UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 62996 / September 27, 2010

INVESTMENT ADVISERS ACT OF 1940
Release No. 3088 / September 27, 2010

ADMINISTRATIVE PROCEEDING
File No. 3-14069

In the Matter of **Timothy M. Gautney, Robert A. Bellia, Jr., and Erik S. Blum,** **Respondents.**	**ORDER INSTITUTING ADMINISTRATIVE PROCEEDINGS PURSUANT TO SECTION 15(b)(6) OF THE SECURITIES EXCHANGE ACT OF 1934 AND SECTION 203(f) OF THE INVESTMENT ADVISERS 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 proceedings be, and hereby are, instituted pursuant to Section 15(b)(6) of the Securities Exchange Act of 1934 ("Exchange Act") against Timothy M. Gautney ("Gautney"), Robert A. Bellia, Jr. ("Bellia"), and Erik S. Blum ("Blum") (collectively, the "Respondents") and pursuant to Section 203(f) of the Investment Advisers Act of 1940 ("Advisers Act") against Gautney.

II.

After an investigation, the Division of Enforcement alleges that:

A. <u>RESPONDENTS</u>

1. Timothy M. Gautney, 37, of Birmingham, Alabama, has been the president and principal owner of Aura Financial Services, Inc. ("Aura"), a broker-dealer formerly registered with the Commission from February 1997 until February 2010. He is a former registered representative of Aura as well as an investment adviser representative associated with Aura Asset Management,

Inc., an affiliated investment adviser that he owns which was registered with the Commission from January 2004 through June 2010.

2. Robert A. Bellia, Jr., 40, of Wantagh, New York, was a registered representative with Aura from June 2007 until August 2009. Bellia also owned Aura's branch office in Islandia, New York and served as its branch manager until January 2009. From August 1993 until he became registered with Aura in June 2007, Bellia had been registered with twelve other broker-dealers. During his entire career at Aura, Bellia was under heightened supervision due to FINRA disciplinary history for failing to supervise registered representatives at another broker-dealer and customer complaints.

3. Erik S. Blum, 44, of Boca Raton, Florida, was registered with Aura from August 2006 until August 2009, and served as the manager of its Miami branch office, formerly located in West Palm Beach, Florida. He has worked in the securities business since 1987.

B. OTHER RELEVANT ENTITY

4. Aura is a Birmingham, Alabama-based corporation which was registered with the Commission as a broker-dealer from February 1997 until February 2010. Aura is wholly-owned by Gautney. During the relevant period, it had approximately 90 independent contractor registered representatives, working primarily out of eight registered branch offices in Alabama, Florida, New York and Georgia. On June 11, 2009, the Commission filed a civil injunctive complaint against Aura and six of its then current and former registered representatives ("RRs") based on their violations of the anti-fraud provisions of the federal securities laws. Aura effectively stopped doing business as a broker-dealer shortly after the filing of the Commission's Complaint. On October 8, 2009, a final judgment was entered by consent against Aura, permanently enjoining it from future violations of the antifraud provisions of the federal securities laws. On February 22, 2010, a Commission administrative law judge issued an Order revoking the broker-dealer registration of Aura.

C. FRAUDULENT CHURNING IN AURA'S ISLANDIA, NEW YORK AND MIAMI, FLORIDA BRANCH OFFICES

5. Between at least January 2008 and December 2008 in Aura's former Islandia, New York and Miami, Florida branch offices, three former Aura RRs largely depleted the funds in their customers' accounts through improper churning.[1]

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[1] Churning is the excessive buying and selling of securities in a customer's account by a broker, for the purpose of generating commissions and without regard to the customer's investment objectives or interest or with the intent to defraud. For churning to occur, the broker must exercise control over the investment decisions in the account, either through a formal written discretionary agreement or otherwise, such as through the customer routinely accepting the broker's recommendations without question.

6. Two metrics are commonly used to determine whether an account has been churned: the account's "annualized turnover ratio" and its "cost to equity ratio," which is also known as its "break even percentage." An annualized turnover ratio is the number of times per year a customer's securities are replaced by new securities. It is calculated by determining the aggregate amount of purchases in an account over a given period, calculating the ratio of those aggregate purchases to the account's average net equity during that period, and then annualizing that ratio. A turnover rate that exceeds six is presumptive of churning. A cost to equity ratio or break even analysis determines the rate of return that an account has to earn on an annual basis just to cover transaction costs, and thus "break even." Trading practices that require an account to earn returns in excess of 20% just to break even are indicative of possible churning.

