

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 70239 / August 21, 2013

INVESTMENT ADVISERS ACT OF 1940
Release No. 3653 / August 21, 2013

INVESTMENT COMPANY ACT OF 1940
Release No. 30655 / August 21, 2013

ADMINISTRATIVE PROCEEDING
File No. 3-15433

In the Matter of

CHARIOT ADVISORS, LLC
and
ELLIOTT L. SHIFMAN,

Respondents.

**ORDER INSTITUTING
ADMINISTRATIVE AND CEASE-
AND-DESIST PROCEEDINGS
PURSUANT TO SECTION 15(b)(6)
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 AND
NOTICE OF HEARING**

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 15(b)(6) 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 Chariot Advisors, LLC (“Chariot Advisors”) and Elliott L. Shifman (“Shifman”) (collectively, the “Respondents”).

II.

After an investigation, the Division of Enforcement alleges that:

SUMMARY

This proceeding relates to certain misrepresentations and omissions of material fact about a proposed investment strategy made by a registered investment adviser, Chariot Advisors, and its control person, Elliott L. Shifman, in connection with the process under Section 15(c) of the Investment Company Act by which Chariot Advisors obtained the approval to be the investment adviser of a registered fund, the Chariot Absolute Return Currency Portfolio (the “Chariot Fund” or “Fund”).

Under Section 15(c) of the Investment Company Act, a registered fund’s board of directors is required annually to evaluate and approve the fund’s advisory agreement, and the fund’s adviser is required initially, and thereafter annually, to provide the board with information reasonably necessary to make that evaluation (hereafter, the “15(c) process”). In December 2008 and again in May 2009, during the Chariot Fund’s 15(c) process, Shifman, acting on behalf of Chariot Advisors, misrepresented Chariot Advisors’s ability to implement the investment strategy Chariot Advisors proposed for the Chariot Fund—namely, Chariot Advisors’s ability to conduct algorithmic currency trading—and, as a result, misled the Fund’s board about the nature, extent, and quality of services that Chariot Advisors could provide. In fact, at the time of Shifman’s representations to the Board, Chariot Advisors had not devised or otherwise possessed any algorithms or computer models capable of engaging in the currency trading that Shifman described during the 15(c) process. Moreover, after the Fund launched in July 2009, Chariot Advisors initially did not use an algorithm to perform the Fund’s currency trading as represented to the Fund’s Board, but instead hired an individual trader who was allowed to use discretion on trade selection and execution. Respondents’ misconduct also led directly to misrepresentations and omissions in the Chariot Fund’s registration statement and prospectus filed with the Commission. As a result, Respondents violated Sections 15(c) and 34(b) of the Investment Company Act, and Sections 206(1) and 206(2) of the Advisers Act, and Chariot Advisors violated Section 206(4) of the Advisers Act and Rule 206(4)-8 thereunder.

RESPONDENTS

1. Chariot Advisors has been registered with the Commission as an investment adviser since September 2008. Between July 2009 and August 2011, Chariot Advisors was the investment adviser to the Chariot Fund, a registered open-end investment company, which was a series of the Northern Lights Variable Trust (“Northern Lights”). Chariot Advisors is based in Cary, North Carolina.

2. Elliott L. Shifman was the sole owner and operator of Chariot Advisors from its founding in September 2008 until June 30, 2009. Trained as an actuary, Shifman is also the founder and principal of Outer Banks Financial, LLC, now known as OBF, LLC (“Outer Banks”), an unregistered entity through which he develops and markets variable annuities and resells investment signals. He is a registered representative associated with SummitAlliance Securities, LLC (“SummitAlliance”), a registered broker-dealer, and holds Series 6 and 63 licenses. Shifman, 48 years of age, is a resident of Raleigh, North Carolina.

OTHER RELEVANT ENTITIES

3. Northern Lights is registered with the Commission as an open-end series management investment company. Organized as a Delaware statutory trust headquartered in Omaha, Nebraska, Northern Lights serves as an umbrella to a series of registered funds, providing to those funds turnkey services, including fund governance through the Northern Lights Board of Trustees (“Northern Lights Board” or “Board”). Between December 2008 and August 2011, the Chariot Fund was a series of Northern Lights and the Northern Lights Board served as the Chariot Fund’s board.

4. Chariot Fund was a registered investment company and a series of the Northern Lights from June 30, 2009 until it was liquidated on August 31, 2011.

