

**Financial Industry Regulatory Authority
Office of Hearing Officers**

RECEIVED
2007 DEC 28 A 8:11
ADMINISTRATIVE & DISCLOSURE

Department of Market Regulation,
Complainant,

v.

Allan J. Satterfield
(CRD No. 4087020)

and

John Allan Jones
(CRD No. 2558599)

Respondents.

Disciplinary Proceeding
No. 20050013986-02

Hearing Officer:

COMPLAINT

The Department of Market Regulation alleges:

Summary

1. Beginning in December 2004 and continuing through August 2005, while employed as salesmen at Wellstone Securities LLC, Respondents Allan J. Satterfield and John Allan Jones, acting together and with others, participated in a fraudulent scheme to solicit investments in an unregistered hedge fund called Aurora Investment Fund LLC, and its general partner, CET. In doing so, Respondents engaged in a variety of fraudulent and deceptive sales practices and disregarded their duties and obligations of fair dealing to their customers.

2. In conducting their scheme, each Respondent knew or was reckless in not knowing that Aurora was engaging in a highly speculative trading strategy involving futures contracts and that information supplied by the hedge fund manager and used by the salesmen to solicit Aurora and CET contained materially false and misleading statements and omissions concerning, among other facts, (a) a pending CFTC securities fraud action against the hedge fund manager that called into question the veracity of the information he provided Respondents

000008352 2008

concerning Aurora, its trading strategy, and profitability; (b) the fund's theoretical and unproven performance figures; (c) the highly speculative nature of Aurora's trading strategy; and (d) the significant risks associated with an investment in Aurora and CET.

3. In soliciting their customers, Respondents Satterfield and Jones essentially ignored many red flags, including those contained in Aurora's Private Placement Memorandum ("PPM").

4. In addition, they solicited their customers without conducting a reasonable investigation to determine whether Aurora and CET were suitable investments and without regard as to whether their customers were capable of evaluating and bearing the risks associated with such investments.

5. Based on the foregoing, Respondents Satterfield and Jones willfully violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and violated NASD Rules 2110, 2120, 2310, and IM-2310-2.

Respondents and Jurisdiction

6. At all times relevant to this Complaint, Respondent Satterfield, age fifty-seven, was a registered representative at Wellstone. Satterfield first became registered with a FINRA member firm in December 1999, as a General Securities Representative. In November 2003, Satterfield registered with Wellstone. While employed at Wellstone, Satterfield worked out of his home in Gainesville, Georgia. His registration with Wellstone was terminated on December 31, 2007, when the firm ceased operations. Satterfield is not currently registered with a FINRA member, however, he remains subject to FINRA jurisdiction pursuant to Article V, Section 4 of FINRA's By-laws.

7. At all times relevant to this Complaint, Respondent Jones, age sixty-two, was a registered representative at Wellstone. Jones first became registered with a FINRA member firm in 1994. In January 2003, Jones registered with Wellstone as a General Securities Representative, and an Investment Company and Variable Contracts Product Representative and Principal. While at Wellstone, Jones worked out of his own office in Alpharetta, Georgia. Jones left Wellstone in September 2007, and he is currently registered with a FINRA member firm.

The Securities Respondents Recommended to Customers

Aurora Investment Fund LLC

8. At all times relevant to this Complaint, Aurora was an unregistered hedge fund that was created in 2002 as a limited partnership. According to Aurora's PPM and other sales material, the fund's trading strategy involved selling short S&P futures contracts purportedly to hedge against any losses on the S&P Index. In doing so, Aurora would rely upon a theory of trading analysis called "Xybernomics" whereby the fund would determine when to sell short futures contracts based upon "exogenous input frequencies" including the earth's gravitational forces. In addition, the PPM for Aurora contained the following materially-important disclosures about the fund and its theoretical and unproven investment strategy:

- Aurora had no trading history or performance history.
- Aurora had no audited financial statements.
- Neither CET nor the hedge fund manager had previously operated a commodity pool.
- The fund's investment strategy was speculative and involved significant risk of loss.
- Performance returns were hypothetical and not based on actual trading.
- Aurora was suitable only for sophisticated investors with the financial ability and willingness to accept high risks and lack of liquidity inherent in an investment in Aurora.
- Interests in the partnership generally would be sold to "accredited investors" as defined under Regulation D of the Securities Act of 1933.