7. The trading by the Aura RRs was extreme. For example, one representative ("RR1"), an RR in the Islandia office, churned the accounts of five Aura customers. These customers had annualized turnover rates, as reflected in quarterly reports sent to Bellia, of 20 to 94 and cost to equity ratios of 87% to 2058%. Another Islandia representative ("RR2") churned the accounts of two Aura customers. These customers had annualized turnover rates, as reflected in quarterly reports sent to Bellia, of 40 and 59 and cost to equity ratios of 144% and 418%, respectively. An RR in the Miami office ("RR3") churned the accounts of two Aura customers. These customers had annualized turnover rates, as reflected in quarterly reports sent to Blum, of 6 to 54 and cost to equity ratios of 14% to 54 %.

8. The nine customers opened and funded their accounts after being cold-called by, or otherwise introduced to, one of the Aura representatives. All had their accounts aggressively traded, though none had indicated to Aura an investment objective or risk tolerance supporting that trading. Nearly every customer was unsophisticated in securities trading and relied on the registered representative to make investments decisions in the account. No customer had an understanding of the total transaction costs they were incurring by trading through Aura. Taken together, the accounts of nine customers generated total gross commissions of approximately $755,000 for the three RRs during 2008—an amount that represented approximately 12% of the total 2008 gross commissions generated by all Aura accounts. While enriching the RRs, Bellia, Blum, Aura, and ultimately Gautney, these customers suffered aggregate losses of almost $2 million.

D. AURA'S SUPERVISORY AND ACTIVE ACCOUNT LETTER PROCEDURES

9. Aura's Written Supervisory Procedures ("WSP"), dated 2007-2008, and in effect during the time of the churning by the four RRs, stated, among other things, that a turnover ratio greater than six:

> warrant[s] immediate attention and further review of a larger sample size, if applicable. The D[esignated] P[rincipal] should take immediate steps to determine that such trading activity is acceptable to the customer (acknowledgment by customer in writing may be sought), and conforms to the customer's objectives. Otherwise, steps may be taken to close the trading activity in the customer's accounts.

10. At least each quarter, Aura's Compliance Department provided each branch manager with excerpts of a report containing annualized turnover ratios, break even ratios, and other account metrics for the largest commission producing accounts from their branch. Aura's active account letter procedure, which was unwritten, required Aura's branch managers to send such letters to all customers whose accounts had turnover ratios greater than six.

11. The active account letters, entitled "Intent to Maintain Active Account," did not explain why Aura was sending the letters to the customers and they were not sent along with cover letters. The body of the form letters did not identify the respective accounts as actively traded or that they had recently shown a certain number of trades or a certain amount of turnover, but stated that "certain clients may wish to engage in more frequent trading in their accounts." The letters included a general disclosure of the risks associated with "frequent" trading and numerous blanks for the customer to complete concerning numbers of trades over the past year, anticipated trades in the future year, investment objective, risk exposure, and other financial information. After the customer filled in the blanks, the firm's procedure contemplated that the customer would sign the letter and return it to the Aura branch where his account was located.

12. Aura did not routinely keep a log or have some other system to monitor when an active account letter was sent to a customer from the branch offices. Moreover, there was no consistent practice of tracking returned letters and no consistent practice on follow-up of letters that had not been returned. If information in the returned active account letter did not indicate changes from the customer's original application, the returned active account letter was maintained at the branch office. According to Aura's Chief Compliance Officer ("CCO") branch managers were supposed to call, or have an RR call, customers and send out additional active account letters if customers did not return their letters, but the firm did not have a procedure to ensure that the branch managers complied. Further, there is no evidence that Aura had a mechanism to implement other aspects of the firm's procedures such as monitoring whether branch managers gave accounts with a turnover ratio of greater than six immediate attention, reviewed a larger sample size, or consistently took steps to close the trading activity in customers' accounts if customers did not confirm that such trading activity was acceptable.

E. BELLIA'S FAILURE REASONABLY TO SUPERVISE

13. Bellia failed reasonably to supervise RR1, from January 2008 through December 2008, and RR2, from April 2008 through August 2008, while they were registered with Aura and subject to Bellia's supervision in Aura's Islandia, New York branch office. The level of trading in the accounts of RR1's customers and RR2's customers was not merely indicative of potential churning, but was extreme.