FORMATION OF CHARIOT ADVISORS

5. In 2006, Shifman developed for Midland National Life Insurance Company (“Midland”) two variable annuities, called the Vector I and II, which he sold to investors through Outer Banks and SummitAlliance. Each Vector series allowed annuitants to invest their principal in various sub-accounts.

6. In September 2008, Shifman founded Chariot Advisors as a registered investment adviser. Thereafter, Chariot Advisors offered Vector annuity investors various risk-based models that allocated invested funds among the various sub-accounts. Chariot Advisors developed these models by combining trading signals that it purchased from several independent technical analysts.

7. Shortly after founding Chariot Advisors, Shifman began developing the Chariot Fund as a mutual fund that would be offered to investors in the Vector I and II variable annuities.

8. Chariot Fund’s initial investment objective was to achieve absolute positive returns in all market cycles by investing approximately 80% of the Fund’s assets under management in short-term fixed income securities and using the remaining 20% of the assets under management to engage in algorithmic currency trading.

CREATION OF THE CHARIOT FUND

9. In late 2008, Shifman approached Northern Lights with a request that it create the Chariot Fund as a series of Northern Lights, and approve Chariot Advisors as the new Fund's adviser.

10. On November 5, 2008, Shifman submitted responses to a new fund questionnaire to Northern Lights's counsel in which he indicated that the proposed fund would allocate 20% of its assets to currency trading, while investing the remaining 80% invested in fixed income securities.

11. On November 13, 2008, counsel for the Board of Northern Lights ("Board") requested in a letter certain information from Shifman for the Board's consideration of Chariot's proposed advisory contract at the Board's upcoming meeting scheduled for December 15, 2008.

12. In connection with this request, counsel for the Board told Shifman that this information was needed pursuant to Section 15(c) of the Investment Company Act, which required that the Board request, and that Chariot Advisors provide, all information that is reasonably necessary in connection with the decision to approve the advisory agreement between Chariot Advisors and the Chariot Fund.

13. Shifman responded to the Board in writing and prepared a PowerPoint presentation, which he made to the Board at its December 15, 2008 meeting. In the written submission, Shifman described the proposed new fund as "provid[ing] a currency arbitrage overlay on top of fixed income securities. The program is algorithmic in nature and searches for arbitrage opportunities on currency's [sic] in different markets." Shifman also indicated that an appropriate benchmark for the new fund's performance would be the S&P 500 Index.

14. Shifman's December 15, 2008 PowerPoint presentation to the Board gave further details on the Chariot Fund's proposed investment methodology. It stated that the Fund "will be a currency overlay product" and will "add[] 'alpha' by trading a[n] . . . algorithm" similar to one already used by an unrelated third party to trade the assets of a separate hedge fund Shifman also controlled.

15. The PowerPoint further stated that, by using this methodology, the Fund would be a "byproduct of extensive research of recent changes in FX market structure due to the adaptation of algorithmic and high frequency trading."

16. The PowerPoint then listed bullet points describing what Shifman described as "competitive" features of the Fund based on its use of algorithmic trading. These included, among others: "(i) High Frequency Algorithmic Trading enables [Chariot Advisors] to seek out untapped sources of alpha while controlling drawdowns; (ii) Algorithmic trading models allow 24/5.5 access to the markets extending trading opportunities and minimizing emotions associated with non-systematic trading; (iii)

Dynamic strategy model automatically adjusts trading behavior of sub-strategies to exploit current market conditions and volatility; and (iv) Intelligent execution Logic ensures best execution with minimum slippage.” In return for these services, Shifman proposed that Chariot Advisors charge the Chariot Fund a 1.00% advisory fee on assets under management, plus a 0.60% distribution fee.

17. Board records of its December 15, 2008 meeting confirm that Shifman’s representations in person before the Board were substantially similar to what he set forth in both the December 15(c) submission and his PowerPoint presentation. Those records indicate, among other things, that Shifman told the Board that the investment objective of the Chariot Fund is to seek consistent positive absolute returns through various market cycles and that Chariot Advisors would achieve this investment objective through two complementary strategies, namely, by investing primarily in short-term high quality fixed income securities and by engaging in proprietary foreign currency arbitrage. According to the Board records, Shifman represented that Chariot Advisors’s currency trading strategy involves a computer model and algorithm that permit Chariot to make split-second trades and take advantage of currency arbitrage opportunities.

18. Following Shifman’s presentation, the Board approved the Chariot Fund as a series of Northern Lights. It further concluded that Chariot Advisors’s proposed management fee was acceptable in light of the quality of the services the Chariot Fund expected to receive from Chariot Advisors, and consequently approved the Fund’s advisory agreement with Chariot Advisors.

