fees between June 2000 and mid-2010. These fees were deducted from the Funds' assets and passed through the Investment Funds' distributors to MSC.

B. *Misleading Disclosures*

LAF

12. Throughout the relevant period, LAF issued shares pursuant to a registration statement filed with the Commission and signed by Manarin as President of the fund. MSC acted as the fund's distributor and, as such, was responsible for marketing and selling fund shares.

13. Between LAF's inception and April 2006, its registration statement represented that MIC, "in effecting portfolio transactions" for the fund, "seeks to obtain the best net results for the Fund." Beginning in April 2006, the registration statement assured investors that MIC sought "best execution and net results" in effecting portfolio transactions for LAF.

14. Prior to April 2007, LAF's registration statement did not mention MSC's receipt of 12b-1 fees from Investment Funds. Beginning in April 2007, the registration statement disclosed

[2] Although Class A shares often carry up-front sales charges for certain investors, such charges are not at issue here, as the Funds did not pay sales charges on their purchases.

[3] "Institutional" shares go by a variety of names in the mutual fund industry. As used in this Order, the term refers to share classes that carry neither up-front sales charges nor 12b-1 fees.

that, "with respect to Investment Funds that charge distribution and/or shareholder servicing (12b-1) fees, to the extent [MSC] effects the Fund's purchase of shares in such Investment Funds, [MSC] will be entitled to receive from the Investment Fund its share of any such fee." At no time, however, did LAF's registration statement disclose that MIC would cause the fund to purchase Investment Fund shares that carried 12b-1 fees even when it was eligible to own lower-cost institutional shares of the same Investment Fund.

The Pyramid Funds

15. As general partners of the Pyramid Funds, Manarin and, later, MIC offered interests in the Pyramid Funds pursuant to private placement memoranda (PPMs). Similar to LAF's registration statement, the PPMs disclosed that, in managing the Pyramid Funds' assets, "MIC uses its best efforts to obtain the most favorable price and execution available." While the PPMs also disclosed that MSC could receive 12b-1 fees in connection with the Pyramid Funds' mutual fund investments, they did not disclose that MIC would cause the Pyramid Funds to buy shares that carried such fees even when they were eligible to own lower-cost institutional shares of the same Investment Fund.

MIC's Form ADV

16. As investment adviser to LAF, MIC transmitted its Form ADV to the fund's board of directors each year in connection with the board's annual review of MIC's advisory contract. From at least March 2007, MIC's Form ADV Part II stated that MIC "directs securities transactions for [its fund clients] to MSC, "[s]ubject to any relevant legal or regulatory restrictions and obligations, including the assurance that [MIC] is obtaining best execution." Similar to LAF's registration statement and the Pyramid Funds' PPMs, the Form ADV disclosed that MSC representatives were "typically entitled to receive" a portion of 12b-1 fees passed through Investment Funds to MSC. It did not disclose, however, that MIC would select Investment Fund shares that carried 12b-1 fees even when its fund clients were eligible to own lower-cost institutional shares of the same Investment Fund.

C. *MSC Refunds 12b-1 Fees Paid by LAF but not by the Pyramid Funds*

17. In May 2010, following communications with staff in the Commission's Division of Investment Management about MSC's receipt of 12b-1 fees on LAF's investments, MIC converted LAF's holdings from Class A to institutional shares. On June 25, 2010, MSC refunded to LAF $1,878,680, representing all 12b-1 fees collected on LAF-held Investment Funds since LAF's inception. Although MIC subsequently converted the Pyramid Funds' holdings to institutional shares, MSC has not refunded 12b-1 fees previously collected on the Pyramid Funds' investments.

18. Between June 2000 and October 2010, the Pyramid Funds paid, and MSC received, approximately $1.4 million in 12b-1 fees on their Investment Fund holdings. Of that amount, approximately $685,000 was attributable to Investment Funds that offered institutional shares that the Pyramid Funds were eligible to own.

D. *MSC Commissions that Exceeded the Usual and Customary Broker's Commissions on ETF Transactions for LAF*

19. Although LAF primarily invested in other mutual funds during the relevant period, occasionally it also transacted in exchange-traded funds ("ETFs"). As with mutual fund transactions, MIC directed such ETF transactions to MSC.

20. Unlike mutual fund shares, ETF shares are bought and sold on securities exchanges. As an "affiliated person" of the investment adviser to LAF, MSC was prohibited from receiving, on such transactions, commissions that exceeded the "usual and customary broker's commission" for such transactions.

21. From LAF's inception through December 2011, MSC charged LAF a flat commission of 25 basis points (.25%) on every transaction effected on an exchange. In many instances, this practice resulted in commissions exceeding $.10 per share.

22. In recent years, standard commission rates for transactions effected on securities exchanges have declined substantially across the brokerage industry. By no later than October 2008, the commissions charged by MSC to LAF for such transactions substantially exceeded the usual and customary commissions charged by other broker-dealers.

23. LAF's procedures for board review and approval of affiliated brokerage transactions purported to require that MSC's commissions be "reasonable and fair" compared to commissions charged by other broker-dealers. Those procedures were not reasonably designed to achieve that result, however, as they did not require any investigation into the commissions actually charged by other broker-dealers for similar transactions. The safe harbor provided by Investment Company Act Rule 17e-1 therefore does not apply.

24. On October 31, 2012, at the request of LAF's board, MSC refunded to LAF $37,965.15, representing commissions in excess of $.03 per share on LAF's ETF transactions between October 2008 and December 2011.

Violations

25. By failing to seek best execution for the Funds when selecting among available Investment Fund share classes, MIC and Manarin willfully[4] violated Section 206(2) of the Advisers Act, which it makes it unlawful for an adviser to engage in any transaction, practice, or course of business that operates as a fraud or deceit upon any client. MIC also willfully violated Section 206(2) by representing to LAF, through its board of directors, that MIC sought best execution on transactions for its fund clients, including LAF.

