

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 3906 / August 28, 2014

ADMINISTRATIVE PROCEEDING
File No. 3-16046

In the Matter of

**STRUCTURED PORTFOLIO
MANAGEMENT, L.L.C.,**

SPM JR., L.L.C., and

SPM IV, L.L.C.,

Respondents.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS
PURSUANT TO SECTIONS 203(e) AND 203(k)
OF THE INVESTMENT ADVISERS 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 Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”) against Structured Portfolio Management, L.L.C. (“Portfolio Management”), SPM Jr., L.L.C. (“SPM Jr.”), and SPM IV, L.L.C. (“SPM IV”) (“Respondents”).

II.

In anticipation of the institution of these proceedings, Respondents have 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 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 Sections 203(e) and 203(k) of the Investment Advisers 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' Offer, the Commission finds that:

SUMMARY

1. This matter concerns compliance failures by hedge fund adviser Portfolio Management and its affiliated advisers, SPM Jr. and SPM IV (collectively, "SPM"). SPM failed to adopt and implement written compliance policies and procedures reasonably designed to prevent violations of the Advisers Act, as required by Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, concerning trade allocation and the review of investor disclosures.

2. The compliance failures are the result of a disclosed, but inadequately addressed, conflict of interest wherein SPM allowed a trader to trade the same securities across three SPM-advised hedge funds. This conflict of interest presented the possibility for the trader to engage in improper allocations from February 2006 through February 2009. Despite SPM's recognition of the conflict and its awareness of internal concerns regarding trade allocations, SPM failed to adopt and implement written policies and procedures reasonably designed to detect and prevent improper trade allocations. In addition, SPM failed to adopt and implement written policies and procedures reasonably designed to prevent inaccurate disclosures concerning its funds and their investment strategies.

RESPONDENTS

3. **Structured Portfolio Management, L.L.C. ("Portfolio Management")** is a Delaware limited liability company located in Stamford, Connecticut. Portfolio Management was formed in February 1997 and advises the Structured Servicing Holdings Master Fund, L.P. Portfolio Management has been registered as an investment adviser with the Commission since April 2000.

4. **SPM Jr., L.L.C. ("SPM Jr.")** is a Delaware limited liability company located in Stamford, Connecticut. SPM Jr. was formed in January 2003 and advised the Parmenides Master Fund, L.P. During the relevant time period, Portfolio Management owned approximately 90% of SPM Jr. SPM Jr. was registered as an investment adviser with the Commission from April 2003 through January 2013.

5. **SPM IV, L.L.C. ("SPM IV")** is a Delaware limited liability company located in Stamford, Connecticut. SPM IV was formed in May 2005 and advised the Aqueous Master Fund, L.P. During the relevant time period, Portfolio Management owned approximately 44% of SPM IV. SPM IV was registered as an investment adviser with the Commission from June 2005 through April 2009.

OTHER RELEVANT ENTITIES

6. **Structured Servicing Holdings Master Fund, L.P. (“SSH”)** is a Delaware limited partnership that was formed in July 2001 and was advised by Portfolio Management during the relevant time period.

7. **Parmenides Master Fund, L.P. (“Parmenides”)** was a Delaware limited partnership that was formed in January 2003 and was advised by SPM Jr. during the relevant time period.

8. **Aqueous Master Fund, L.P. (“Aqueous”)** was a Delaware limited partnership that was formed in September 2005 and was advised by SPM IV during the relevant time period.

FACTS

A. Background

9. Portfolio Management was formed in 1997 and registered with the Commission as an investment adviser in 2000. During the relevant time period, Portfolio Management advised hedge fund SSH and had a 90% ownership interest in affiliated adviser SPM Jr., which advised hedge fund Parmenides.

10. SSH and Parmenides invested in mortgage-related securities, including collateralized mortgage obligations, mortgage-backed securities (“MBS”), and interest-only bonds. These securities were subject to interest rate risk, which was hedged by trading a variety of liquid securities, including U.S. Treasury securities (“Treasuries”).

11. SSH and Parmenides had separate portfolio managers who traded each fund’s core mortgage-related securities holdings. A third trader (hereinafter, “Hedge Trader”) was responsible for hedging interest rate risk for both SSH and Parmenides.

12. In 2005, the principals of Portfolio Management formed Aqueous, a new, highly liquid fund that sought to provide excess returns by investing in a wide range of financial assets drawn principally from the U.S. residential and commercial mortgage markets, and including Treasuries and other securities. They created SPM IV to advise it.