TRANSFER OF CHARIOT ADVISORS

19. After the Northern Lights Board approved the Chariot Fund and its advisory agreement with Chariot Advisors but before the Fund launched, Shifman took steps to sell Chariot Advisors. On May 18, 2009, Shifman entered an agreement to transfer ownership of Chariot Advisors, effective June 30, 2009.

20. The pending change of control of Chariot Advisors prompted the Board to reconsider Chariot Advisors’s advisory contract with the Fund. At the Board’s request, Shifman made a second 15(c) submission on May 26, 2009.

21. The second 15(c) submission contained essentially the same claims about Chariot Advisors and the Chariot Fund that Shifman advanced in the December 15(c) submission except that in the second written submission Shifman now stated that “[t]he Fund invests in 80% diversified Treasuries or other AAA securities and currency.” Shifman also proposed that Chariot Advisors charge the Fund a 1.50% advisory fee on assets under management and a 0.40% distribution fee, justifying the increase in the advisory fee by representing that the Fund’s investment strategy required more work to implement than he had earlier anticipated. Additionally, the second 15(c) submission explained that, with the change of control of Chariot Advisors, the new owner rather than Shifman would operate Chariot Advisors and manage the Fund.

22. With the second 15(c) submission, Chariot Advisors also provided to the Board a proposed prospectus for a proposed mutual fund for which Shifman was attempting to obtain the approval of the Northern Lights Board. As described in the proposed prospectus, the envisioned mutual fund was to be advised by Chariot Advisors and have the same investment strategy as the Chariot Fund. The proposed prospectus also misrepresented Chariot's ability to engage in algorithmic currency trading. The prospectus stated:

Electronic and algorithmic trading have dramatically changed many of the traditional assumptions and processes in the currency markets. The adviser believes that currency markets are rarely efficient in the short-term, and that it is possible to generate excess returns by exploiting various short-term structural inefficiencies and non-random price action in the FX market. Using high frequency market data, the adviser has created models of the FX market that it believes are able to analyze the price formation process of exchange rates in real-time.

23. As part of the second 15(c) submission, Shifman prepared and presented to the Northern Lights Board at its May 2009 meeting, a PowerPoint presentation substantially similar to the PowerPoint used at the December 2008 meeting. Among other things, the PowerPoint contained essentially the same claims as the December 2008 submission concerning the competitive benefits of algorithmic trading.

MISREPRESENTATIONS

24. Contrary to what Shifman told the Board, Chariot Advisors did not have an algorithm or model capable of conducting the currency trading that he described for the Chariot Fund.

25. The ability to conduct currency trading for the Chariot Fund was particularly significant for the Fund's performance because, in the absence of an operating history by which to judge the Fund's performance, the Board focused instead on Chariot Advisors's reliance on models in evaluating the advisory contract.

26. The Chariot Fund's ability to conduct currency trading was also important because the Fund's performance was benchmarked to the S&P 500 Index. Shifman believed that for the Fund to achieve a return comparable to that which he expected of the S&P 500 Index while having 80% of the Fund's assets invested in fixed income securities meant that the Fund's currency trading needed to achieve 25% to 30% return. That Chariot Advisors did not have an algorithm or model capable of achieving such a return was never disclosed to the Board or investors in the Fund.

27. On June 5, 2009, the Chariot Fund filed with the Commission a registration statement and prospectus on Form N-1A that contained Shifman's claims,

among other things, that the Chariot Fund would use quantitative, proprietary trading models for currency trading. Specifically, the prospectus stated:

The Advisor will seek profits by forecasting short-term movements in exchange rates and changes in exchange rate volatility aided by quantitative models. . . . The Advisor identifies potential foreign currency trading investment opportunities by using proprietary medium-frequency trading models that the Advisor believes will produce superior risk-adjusted returns in a variety of market conditions. The proprietary currency trading models use statistical analysis to uncover expected profitable trading opportunities. Large volumes of trading statistics are continually captured, monitored and evaluated before trading occurs. The models seek to identify pricing inefficiencies and other non-random price movements that signal potentially profitable trading opportunities. The strategy attempts to profit from short-term pricing fluctuations using medium-frequency trading rather than from longer-term price trends.

28. The registration statement and prospectus were prepared and filed based on information provided by Shifman, who reviewed the registration statement and prospectus before they were filed with the Commission. On June 30, 2009, the Chariot Fund's Registration Statement and Prospectus became effective. Also on June 30, 2009, Chariot legally changed ownership to its new owner.