26. By making materially misleading statements regarding MIC's practice of seeking best execution in the Pyramid Funds' offering documents, MIC and Manarin willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-8(a)(1) thereunder, which make it unlawful for

[4] A willful violation of the securities laws means merely "'that the person charged with the duty knows what he is doing.'" *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor "'also be aware that he is violating one of the Rules or Acts.'" *Id.* (quoting *Gearhart & Otis, Inc. v. SEC*, 348 F.2d 798, 803 (D.C. Cir. 1965)).

any adviser to a pooled investment vehicle to make any false or misleading statement of material fact to any investor or prospective investor in the pooled investment vehicle. Manarin also willfully violated Section 206(4) and Rule 206(4)-8(a)(1) by making misleading statements regarding MIC's best execution practices in LAF's registration statement, which he signed as President of the fund.

27. By making materially misleading statements regarding MIC's best execution practices in LAF's registration statement, Manarin, as President of LAF, willfully violated Section 34(b) of the Investment Company Act, which, among other things, makes it unlawful for any person to make any untrue or misleading statement of material fact in any registration statement, application, report, account, record, or other document filed with the Commission under the Investment Company Act.

28. By offering and selling interests in the Funds through the use of materially misleading offering documents, Respondents willfully violated Section 17(a)(2) of the Securities Act, which makes it unlawful, in the offer or sale of securities, to obtain money or property by means of any false or misleading statements of material fact.

29. By receiving, on transactions for LAF effected on a securities exchange, commissions that exceeded the usual and customary broker's commission for such transactions, MSC willfully violated Section 17(e)(2)(A) of the Investment Company Act, which prohibits any affiliated person of a registered investment company, or any affiliated person of such person, from receiving, in connection with transactions effected on an exchange for such registered investment company, any commission, fee, or other remuneration that exceeds the usual and customary broker's commission for such transactions.

IV.

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

Accordingly, pursuant to Section 8A of the Securities Act, Section 15(b) of the Exchange Act, Sections 203(e), 203(f), and 203(k) of the Advisers Act, and Sections 9(b) and 9(f) of the Investment Company Act, it is hereby ORDERED that:

A. Respondent MIC cease and desist from committing or causing any violations and any future violations of Sections 206(2) and 206(4) of the Advisers Act and Rule 206(4)-8 thereunder and Section 17(a) of the Securities Act.

B. Respondent MSC cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Securities Act and Section 17(e) of the Investment Company Act.

C. Respondent Manarin cease and desist from committing or causing any violations and any future violations of Sections 206(2) and 206(4) of the Advisers Act and Rule 206(4)-8 thereunder, Section 34(b) of the Investment Company Act, and Section 17(a) of the Securities Act.

D. Respondents are hereby censured.

E. Manarin and MSC, jointly and severally, shall pay disgorgement and prejudgment interest as follows:

(1) Manarin and/or MSC shall pay disgorgement totaling $685,006.90 and prejudgment interest totaling $267,741.72. Within ten (10) days of the entry of this Order, Manarin and/or MSC shall deposit the full amount of the disgorgement and prejudgment interest (together, the "Disgorgement Fund") into an escrow account acceptable to the Commission staff and provide the Commission staff with evidence of the deposit in a form acceptable to the Commission staff. If timely deposit of the Disgorgement Fund is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600.

(2) Within twenty (20) days of entry of this Order, Manarin and/or MSC shall cause the following payments to be made from the Disgorgement Fund:

(a) Disgorgement of $331,910.51 and prejudgment interest of $135,774.46 (for a total of $467,684.97) to Pyramid I;

(b) Disgorgement of $353,096.39 and prejudgment interest of $127,105.65 (for a total of $480,202.04) to Pyramid II;

(c) Prejudgment interest of $4,861.61 to LAF. MSC's prior voluntary payment of $37,965.15 to LAF on October 31, 2012 is deemed to satisfy its disgorgement obligations with respect to MSC's receipt of excessive commissions on exchange transactions for LAF in violation of Section 17(e)(2)(A) of the Investment Company Act.

(3) Within thirty (30) days of entry of this Order, Manarin and/or MSC shall certify to the Commission staff, in a form acceptable to the Commission staff, that the Disgorgement Fund has been distributed as set forth in subparagraph E.(2) above and shall submit documentation evidencing each distribution to the Commission staff. Such certification and documentation shall be delivered under cover letter, which identifies Manarin and MSC as respondents in these proceedings and the file number of these proceedings, addressed to Kurt L. Gottschall, Assistant Director, Asset Management Unit, Denver Regional Office, 1801 California St., Suite 1500, Denver, Colorado 80202.

(4) If, for any reason, any portion of the Disgorgement Fund is not distributed, Manarin and/or MSC shall cause such undistributed funds to be paid to the Commission, for transmittal to the United States Treasury, in the manner set forth in paragraph F below.

(5) If any deadline set forth in this Subsection E falls on a weekend or a federal holiday, the deadline shall move to the next business day. The Commission staff may extend any of the deadlines set forth in this Subsection E for good cause shown.

(6) Manarin and/or MSC shall be responsible for any and all tax compliance responsibilities associated with the Disgorgement Fund and may retain any professional services necessary. They may not, however, pay for such services out of the Disgorgement Fund.

F. Manarin shall, within 20 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 SEC Rule of Practice 600. Payment must be made in one of the following ways:

(1) Manarin 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

(2) Manarin 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 Manarin 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 Director, Asset Management Unit, Denver Regional Office, 1801 California St., Suite 1500, Denver, Colorado 80202.

By the Commission.

Elizabeth M. Murphy
Secretary