

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.

**08-61516-CIV-ALTONAGA/BROWN**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

ANTHONY A. JAMES and  
JAMES ASSET ADVISORY, L.L.C.,

Defendants.

---

**COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF**

Plaintiff Securities and Exchange Commission alleges the following:

**SUMMARY**

1. The Commission brings this action to enjoin Defendants Anthony A. James and James Asset Advisory, L.L.C., from violating the antifraud provisions of the federal securities laws in connection with a multi-million dollar misappropriation of client funds. From at least April 2001 through January 2008, Defendants received at least \$5.2 million from at least 44 clients who falsely believed Defendants would invest their money in the stock market.

2. In fact, Defendants never invested any client funds in the stock market. Instead, James misappropriated at least \$2.4 million of his clients' money to fund his lifestyle, using the money to pay for real estate, cars, sporting events, and general living expenses. As in a classic Ponzi scheme, James transferred approximately \$2.8 million from new clients to existing clients to repay principal or to create the illusion of profitable trading. To facilitate and otherwise conceal their fraud, Defendants provided clients with fraudulent account statements reflecting securities holdings and returns that did

and returns that did not exist.

3. Through their conduct, each of the Defendants violated Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 10b-5 thereunder, and Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 (“Advisers Act”) by misappropriating client assets and making materially false and misleading statements in connection with the purchase or sale of securities. The Commission seeks orders enjoining James and James Asset Advisory from further violations of the federal securities laws, disgorging their ill-gotten gains, and directing them to pay civil money penalties.

### **DEFENDANTS**

4. James, 41, was the founder and sole owner of James Asset Advisory. James acted as an investment adviser by, among other things, purporting to provide fee-based investment advisory services, including the investment and management of client funds. James is not registered with the Commission, but formerly held Series 7, 63, and 66 securities licenses. He resides in Parkland.

5. James Asset Advisory was founded by James in 1997 in Troy, Michigan. From November 1998 through January 2007, it was registered in Michigan as an investment advisory firm. From 2000 until early 2008, James operated James Asset Advisory out of his home in Parkland, Florida. The firm is no longer in business.

### **JURISDICTION AND VENUE**

6. This Court has jurisdiction over this action pursuant to Sections 21(d)(3), 21(e), and 27 of the Exchange Act [15 U.S.C. §§ 78u(d)(3), 78u(e), and 78aa], and Sections 209 and 214 of the Advisers Act [15 U.S.C. §§ 80b-9 and 80b-14].

7. Venue is proper in the Southern District Florida because many of the acts and

transactions constituting violations of the Exchange Act and the Advisers Act occurred in the Southern District of Florida. During the relevant time period, James resided in the Southern District and James Asset Advisory conducted business out of an office located in the Southern District.

8. Defendants, directly and indirectly, have made use of the means and instrumentalities of interstate commerce, the means or instrument of transportation or communication in interstate commerce, and/or the mails, in connection with the acts, practices, and courses of business set forth in this Complaint.

### FACTS

9. From 1997 through January 2008, Defendants purported to operate a Michigan-registered investment adviser that provided fee-based investment advisory services, including the investment and management of client funds. Most of James Asset Advisory's clients came from referrals by James' friends, family, and existing clients. Until January 2008 the firm operated a website highlighting its services. Many of James Asset Advisory's clients had minimal investment experience. The majority of them resided in Illinois and Michigan.

10. Before investing, James Asset Advisory's clients typically completed a 25-question profile that included, among other things, risk tolerances and investment objectives. James used this information to develop "an asset allocation profile model" tailored to each client.

11. Clients then sent funds to James Asset Advisory, which James purportedly invested in individual stocks, mutual funds, bonds, or other holdings, depending on the client's profile model. Some of the clients gave James full discretionary authority over their accounts, while others required James to obtain prior approval for all transactions.

12. Over the years, James told clients he invested in well-known stocks in the computer,

financial, and oil-and-gas sectors. He also told clients he invested their money in bonds, mutual funds, and investment funds James Asset Advisory purportedly ran, including the James Asset Advisory Fixed Income Fund and the James Asset Advisory Growth Fund. These James Asset Advisory funds never existed.

13. Contrary to their representations, Defendants never invested a dime of client funds in the stock market. The 25-question profile and the asset allocation model were nothing but a scam that persuaded clients to invest their money with James Asset Advisory so James could use the money as his personal slush fund.

14. James first misappropriated client money in late 1999 or early 2000, when he took \$50,000 from a client who had sent in a check to invest in order to help his family fund a move from Michigan to Florida. By the end of 2000, James had taken nearly \$200,000 in client funds. The amount continued to grow as James attracted new clients.

15. From April 2001 through January 2008, at least 44 clients deposited at least \$5.2 million with James Asset Advisory. Of that amount, James used at least \$2.4 million for personal expenses.

16. For example, James used client funds to pay the mortgage on a six-bedroom, 5,000-square-foot home in Parkland, as well as put a \$150,000 down payment on a luxury condominium on Las Olas Boulevard in downtown Fort Lauderdale.