14. While Bellia supervised RR1 and RR2, during at least each quarter of 2008, Bellia received excerpts of reports from Aura's Compliance Department containing, among other account information, annualized turnover ratios and break even ratios for the largest commission producing accounts from his branch. These reports included the names of RR1 and RR2's churning victims, all of whom had at least double digit annualized turnover rates. The turnover rates listed were far

in excess of the turnover rate of six that Aura's WSPs cautioned warranted immediate attention and review by the supervisor.

15. As reflected in the quarterly reports for 2008, RR1's victims had annualized turnover rates of 20 to 94 and cost to equity ratios of 87% to 2058%. With each successive quarter of 2008, RR1's victims grew in number or their turnover rates and cost to equity ratios increased in value. One of RR1's victims appeared on the report sent to Bellia in the first quarter with a turnover rate of 20 and a cost to equity ratio of 87%. In the second quarter, that victim's turnover rate increased to 43 and his cost to equity ratio increased to 188. In the third quarter, two of RR1's victims appeared on the report with turnover rates up to 59 and cost to equity ratios up to 2050%. By the fourth quarter, five of RR1's victims appeared on the report, with turnover rates up to 94 and cost to equity ratios up to 2058%. RR2's victims appeared on the report for the second quarter with annualized turnover rates of 40 and 59 and cost to equity ratios of 144% and 418%, respectively.[2]

16. Pursuant to Aura's Active Account Letter procedure, Bellia was required to send Active Account Letters to all customers with turnover rates exceeding six. Despite such requirements, and, notwithstanding that RR1 was under heightened supervision, Bellia and Aura were only able to produce Active Account Letters for two of RR1's five customers and for none of RR2's two customers. Bellia did not keep a log or otherwise track whether the letters were returned. When the letters did not come back, Bellia informed the registered representatives. Bellia did nothing else to follow up. Bellia did not follow-up on the unreturned active account letters.

17. The failure to contact RR1's customers is particularly egregious because RR1 was on heightened supervision due to his history. RR1's disciplinary history at the time the Commission filed its complaint against him showed fourteen customer complaints, including six from Aura customers. Two of the Aura customer complaints alleged churning and the other four alleged that customers had not in fact signed their own account paperwork. FINRA was investigating RR1 for falsifying customer records to open accounts and conducting unauthorized trading during his 2005 association with another broker-dealer. RR1 was discharged from broker-dealers in 2002 and 2005, both times for unauthorized trading, and was permitted to resign from a broker-dealer in 2006 for unauthorized use of a sales script.

18. RR2's history also was questionable. Before coming to Aura in March 2008, RR2 had been associated with seventeen other broker-dealers since 2000, including prior tenures at Aura for two months in 2007 and six months in 2005. RR2's known history at the time the Commission filed its complaint against him showed thirteen customer complaints, including two from Aura customers. One Aura customer complaint was pending and claimed damages of $69,000 from unauthorized trading; the other complaint claimed failure to follow customer instructions and settled for $12,500. In 2006, FINRA fined RR2 $15,000 and suspended him for ninety days for unauthorized trading while he was employed at another firm. From 2006 through

[2] RR2 was voluntarily terminated from Aura in August 2008 for reasons purportedly unrelated to churning.

2009, RR2 was either discharged or permitted to resign from five other broker-dealers for various reasons.

19. If Bellia had reasonably followed up on the red flags of high trading in the customer accounts of RR1 and RR2 or if he had diligently followed the heightened supervisory procedures for RR1, it is likely that he would have prevented or detected the RRs' violations.

F. BLUM'S FAILURE REASONABLY TO SUPERVISE

20. Blum failed reasonably to supervise RR3, from January 2008 through December 2008 while he was registered with Aura and subject to his supervision in Aura's Miami, Florida branch office. The level of trading in the accounts churned by RR3 was high enough to warrant increased review and customer contact. As reflected in the quarterly reports for 2008 sent to Blum, RR3's two victims had annualized turnover rates of 6 to 54 and cost to equity ratios of 14% to 54%.[3]

21. With each successive quarter of 2008, RR3's victims' turnover rates and cost to equity ratios increased in value. One of RR3's victims appeared on the report sent to Blum in the first quarter with a turnover rate of 6 and a cost to equity ratio of 14%. In the second quarter, that victim's turnover rate increased to 33 and his cost to equity ratio increased to 23%. RR3's second churning victim appeared on the report with a turnover rate of 7 and a cost to equity ratio of 19%. In the third quarter, these victims appeared on the report with turnover rates of 41 and 9 and cost to equity ratios of 36% and 32%, respectively. By the fourth quarter, one victim had a turnover rate of 54 and cost to equity ratio of 54%. The turnover rate for the second victim was blank on this report although his cost to equity ratio was shown as 43%.