13. Aqueous was launched in February 2006 and the Hedge Trader was appointed as its portfolio manager and trader. Aqueous received seed capital from SSH and Parmenides, which were consistently among the largest investors in Aqueous.

B. SPM Failed to Adopt and Implement Policies and Procedures Reasonably Designed to Prevent Improper Trade Allocations

The Potential Conflict

14. After being named Aqueous' portfolio manager and trader, the Hedge Trader continued to trade the hedge positions for SSH and Parmenides. When trading for Aqueous, the Hedge Trader's sole responsibility was to make a profit. In contrast, when trading for SSH and Parmenides, his main responsibility was to hedge interest rate risk.

15. On an average day, the Hedge Trader traded Treasuries to hedge SSH's and Parmenides' core holdings in mortgage-related securities. He also traded the same Treasuries in Aqueous as part of its core holdings; however, those trades were for much smaller quantities and occurred much less frequently. When the Hedge Trader traded the same Treasuries across all three funds, a potential conflict of interest existed concerning how to allocate the trades among the three funds. SPM recognized and disclosed this potential conflict at Aqueous' inception but did not modify or update its written policies and procedures.

16. Portfolio Management, SPM Jr., and SPM IV were subject to the same set of compliance policies and procedures (or "Compliance Manual"). The Compliance Manual, which was created in consultation with an external consultant, stated that SPM traders would seek to allocate trades in a fair and equitable manner in light of the investment objectives and strategies of SPM's funds and other factors.

17. SPM's Compliance Manual also contained trade confirmation procedures. Pursuant to these procedures, upon executing a trade, the trader was required to complete a trade blotter identifying, among other information, the following: (i) the name of the fund purchasing or selling the security; (ii) a description of the security traded; (iii) the amount of securities traded; (iv) the price at which the trade was executed; and (v) the counterparty. On a daily basis, a member of the operations staff was required to obtain the blotter, review it, and enter all of the information into SPM's proprietary trade management system.

18. Although SPM required its traders to identify upon trade execution the fund for which the securities were traded, it did not institute any additional procedures after the creation of Aqueous to confirm that traders actually did so. Trade blotters were provided to, or collected by, the operations department on a sporadic basis throughout the day without any way of determining when the trader had identified the fund for which the securities were traded in relation to the time that the trade was executed.

Concerns Raised

19. In August 2006, internal concerns were raised as to whether Aqueous was receiving more favorable execution prices than SSH and Parmenides when trading the same Treasury security on the same day.

20. The internal concerns were based on a review of the funds' trading data for the time period April to August 2006, which showed that when Aqueous, SSH, and Parmenides each purchased the same Treasury security on the same day, Aqueous consistently bought at a lower price than the other two funds. Likewise, when all three funds sold the same Treasury security on the same day, Aqueous consistently sold at a higher price than SSH and Parmenides. After these concerns were raised, SPM removed the Hedge Trader from trading on behalf of SSH and Parmenides while he was trading for Aqueous. For approximately six months, the Hedge Trader traded solely for Aqueous.

21. In January 2007, SPM lifted the Hedge Trader's trading restriction and allowed him to resume trading for all three funds. While SPM took certain steps to address the earlier concerns as part of the decision to allow the Hedge Trader to resume executing trades for SSH and Parmenides, it did not amend its written policies and procedures to address the potential for conflicts. Instead, SPM simply instructed its traders to provide trade blotters to the operations department more frequently throughout the day and tasked a junior compliance officer with ensuring that trade blotters were provided in a timely manner.

22. These oral instructions regarding the trade blotters were not accompanied by anything in writing and no additional guidance was provided to the traders or to the junior compliance officer. For example, while traders were required to provide blotters to the operations department more frequently, there was no written guidance concerning when the blotter needed to be provided in relation to when the trade was placed. Further, SPM did not provide the junior compliance officer with any written procedures to ensure that blotters were provided in a timely manner. In November 2008, while the junior compliance officer was on vacation and there was no one assigned to carry out those responsibilities, SPM raised concerns that traders were not properly allocating their trades by fund at the time of execution.

23. During SPM's annual compliance review in November 2008, an independent firm separately raised trade allocation concerns.

24. In January 2009, concerns regarding trade allocations were again raised internally. These concerns were based on a statistical analysis that claimed Aqueous' trading performance was aberrational for the time period September 2007 through January 2009. In response to these concerns, SPM hired outside counsel to conduct a review of SPM's trade allocations. The review was inconclusive as to whether trades were or were not allocated improperly.