29. On July 15, 2009, the Chariot Fund was launched. Chariot Advisors funded the Chariot Fund by reallocating approximately \$17 million in assets in clients' annuities to the Fund, which was a sub-account on Midland's variable annuity platform.

30. Because Chariot Advisors possessed no algorithm, for at least the first two months after the Fund's launch, currency trading for the Fund was under the control of an individual trader who was not using an algorithm. Shifman had interviewed the trader prior to her being hired and knew that, for trading, she used a technical analysis, rules-based approach that combined a few market indicators with her own intuition.

31. The trader traded currencies for the Fund until September 30, 2009 when she was terminated due to poor trading performance. Subsequently, Chariot Advisors employed a third party who utilized a computer algorithm to conduct currency trading on behalf of the Chariot Fund.

VIOLATIONS

32. As a result of the conduct described above, Chariot Advisors willfully violated Section 15(c) of the Investment Company Act, which makes it the duty of an

investment adviser to a registered investment company to furnish such information as may reasonably be necessary to evaluate the terms of any contract whereby a person undertakes regularly to serve or act as investment adviser to such company.

33. As a result of the conduct described above, Shifman willfully aided and abetted and caused Chariot Advisors's violations of Section 15(c) of the Investment Company Act.

34. As a result of the conduct described above, Chariot Advisors and Shifman willfully aided and abetted and caused the Chariot Fund's violations of Section 34(b) of the Investment Company Act, which makes it unlawful for any person to make any untrue statement of a material fact in any registration statement, or other document filed or transmitted pursuant to the Investment Company Act, or for any person so filing or transmitting to omit to state therein any fact necessary in order to prevent the statements made therein, in the light of the circumstances under which they were made, from being materially misleading.

35. As a result of the conduct described above, Chariot Advisors willfully violated Sections 206(1), 206(2) and 206(4) of the Advisers Act, which prohibit fraudulent conduct by an investment adviser, and Rule 206(4)-8 promulgated thereunder, which prohibits any investment adviser to a pooled investment vehicle from making any untrue statement of a material fact or omitting to state a material fact necessary to make the statements made, in the light of the circumstances under which they were made, not misleading, to any investor or prospective investor in the pooled investment vehicle.

36. As a result of the conduct described above, Shifman willfully aided and abetted and caused Chariot Advisor's violations of Sections 206(1) and 206(2) of the Advisers Act.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative and cease-and-desist proceedings be instituted to determine:

A. Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford Respondents an opportunity to establish any defenses to such allegations;

B. What, if any, remedial action is appropriate in the public interest against Chariot Advisors pursuant to Section 203(e) of the Advisers Act, and against Shifman pursuant to Section 203(f) of the Advisers Act, including, but not limited to, disgorgement and civil penalties pursuant to Section 203 of the Advisers Act;

C. What, if any, remedial action is appropriate in the public interest against Respondents pursuant to Section 9(b) of the Investment Company Act including, but not

limited to, disgorgement and civil penalties pursuant to Section 9 of the Investment Company Act;

D. Whether, pursuant to Section 203(k) of the Advisers Act, and Section 9(f) of the Investment Company Act, Respondents should be ordered to cease and desist from committing or causing violations of and any future violations of Sections 15(c) and 34(b) of the Investment Company Act and Sections 206(1) and 206(2) of the Advisers Act and, as to Chariot Advisors, Section 206(4) of the Advisers Act, and Rule 206(4)-8 promulgated thereunder, whether Respondents should be ordered to pay a civil penalty pursuant to Section 203(i) of the Advisers Act, and Section 9(d) of the Investment Company Act, whether Respondent Shifman should be ordered to pay a civil penalty pursuant to Section 21B of the Exchange Act, and whether Respondents should be ordered to pay disgorgement pursuant to Section 203 of the Advisers Act, and Section 9 of the Investment Company Act; and

E. What, if any, remedial action is appropriate in the public interest against Respondent Shifman pursuant to Section 15(b) of the Exchange Act including, but not limited to, disgorgement and civil penalties pursuant to Section 21B of the Exchange Act.

IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened not earlier than 30 days and not later than 60 days from service of this Order at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that each Respondent shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If a Respondent fails to file the directed answer, or fails to appear at a hearing after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against him upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f) and 201.310.

This Order shall be served forthwith upon Respondents personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 300 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually

related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not “rule making” within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Elizabeth M. Murphy
Secretary