22. The high levels of trading were brought to Blum's attention and Blum did send out active account letters. However, Blum did little to follow up on the red flags presented in the active account letters returned by RR3's two churning victims. While Blum and Aura were able to produce signed active account letters from both of RR3's churning victims, which were dated at the end of June 2008, both victims stated in their declarations that they did not fill out the information contained in these letters. The handwriting contained in the blanks of these customers' active account letters appears similar. Moreover, one of RR3's customers did not recall receiving the letter and questioned whether he actually signed the letter despite a signature on the letter that purported to be his.

23. Blum treated the active account letter as a "negative response letter" In effect expecting the letter to be returned if the customer had a problem with the account. If the letters were not returned or were missing information, his practice was not to contact customers, himself. Instead, Blum left it to the RRs to follow-up with their customers.

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[3] Aura's WSPs provided, among other things, that an account with a turnover ratio greater than two and less than or equal to six "warrants further review."

24. RR3 had a complaint history that would have reinforced the need to contact customers, where unusual trading was apparent. RR3's history at the time the Commission filed its complaint showed three pending customer complaints: Two complaints filed in April 2009 and June 2008 both cited unauthorized trading. A third complaint filed in September 2008 alleged $150,000 in damages for not following customer instructions.

25. If Blum had reasonably followed-up on the red flags of high trading in the accounts of RR3, it is likely that he would have prevented or detected the RR's securities law violations.

G. GAUTNEY'S FAILURE TO REASONABLY SUPERVISE

26. Gautney, as Aura's president, was responsible for developing and implementing reasonable policies, procedures, and systems to prevent and detect the churning of the three RRs at Aura. Gautney failed to put in place effective controls to confirm that active account letters were sent and returned on a timely basis to Aura's branch offices. Gautney did not know if someone was monitoring Aura's active account letters. Aura's system relied on branch managers to supervise RRs, but did virtually nothing to determine whether the branch managers were effectively supervising the RRs in connection with implementing firm procedures to address high levels of trading in customer accounts. There were no controls to make sure that branch managers followed the active account letter procedures or otherwise reasonably followed up on red flags of churning. Gautney was also generally aware of the high turnover in many Aura customer accounts. Gautney had access to the reports containing the turnover and cost to equity ratios and, in 2007, was notified by FINRA that fifty customer accounts appeared to be excessively traded, including the account of a customer of RR3.

27. If Gautney had reasonably implemented the firm's procedures for addressing potential churning in customer accounts, it is likely that he and the firm would have prevented and detected the RRs' misconduct.

VIOLATIONS

28. As a result of the conduct described above, Bellia and Gautney failed reasonably to supervise RR1 And RR2 and Blum and Gautney failed reasonably to supervise RR3, within the meaning of Section 15(b)(6) of the Exchange Act, which incorporates by reference Section 15(b)(4)(E) of the Exchange Act and Gautney failed reasonably to supervise all three RRs within the meaning of Section 203(e) of the Advisers Act, with a view to preventing and detecting their violations of Section 17(a) of the Securities Act of 1933 and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

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 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 Respondents 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; and

C. What, if any, remedial action is appropriate in the public interest against Gautney pursuant to Section 203(f) of the Advisers Act including, but not limited to, disgorgement and civil penalties pursuant to Sections 203(i) and 203(j) of the Advisers 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 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 Respondents 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 Respondents fail to file the directed answer, or fail to appear at a hearing after being duly notified, the Respondents may be deemed in default and the proceedings may be determined against them 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

Service List

Rule 141 of the Commission's Rules of Practice provides that the Secretary, or another duly authorized officer of the Commission, shall serve a copy of the Order Instituting Administrative Proceedings Pursuant to Section 15(b)(6) of the Securities Exchange Act of 1934 and Section 203(f) of the Investment Advisers Act of 1940 and Notice of Hearing ("Order"), on the Respondents and their legal agents.

The attached Order has been sent to the following parties and other persons entitled to notice:

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