

FILED

COMMONWEALTH OF PENNSYLVANIA 2022 DEC 27 AM 7:58
DEPARTMENT OF BANKING AND SECURITIES

PA DEPARTMENT OF
BANKING AND SECURITIES

COMMONWEALTH OF PENNSYLVANIA :
DEPARTMENT OF BANKING AND :
SECURITIES, BUREAU OF SECURITIES :
COMPLIANCE AND EXAMINATIONS :

Docket No.: 22 0056 (SEC-OSC)

v. :

ALTAIR MANAGEMENT PARTNERS, INC. :
LARRY LETTERIO :

NOTICE TO ANSWER AND REQUEST A HEARING

You have the right to challenge the attached Order to Show Cause (“Order”) by filing an Answer, in writing, with the Docket Clerk **within 30 days** of the date of this Order as required by 1 Pa. Code § 35.37. **If you do not file an Answer within 30 days, then you will waive your right to a hearing and the Banking and Securities Commission (“Commission”) may enter a final order against you.**

Your Answer must be in writing. Your Answer must specifically admit or deny the allegations in this Order, set forth the facts you rely upon, and state concisely the law upon which you rely. General denials of the allegations set forth in the Order are not sufficient; you must support your denials with specific facts. Failure to support your denials with specific facts may cause the Commission to deem the facts in the Order as admitted and to enter a final order against you, without a hearing.

The Answer and any other documents must be filed via first-class mail and electronic mail with the Docket Clerk:

Eileen Smith, Docket Clerk
Pennsylvania Department of Banking and Securities
17 North Second Street, Suite 1300
Harrisburg, Pennsylvania 17101
Email: RA-BNDOCKETCLERK@pa.gov

Further, you must serve a copy of the Answer and any other documents on the person who signed the Order by providing a hard and electronic copy to his or her counsel indicated below:

Veronica N. Hoof
Office of Chief Counsel
Pennsylvania Department of Banking and Securities

17 North Second Street, Suite 1300
Harrisburg, Pennsylvania 17101
Email: RA-BNChiefCounsel@pa.gov

Once you file your Answer, you will be notified of pertinent information such as the name of the presiding officer designated by the Commission to hear this matter and, if a hearing is scheduled, the date, time, and location of the hearing. You have the right to be represented by an attorney.

The hearing and all other procedural matters will be governed by the Pennsylvania Administrative Agency Law, 2 Pa.C.S. §§ 501-508, 701-704, and the General Rules of Administrative Practice and Procedure, 1 Pa. Code §§ 31.1.-35.251.

FILED

COMMONWEALTH OF PENNSYLVANIA 2022 DEC 27 AM 7:59
DEPARTMENT OF BANKING AND SECURITIES

PA DEPARTMENT OF
BANKING AND SECURITIES

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND
SECURITIES, BUREAU OF SECURITIES
COMPLIANCE AND EXAMINATIONS

Docket No.: 22 0056 (SEC-OSC)

v.

ALTAIR MANAGEMENT PARTNERS, INC.
LARRY LETTERIO

ORDER TO SHOW CAUSE

You, Altair Management Partners, Inc. ("Respondent AMP") and Larry Letterio ("Respondent Letterio"), are notified that the Department of Banking and Securities ("Department"), through the Bureau of Securities Compliance and Examinations ("Bureau"), hereby **ORDERS YOU TO SHOW CAUSE** why the Banking and Securities Commission ("Commission") should not impose the sanctions and remedies described below. Specifically, this proceeding is instituted pursuant to 1 Pa. Code § 35.14 to determine:

- (1) whether the allegations set forth below are true; and
- (2) if these allegations are true, whether there has been a violation of the Pennsylvania Securities Act of 1972 ("1972 Act") or of the regulations promulgated thereunder; and
- (3) if so, whether the sanctions and remedies proposed by the Bureau should be imposed by the Commission.

The Bureau alleges the following facts and violations of law for the purpose of tentatively framing the issues for consideration by the Commission. The Commission may consider this

matter directly, or may designate a hearing officer to issue a recommended decision prior to the Commission issuing a final order.

STATEMENT OF THE PARTICULARS AND MATTERS
INTO WHICH THE BUREAU IS INQUIRING

PARTIES

1. The Department is the Commonwealth of Pennsylvania's administrative agency authorized and empowered to administer and enforce the 1972 Act.

2. The Bureau is primarily responsible for administering and enforcing the 1972 Act for the Department.

3. The Bureau operates from the Department's main office located at 17 North Second Street, Suite 1300, Harrisburg, Pennsylvania 17101.

4. Respondent AMP (CRD # 108333) was, at all times material herein, a Pennsylvania corporation with an address at Redacted

5. Respondent Letterio (CRD # 1738325) was, at all times material herein, an individual with an address at Redacted Respondent Letterio was, at all times material herein, the chief compliance officer and sole owner of Respondent AMP.