25. While SPM's compliance manual required traders to identify the fund for which the securities were being traded upon execution, this requirement alone was not sufficient for preventing improper trade allocations. Despite being aware of concerns about improper trade allocations, SPM failed to adopt and implement written policies and procedures reasonably designed to prevent improper trade allocations.

26. In March 2009, SPM closed the Aqueous fund.

C. SPM Failed to Adopt and Implement Written Policies and Procedures to Adequately Review Investor Disclosures

27. SPM failed to adopt and implement written policies and procedures reasonably designed to prevent inaccurate disclosures to current and prospective investors regarding the trading and investment strategy of Aqueous.

28. Aqueous' investment objective was to provide excess returns by investing in a wide range of financial assets drawn principally from the U.S. residential and commercial mortgage markets. The fund's private placement memorandum disclosed that Aqueous would invest primarily in MBS, including Fannie Maes and Freddie Macs, but that it also might invest in Treasuries and other liquid securities.

29. From Aqueous' inception in February 2006 until mid-2007, the fund traded highly liquid MBS and Treasuries as set forth in its offering documents. Over time, however, Aqueous stopped trading MBS and began almost exclusively to day-trade Treasuries. While Aqueous continued to maintain a highly liquid investment strategy, SPM failed to disclose that it was doing so by day-trading Treasuries and continued to represent that it was primarily trading mortgage-related securities.

30. In contrast to these disclosures, Aqueous had not been trading mortgage-related securities. From September 2007 through February 2009, Aqueous had made only two trades that were not trades in Treasuries.

31. SPM did not adopt and implement written policies and procedures reasonably designed to prevent inaccurate investor disclosures. As a result of not adopting and implementing reasonably designed policies and procedures, SPM did not adequately review Aqueous' offering documents and other investor disclosures on a regular basis to determine whether they were inaccurate.

VIOLATIONS

32. Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder require registered investment advisers to adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and its rules.

33. SPM willfully¹ violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder by failing to adopt and implement written policies and procedures reasonably designed to prevent improper trade allocations and to prevent inaccurate disclosures in its offering and marketing materials.

¹ 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)).

UNDERTAKINGS

Respondent Portfolio Management undertakes to complete the following actions:

34. Independent Compliance Consultant. Respondent Portfolio Management shall retain, within 30 days of the issuance of this Order, the services of an Independent Compliance Consultant (“Consultant”) not unacceptable to the staff of the Commission. The Consultant’s compensation and expenses shall be borne exclusively by Respondent. Respondent shall require the Consultant to conduct a comprehensive review of Portfolio Management’s supervisory, compliance, and other policies and procedures designed to prevent and detect improper trade allocations and inaccurate investor disclosures.

a. Respondent Portfolio Management shall provide to the Commission staff, within thirty (30) days of retaining the Consultant, a copy of an engagement letter detailing the Consultant’s responsibilities, which shall include the reviews described above in paragraph 34.

b. At the end of the review, which in no event shall be more than 180 days after the date of the entry of this Order, Respondent Portfolio Management shall require the Consultant to submit a Report to Portfolio Management and the staff of the Commission (“Report”). The Report shall address the issues described above in paragraph 34, and shall include a description of the review performed, the conclusions reached, the Consultant’s recommendations for changes in or improvements to Portfolio Management’s policies and procedures, and a procedure for implementing the recommended changes in or improvements to those policies and procedures.

c. Respondent Portfolio Management shall adopt all recommendations contained in the Consultant’s Report; provided, however, that within 210 days after the date of entry of this order, or within 30 days after delivery of the Report to Portfolio Management (whichever date is later), Portfolio Management shall, in writing, advise the Consultant and the Commission staff of any recommendations that it considers unnecessary, unduly burdensome, impractical, or inappropriate. With respect to any such recommendation, Portfolio Management need not adopt that recommendation at that time but shall propose in writing an alternative policy, procedure, or system designed to achieve the same objective or purpose. As to any recommendation on which Portfolio Management and the Consultant do not agree, such parties shall attempt in good faith to reach an agreement within 30 days after Portfolio Management serves the advice described above. In the event that Portfolio Management and the Consultant are unable to agree on an alternative proposal, Portfolio Management and the Consultant shall jointly confer with the Commission staff to resolve the matter. In the event that, after conferring with the Commission staff, Portfolio Management and the Consultant are unable to agree on an alternative proposal, Portfolio Management will abide by the recommendations of the Consultant.