CET

9. At all times relevant to this Complaint, CET served as the general partner of Aurora. CET was created in 2002 as a limited liability company. For those customers who did not meet the minimum investment requirements to invest in Aurora, the Respondents offered CET to their customers as an alternative investment with lower minimum investment requirements.

Other Relevant Persons

TE

10. At all times relevant to this Complaint, TE served as President and Director of Trading for CET and had primary responsibility for all trading and operations of Aurora. Previously, in June 2003, in an action unrelated to Aurora or CET, TE was sanctioned and fined \$45,000 by the National Futures Association for making fraudulent misrepresentations in connection with the solicitation of customers to purchase futures contracts. In addition, in September 2003, in an action unrelated to Aurora or CET, the U.S. Commodity Futures Trading Commission filed a complaint in federal court against TE and his former employer alleging that TE had committed fraud in the solicitation of customers by exaggerating the likelihood of profiting from the purchase of commodity futures and by failing to disclose the actual risks associated with commodity futures trading. The CFTC complaint further alleged that TE and other defendants falsely represented that such risks were minimal, while failing to disclose that during 2001 and 2002, more than ninety-five percent of their customers had lost money trading commodities futures for a total loss of more than \$9 million. On October 8, 2003, the court entered an order of preliminary injunction against TE in connection with this

action. In 2006, the court entered an order of permanent injunction against TE in connection with this action pursuant to which TE was fined \$250,000.

DT

11. At all times relevant to the Complaint, DT was registered with Wellstone as a registered representative.

The Scheme

12. DT and TE devised and employed a fraudulent scheme to sell Aurora and CET through Wellstone. In furtherance of the scheme, DT and TE recruited Wellstone brokers, including Satterfield and Jones, to solicit Aurora and CET to their unsuspecting customers through the use of deceptive and misleading sales pitches. Accordingly, in December 2004, Satterfield and Jones attended a meeting at Wellstone at which DT and TE made a presentation on how to solicit customers to invest in Aurora and CET. DT introduced TE as the head trader for Aurora.

13. DT and TE provided the salesmen with the PPM and a black binder filled with sales materials for Aurora. They also described Aurora's highly speculative trading strategy, details of which were also described in the binder containing the sales material.

14. According to DT and TE, Aurora would invest ninety-five percent of investor funds in shares of the S&P Index, and the remaining five percent would be used to sell short S&P futures contracts to hedge against any losses on the S&P Index.

15. DT and TE presented the strategy as a non-speculative approach for investors to protect against downside market risk, while profiting from any increase in the S&P Index.

16. DT claimed there was little risk of loss of an investor's principal because Aurora would hedge against any market downturn.

17. DT's claims that Aurora's trading strategy was non-speculative and low-risk directly contradicted the statements in the PPM that the trading strategy was speculative and involved substantial risks and that Aurora was not appropriate for investors seeking stability of principal.

18. DT and TE also touted Aurora's extraordinary performance results. They showed the salesmen copies of "test fund" performance results, contained in the sales binder, showing performance returns of fifty percent for Aurora in 2001 and 148 percent in 2002.

19. DT and TE claimed that, although the test fund results shown in the binder were labeled as hypothetical, these test fund performance figures for 2001 and 2002 were based on actual trading profits earned by TE using the hedge fund's trading strategy.

20. These claims that the test fund results were based on actual trading profits earned by TE contradicted statements in the PPM that the performance results were hypothetical and not based on actual trading. In fact, the PPM clearly stated:

The General Partner has had no experience trading actual accounts for itself or for customers. Because there are no actual trading results to compare to the hypothetical performance results, customers should be particularly wary of placing undue reliance on these hypothetical performance results.

21. DT and TE also noted that Aurora was open to accredited investors and that the fund required a minimum investment of \$250,000 from each investor. For those customers who could not meet these restrictions, they told the brokers to have their customers invest in CET, which had no minimum investment and no restrictions on non-accredited investors.

22. In doing so they also noted that CET and Aurora were essentially the same vehicle, that TE would trade them as one fund, and that investors would receive the same returns on both.

