

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 81584 / September 12, 2017

INVESTMENT ADVISERS ACT OF 1940
Release No. 4767 / September 12, 2017

INVESTMENT COMPANY ACT OF 1940
Release No. 32815 / September 12, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-18171

In the Matter of

JEREMY A. LICHT d/b/a JL
CAPITAL MANAGEMENT

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO SECTION 21C OF THE
SECURITIES EXCHANGE ACT OF 1934,
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 Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), 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 Jeremy A. Licht d/b/a JL Capital Management (“Licht” or “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, and except as provided herein in Section V, Respondent consents

to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Section 21C of the Securities Exchange Act of 1934, 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 finds¹ that:

Summary

1. From at least January 2011 through November 2015, Jeremy A. Licht (d/b/a JL Capital Management), a California registered investment adviser, engaged in a fraudulent trade allocation scheme, or “cherry-picking,” that harmed his advisory clients. Licht allocated a disproportionate number of favorable trades (*i.e.*, trades that had a positive first-day return) to his own account and allocated a disproportionate number of unfavorable trades (*i.e.*, trades that had a negative first-day return) to clients’ accounts. As a result of his scheme, Licht realized at least \$88,504 in ill-gotten gains between January 2012 and November 2015.²

Respondent

2. Jeremy A. Licht, age 46, resides in Sherman Oaks, California. Licht is the founder, principal, chief compliance officer, and sole owner of JL Capital Management, a sole proprietorship. Licht d/b/a JL Capital Management is a California registered investment adviser. Licht has no disciplinary history.

Facts

3. Licht was an investment adviser and had discretionary authority over all client accounts. He generally traded the same securities for those accounts and his personal accounts. Licht used a custodian for all accounts under his management. From at least January 2011 to September 2012, a registered broker-dealer (“Broker 1”) was the custodian for the accounts under Licht’s management. From October 2012 to March 2016, another registered broker-dealer (“Broker 2”) was the custodian for Licht’s personal and client accounts.

4. Licht submitted trades and allocated them using an online platform provided by a brokerage. He carried out his fraudulent scheme by trading in an omnibus account and delaying allocation of those trades to a specific account until he had an opportunity to observe the security’s intraday performance. In many cases, when the price of a stock rose on the purchase date, Licht sold the security the same day, locking in a day-trading profit that he allocated to himself. By contrast, Licht disproportionately allocated purchases that were not profitable on the

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.

² Licht agreed to a tolling agreement that suspended the running of the statute of limitations from December 31, 2016 through December 31, 2017.

purchase date to clients. Licht often waited several hours and/or until after the close of the trading day to allocate trades from his omnibus account.

5. Licht's cherry-picking financially benefitted him and disadvantaged his clients. Between January 2011 and September 2012, when Licht's personal and client accounts were custodied at Broker 1, Licht's total first-day profits (realized and unrealized) were at least \$35,933, representing a 1.01% return on his investment. In contrast, Licht's clients suffered aggregate unrealized first-day losses of \$77,700, representing a -2.15% return. Then, from October 2012 to March 2016, when Licht's managed accounts were custodied at Broker 2, Licht's total first-day profit (realized and unrealized) was at least \$52,731, or a 2.07% return on his investment, while his clients had aggregate unrealized first-day losses of \$72,816, or a -1.06% return.

6. The difference between Licht's first-day returns and that of his clients is statistically significant. The probability that the disproportionate allocation of favorable trades to Licht at Broker 1 was due to random chance is less than one in a trillion. The probability that the disproportionate allocation of trades at Broker 2 was attributable to random chance is less than one in a million.

7. Since January 2012, Licht reaped at least \$88,504 in ill-gotten gains from his cherry-picking scheme.

8. Both Broker 1 and Broker 2 terminated their relationships with Licht because they suspected that he was improperly allocating trades on their platforms. Broker 1 terminated the relationship in August 2012 (effective October 2012), and Licht moved his business to Broker 2's platform, where he continued cherry-picking profitable trades for his own account to his clients' detriment for another three years. Broker 2 terminated its relationship with Licht in January 2016. Licht never informed his clients that the two firms had unilaterally terminated him, nor did he disclose the reason why the brokerages ended their relationship with him.

9. Licht made false statements to his clients in his Forms ADV. In particular, Licht's Forms ADV Part 2A falsely stated that "[n]o Client/investor, account or fund will be favored over any other Client/investor, account or fund as the result of the allocation" of block orders. It also represented that Licht reviewed all personal trading to ensure "that clients of the firm receive preferential treatment." These statements were false and misleading because Licht allocated trades in a manner that favored his personal account and disadvantaged clients.

10. Licht's Forms ADV also represented that "[p]re-allocation statement(s) specifying the participating Client/investor accounts and the proposed method to allocate the order among the clients/investors, accounts or funds are required prior to any allocated order" and that "[a]ggregated orders filled in their entirety shall be allocated among clients/investors, accounts or funds in accordance with an allocation statement created prior to the execution of the transaction(s)." These statements were false and misleading because Licht did not create or employ pre-allocation statements.

Violations

11. As a result of the conduct described above, Licht willfully violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in connection with the purchase or sale of securities, by knowingly or recklessly allocating profitable trades to his own account at the expense of his clients.

12. As a result of the conduct described above, Licht willfully violated Sections 206(1) and 206(2) of the Advisers Act, which prohibit investment advisers from defrauding their advisory clients. Specifically, Section 206(1) of the Advisers Act prohibits any investment adviser from employing any device, scheme, or artifice to defraud any client or prospective client, and Section 206(2) of the Advisers Act prohibits any investment 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 Section 21C of the Exchange Act, 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 Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and Sections 206(1) and 206(2) of the Advisers Act;

B. Respondent shall be, and hereby is:

barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; 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.

C. Any reapplication for association by 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.

D. Respondent shall pay disgorgement of \$88,504 and prejudgment interest of \$8,714.34, and pay a civil money penalty in the amount of \$181,071 to the Securities and Exchange Commission. Payment of \$58,289.34 shall be made within 14 days of the entry of this Order, and the remaining balance of \$220,000 shall be paid within 12 months of entry of this Order. If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of disgorgement, prejudgment interest, and civil penalties, plus any additional interest accrued pursuant to SEC Rule of Practice 600 and/or pursuant to 31 U.S.C. §3717, shall be due and payable immediately, without further application.

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 Jeremy A. Licht as the 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 John W. Berry, Associate Regional Director, Division of Enforcement, Securities and Exchange Commission, 444 South Flower Street, Suite 900, Los Angeles, California 90071.

E. Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, a Fair Fund is created for the disgorgement, prejudgment interest and penalties referenced in paragraph IV.D above. The Fair Fund will be distributed to harmed clients in accordance with a Commission-approved plan of distribution. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, he shall not argue that he is entitled to, nor shall he benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that he shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall

not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a “Related Investor Action” means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Brent J. Fields
Secretary