d. Within ninety (90) days of Respondent Portfolio Management’s adoption of all of the recommendations in the Consultant’s Report, as determined pursuant to the procedures set forth herein, Portfolio Management shall certify in writing to the Consultant and the Commission staff that it has adopted and implemented all of the Consultant’s

recommendations in the Report. Unless otherwise directed by the Commission staff, all Reports, certifications, and other documents required to be provided to the Commission staff shall be sent to Anthony S. Kelly, Assistant Director, Asset Management Unit, Division of Enforcement, Securities and Exchange Commission, 100 F St., N.E., Washington, DC 20549-5010, or such other address as the Commission's staff may provide.

e. Respondent Portfolio Management shall cooperate fully with the Consultant and shall provide the Consultant with access to files, books, records, and personnel as are reasonably requested by the Consultant for review.

f. To ensure the independence of the Consultant, Portfolio Management (i) shall not have the authority to terminate the Consultant or substitute another independent compliance consultant for the initial Consultant, without the prior written approval of the Commission's staff; and (ii) shall compensate the Consultant and persons engaged to assist the Consultant for services rendered pursuant to this Order at their reasonable and customary rates.

g. Respondent Portfolio Management shall require the Consultant to enter into an agreement providing that for the period of the engagement and for a period of two years from completion of the engagement, the Consultant shall not enter into any employment, consultant, attorney-client, auditing, or other professional relationship with Portfolio Management, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity. The agreement will also provide that the Consultant will require that any firm with which he/she is affiliated or of which he/she is a member, and any person engaged to assist the Consultant in the performance of his/her duties under this Order shall not, without prior written consent of the staff of the Commission, enter into any employment, consultant, attorney-client, auditing or other professional relationship with Portfolio Management, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement.

35. Recordkeeping. Portfolio Management shall preserve for a period of not less than six (6) years from the end of the fiscal year last used, the first two (2) years in an easily accessible place, any record of its compliance with the undertakings set forth in this Order.

36. Notice to Advisory Clients. Within twenty (20) days of the entry of this Order, Respondent Portfolio Management shall send a copy of this Order to its advisory clients and private fund investors, with a cover letter in a form not unacceptable to the Commission's staff. In addition, Portfolio Management shall promptly revise its Form ADV to disclose the existence of the Order in accordance with such Form and its instructions.

37. Deadlines. For good cause shown, the Commission staff may extend any of the procedural dates relating to the undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered to be the last day.

38. Certification of Compliance by Respondent. Portfolio Management shall certify, in writing, compliance with the undertakings set forth above. The certification shall identify the undertakings, provide written evidence of compliance with the undertakings in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and Respondent Portfolio Management agrees to provide such evidence. The certification and supporting material shall be submitted to Anthony S. Kelly, Assistant Director, Asset Management Unit, Division of Enforcement, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-5010, or such other address as the Commission staff may provide, with a copy to the Office of Chief Counsel of the Enforcement Division, no later than sixty (60) calendar days from the date of the completion of the undertaking.

IV.

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

Accordingly, pursuant to Sections 203(e) and 203(k) of the Advisers Act, it is hereby ORDERED that:

- A. Respondents Structured Portfolio Management, L.L.C., SPM Jr., L.L.C., and SPM IV, L.L.C. cease and desist from committing or causing any violations and any future violations of Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder.
- B. Respondents Structured Portfolio Management, L.L.C., SPM Jr., L.L.C., and SPM IV, L.L.C. are censured.
- C. Respondents Structured Portfolio Management, L.L.C., SPM Jr., L.L.C., and SPM IV, L.L.C. shall pay, jointly and severally, within ten (10) calendar days of the entry of this Order, a civil money penalty in the amount of \$300,000.00 to the Securities and Exchange Commission. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717. Payment must be made in one of the following ways:
 - (1) Respondents may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
 - (2) Respondents 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) Respondents 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

Payment by check or money order must be accompanied by a cover letter identifying Structured Portfolio Management, L.L.C, SPM Jr, L.L.C., and SPM IV, L.L.C. as Respondents 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 Julie M. Riewe, Co-Chief, Asset Management Unit, Division of Enforcement, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-5010.

- D. Respondent Portfolio Management shall comply with the undertakings enumerated in Section III, paragraphs 34-38 above.

By the Commission.

Jill M. Peterson
Assistant Secretary