23. These assertions highlight that Aurora and CET were suitable only for sophisticated investors with the financial ability and willingness to accept high risks.

24. TE offered to pay the salesmen, through Wellstone, for each customer that invested in either Aurora or CET through Wellstone, a commission equal to one percent of the customer's investment.

25. As extra incentive, TE offered to pay the salesmen, through Wellstone, a quarterly performance fee equal to four percent of their customers' earnings on their investments.

Satterfield and Jones Participate in the Fraudulent Scheme

26. Beginning in approximately December 2004 and continuing through August 2005, Satterfield and Jones knowingly and recklessly joined the fraudulent scheme by soliciting and selling Aurora and CET to their customers.

Satterfield

27. Satterfield did no independent investigation of Aurora, CET, or TE before he began his fraudulent solicitation of the investment to his clients. Even though Satterfield had no previous training or experience with futures trading, hedge funds, or private placements and even though the information provided by TE and DT was contrary to disclosures contained in the PPM, Satterfield relied solely on the deceptive and misleading information provided by TE and DT about Aurora and CET. Satterfield failed to conduct a reasonable investigation of the investments in view of these inconsistencies as well as other clear warnings and risk disclosures contained in the PPM and he did not understand the investments. In fact, at the time of the sales to his customers, Satterfield did not even understand what a "private placement" was.

28. Further, Satterfield recommended Aurora and CET without regard to whether Aurora or CET were suitable investment products for any investor and without any determination whether they were suitable for his individual customers. He failed to conduct a reasonable investigation of his customers' financial status, investment objectives, and knowledge and experience in financial matters to determine whether the customers were capable of evaluating and bearing the risks associated with an investment in an unregistered hedge fund engaged in a speculative strategy involving futures contracts. In addition, in fraudulently soliciting Aurora and CET, Satterfield did not tell his customers that he had not done a reasonable investigation of the investments or their suitability.

29. Satterfield made other materially false and misleading statements and omissions when recommending the purchase of interests in Aurora and CET.

30. For example, notwithstanding language to the contrary in the PPM, Satterfield solicited customers to purchase interests in Aurora and CET by falsely representing that Aurora's trading strategy was a conservative method of protecting principal and that the funds would not engage in speculative trading.

31. Satterfield also used the misleading information in the black sales binder, and in particular, deceptively touted the hypothetical test fund results for 2001 and 2002 to convince customers to purchase Aurora and CET.

32. Satterfield did not fully disclose the true risks associated with Aurora and CET, and failed to take reasonable steps to ensure that his customers knew, understood, and were willing to take such risks.

33. Satterfield did no investigation of TE's background before recommending Aurora and CET to customers and he did not disclose this lack of investigation to his

customers. Even after learning of the securities fraud charges against TE, Satterfield did not disclose this information to any of his customers. He failed to take reasonable action to protect his customers' interests, by, at least, disclosing this information to customers that still owned Aurora or CET.

34. As a result of his efforts, Satterfield raised approximately \$4.5 million from fourteen customers who invested in Aurora and CET on his recommendation and he received approximately \$60,000 in commissions therefrom.

Jones

35. In approximately December 2004, Jones also began his fraudulent solicitation of customers to purchase interests in Aurora and CET.

36. Jones did no independent investigation of Aurora, CET, or TE before he recommended the investments to his clients. Jones also had no previous training or experience in futures trading, hedge funds, or private placements offerings. Although the information provided to him by TE and DT was contrary to disclosures contained the PPM, Jones failed to conduct a reasonable investigation of the investments in view of these inconsistencies as well as other clear warnings and risk disclosures contained in the PPM. Instead he relied solely upon the deceptive and misleading information supplied by the Thompsons and TE.

37. Jones recommended Aurora and CET without regard to whether Aurora and CET were suitable investment products for any investor and without any determination whether they were suitable for his individual customers. He failed to conduct a reasonable investigation of his customers' financial status, investment objectives, and knowledge and experience in financial matters to determine whether the customers were capable of evaluating and bearing the risks associated with an investment in an unregistered hedge fund engaged in a

speculative trading strategy involving futures contracts. In fraudulently soliciting Aurora and CET, Jones did not tell his customers that he had not done a reasonable investigation of the investments or their suitability.