17. In addition, James used client money to fund other living expenses, including paying more than \$185,000 to American Express, more than \$50,000 to purchase and maintain a Porsche sports car, more than \$20,000 to sponsor a golf pro in tournaments, and more than \$30,000 for season tickets to the Miami Heat.

18. To facilitate and otherwise conceal their fraud, Defendants periodically provided clients with fraudulent account statements reflecting securities holdings that did not exist, usually quarterly. James had to go to great lengths to create these statements, tracking the performance of each stock, bond, mutual fund, or other holding in which he had purportedly invested each client, then creating a fake account statement based on that performance and the amount each client had purportedly invested.

19. When clients began asking for their principal or investment returns, James perpetrated a Ponzi scheme to continue the misappropriation and misuse of client funds. Using the purported investment results on the fake account statements, James transferred approximately \$2.8 million of money from new clients to older clients to repay their principal or create the illusion of profitable trading.

20. During times when James Asset Advisory did not send out fake statements, James sent e-mails to and had personal meetings and telephone conversations with clients during which he discussed the status of client accounts and fabricated portfolios. These discussions reassured clients' trust in James.

21. Eventually, by late 2007, Defendants exhausted all client money and the firm did not have sufficient funds to cover client withdrawal requests or continue business operations. James stopped providing fake client statements. When some clients began requesting their money, James at first provided false explanations for why he could not immediately comply. Some clients lost their life savings, while others lost their homes and money they intended to use to pay for their children's education.

## **CLAIMS FOR RELIEF**

### **COUNT I**

#### **Violations of Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5 Against All Defendants**

22. The Commission repeats and realleges paragraphs 1 through 21 of its Complaint.

23. From at least April 2001 through January 2008, Defendants, directly and indirectly, by use of the means and instrumentalities of interstate commerce, and of the mails in connection with the purchase or sale of the securities, as described in this Complaint, knowingly, willingly or recklessly: (a) employed devices, schemes or artifices to defraud; (b) made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and/or (c) engaged in acts, practices, or courses of business which have operated as a fraud or deceit upon other persons.

24. By virtue of the conduct described in this complaint, Defendants directly or indirectly violated Section 10(b) of the Exchange Act [15 U.S.C. §78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5].

### **COUNT II**

#### **Violations of Sections 206(1) and 206(2) of the Advisers Act Against All Defendants**

25. The Commission repeats and realleges paragraphs 1 through 21 of its Complaint.

26. Defendants, by engaging in the conduct set forth above, directly or indirectly, through use of the mails or the means or instrumentalities of interstate commerce, and while engaged in the business of advising others for compensation as to the advisability of investing in, purchasing, or selling securities, with scienter, employed devices, schemes, or artifices to defraud.

27. By reason of the foregoing, Defendants violated, and unless restrained and enjoined

will continue to violate, Section 206(1) of the Advisers Act [15 U.S.C. § 80b-6(1)].

28. Defendants, by engaging in the conduct set forth above, directly or indirectly, through use of the mails or the means or instrumentalities of interstate commerce, and while engaged in the business of advising others for compensation as to the advisability of investing in, purchasing, or selling securities, engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon clients or prospective clients.

29. By reason of the foregoing, Defendants violated, and unless restrained and enjoined will continue to violate, Section 206(2) of the Advisers Act [15 U.S.C. § 80b-6(2)].

### **RELIEF REQUESTED**

**WHEREFORE**, the Commission respectfully requests that the Court:

#### **I.**

#### **Declaratory Relief**

Declare, determine and find that the Defendants have committed the violations of the federal securities laws alleged in this Complaint.

#### **II.**

#### **Permanent Injunctive Relief**

Issue a Permanent Injunction, restraining and enjoining Defendants, their officers, agents, servants, employees, attorneys, representatives, and all persons in active concert or participation with them, and each of them, from violating Section 10(b) of the Exchange Act [15 U.S.C. §§ 78j(b)], and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], and Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §§ 80b-6(1) and (2)].

III.

**Accounting & Disgorgement**

Issue an order requiring Defendants to provide an accounting and to disgorge all ill-gotten gains, including prejudgment interest, resulting from the violations alleged in this Complaint.

IV.

**Civil Money Penalties**

Issue an Order directing Defendants to pay civil money penalties under Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)(3)] and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)].

V.

**Further Relief**

Grant such other relief as this Court may deem just and appropriate.

VI.

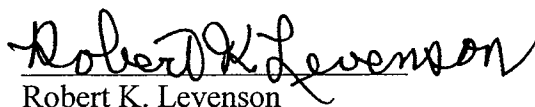
**Retention of Jurisdiction**

Further, the Commission respectfully requests that the Court retain jurisdiction over this action in order to implement and carry out the terms of all orders and decrees that may hereby be entered, or to entertain any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court.

Dated: September 24, 2008

Respectfully submitted,

By:

  
Robert K. Levenson

Regional Trial Counsel  
Florida Bar No. 0089771  
Direct Dial No. (305) 982-6341  
Facsimile (305) 536-4154  
[levensonr@sec.gov](mailto:levensonr@sec.gov)  
Attorney for Plaintiff  
Securities and Exchange Commission  
801 Brickell Avenue  
Suite 1800  
Miami, FL 33131