38. Jones also made other materially false and misleading statements and omissions when recommending the purchase of interests in Aurora and CET.

39. For example, Jones learned that TE had been charged with securities fraud *before* he began to recommend Aurora and CET to his own customers, but he failed to disclose this information to any prospective investors.

40. Jones also falsely represented to his unsuspecting customers that Aurora would use a conservative, non-speculative trading strategy to hedge against market downturns.

41. Jones failed to fully disclose the true risks associated with Aurora and CET and failed to take reasonable steps to ensure that his customers knew, understood, and were willing to take such risks.

42. Jones also used the false and misleading information in the sales binder, including the test fund results, when recommending Aurora and CET to customers.

43. Through his fraudulent sales efforts, Jones raised approximately \$1,000,000 from fourteen customers who invested in Aurora and CET and received approximately \$13,600 in commissions.

FIRST CAUSE OF ACTION

**Fraud in the Purchase or Sale of Aurora and CET
(All Respondents)**

**Willful Violations of Section 10(b) of the Securities Exchange Act of 1934
and Rule 10b-5; and Violations of NASD Rules 2110 and 2120**

44. The Department *realleges and incorporates by reference* paragraphs 1 through 43 above.

45. Respondents Satterfield and Jones knew or were reckless in not knowing that the sales material and their sales pitches to customers relating to Aurora and CET contained materially false and misleading statements and omissions. Further, in recommending Aurora and CET to customers, Respondents Satterfield and Jones failed to have reasonable grounds for believing that their recommendations were suitable, and in fact, knew or were reckless in not knowing that Aurora and CET were unsuitable for their customers.

46. By reason of the foregoing, Respondents Satterfield and Jones, in connection with the purchase or sale of Aurora and CET securities, and by the use of the means or instrumentalities of interstate commerce, or of the mails, intentionally or recklessly employed manipulative or deceptive devices, schemes, or artifice to defraud; made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and engaged in acts, practices or a course of business which operated or could operate as a fraud or deceit upon any person, in willful violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and further, in violation of NASD Rules 2110 and 2120.

SECOND CAUSE OF ACTION

**Negligent Misrepresentations and Omissions of Material Fact
(All Respondents)**

Violations of NASD Rule 2110

47. The Department realleges and incorporates by reference paragraphs 1 through 46 above.

48. Respondents Satterfield and Jones negligently made misleading misrepresentations and omissions of material facts to their customers in connection with the purchase or sale of Aurora or CET securities, and failed to observe high standards of commercial honor and just and equitable principals of trade in violation of NASD Rule 2110.

THIRD CAUSE OF ACTION

**Suitability
(All Respondents)**

Violations of NASD Rules 2110, 2310 and IM-2310-2

49. The Department realleges and incorporates by reference paragraphs 1 through 48 above.

50. Respondents Satterfield and Jones failed to conduct a reasonable investigation of Aurora and CET to determine whether the securities being offered were suitable for recommendation to any customer and further, failed to have reasonable grounds to believe that the recommendation of Aurora and CET was suitable for individual customers on the basis of facts, disclosed by such customers, as to the customer's other securities holdings and financial situation and needs. By reason of the foregoing, Respondents Satterfield and Jones violated NASD Rules 2110, 2310 and IM-2310-2.

RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondents committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under Rule 8310(a) be imposed, including that Respondents be required to disgorge all ill-gotten gains and make full and complete restitution, together with interest;
- C. order that Respondents bear such costs of this proceeding as are deemed fair and appropriate under the circumstances in accordance with Rule 8330;
- D. make specific findings that Respondents willfully violated Section 10(b) of the Securities Exchange Act and Rule 10b-5; and
- E. order all further relief, legal or equitable, that is warranted under the circumstances.

Date: 12/24/09

David E. Rosenstein

412

David E. Rosenstein
Senior Vice President and Counsel
FINRA Department of Market Regulation
9509 Key West Avenue
Rockville, MD 20850

J. Nixon

James J. Nixon
Chief Litigation Counsel
Phone 240-386-5075

Laurie A. Doherty

Laurie A. Doherty
Counsel
Phone 240-386-5006
laurie.doherty@finra.org
marketreglitigation@finra.org