FACTUAL ALLEGATIONS

6. From in or about May 1997 through May 2020, Respondent AMP was registered with the U.S. Securities and Exchange Commission as an investment advisor.

7. From in or about May 1997 through May 2020, Respondent AMP was a federally covered adviser.

8. From in or about May 2020 until the present, Respondent AMP was registered pursuant to Section 301(c) of the 1972 Act, 70 P.S. § 1-301(c), as an investment adviser.

9. From in or about October 1997 until the present, Respondent Letterio was registered pursuant to Section 301(c) of the 1972 Act, 70 P.S. § 1-301(c), as an investment adviser representative of Respondent AMP.

10. As the chief compliance officer and sole owner of Respondent AMP, Respondent Letterio acted as an “affiliate” of Respondent AMP within the meaning of Section 102(b) of the 1972 Act, 70 P.S. § 1-102(b), and, as such, caused Respondent AMP to commit the herein stated acts which violated the 1972 Act.

Respondent AMP’s Unsuitable Recommendations

11. Regulation 305.019(c)(3)(i), 10 Pa. Code § 305.019(c)(3)(i), prohibits an investment adviser from engaging in dishonest or unethical practices in the securities business by recommending to clients the purchase, sale or exchange of securities without reasonable grounds to believe that the recommendation was suitable based upon the clients’ investment objectives, financial situation and needs, and any other information known by the investment adviser or investment adviser representative.

12. Respondent AMP recommended the purchase, sale, or exchange in its clients’ accounts of the following securities: (1) ProShares Short Russel2000 (“RWM”) and (2) ProShares Short 20+ Year Treasury (“TBF”).

RWM

13. RWM is an inverse exchange-traded fund (“ETF”) that tracks the Russell 2000 Index and matches the inverse of the Russell 2000 Index’s daily performance.

14. Shares of RWM are “securities” within the meaning of Section 102(t) of the 1972 Act, 70 P.S. § 1-102(t).

15. The prospectus for RWM states:

- a. “[RWM] seeks daily investment results, before fees and expenses, that correspond to the inverse (-1x) of the return of the Russell 2000 Index (the “Index”) for a single day, not for any other period.”;
- b. “The return of [RWM] for periods longer than a single day will be the result of its return for each day compounded over the period. [RWM]’s returns for periods longer than a single day will very likely differ in amount, and possibly even direction, from [RWM]’s stated multiple (-1x) times the return of the Index for the same period. For periods longer than a single day, [RWM] will lose money if the Index’s performance is flat, and it is possible that [RWM] will lose money even if the level of the Index falls”;
- c. “Longer holding periods, higher Index volatility, and greater inverse exposure each exacerbate the impact of compounding on an investor’s returns. During periods of higher Index volatility, the volatility of the Index may affect [RWM]’s return as much as or more than the return of the Index.”; and
- d. “[RWM] presents different risks than other types of funds. [RWM] may not be suitable for all investors and should be used only by knowledgeable investors who understand the consequences of seeking daily inverse (-1x) investment results of the Index, including the impact of compounding on [RWM] performance. Investors in [RWM] should actively manage and

monitor their investments, as frequently as daily. An investor in [RWM] could potentially lose the full value of their investment within a single day.”

16. From on or about December 15, 2014, to April 1, 2022, Respondent AMP recommended the purchase or sale of RWM at least 18 times in a least 6 advisory accounts belonging to 6 clients.

17. From on or about May 8, 2020, to April 1, 2022, Respondent AMP recommended the purchase or sale of RWM at least 5 times in at least 5 advisory accounts belonging to 5 clients.

18. Out of 32 investment advisory accounts belonging to 7 investors for which Respondent AMP recommended the purchase, sale or exchange of shares of RWM, 5 investment advisory accounts belonged to investors over the age of 60 years old.

19. Out of 32 investment advisory accounts belonging to 7 investors for which Respondent AMP recommended the purchase, sale or exchange of shares of RWM:

- a. The investment objective of 4 accounts was "preservation of capital" and
- b. The investment objective of 3 accounts was "income."

20. Out of 32 investment advisory accounts belonging to 7 investors for which Respondent AMP recommended the purchase, sale or exchange of shares of RWM, at least 5 investment advisory accounts sustained losses ranging from \$4,584 to \$31,148 over an average of eight years.

21. RWM was held in clients' accounts for an average of 492 days while Respondent AMP was registered in Pennsylvania.

22. Respondent AMP did not have a reasonable basis to recommend that investors buy and hold shares of RWM.

23. Respondent AMP did not adequately explain to some or all the investors the risks of investing in shares of RWM.

TBF

24. TBF is an inverse ETF that tracks the ICE U.S. Treasury 20+ Year Bond Index and matches the inverse of the ICE U.S. Treasury 20+ Year Bond Index's daily performance.

25. Shares of TBF are "securities" within the meaning of Section 102(t) of the 1972 Act, 70 P.S. § 1-102(t).

26. The prospectus for shares of TBF states:

- a. "[TBF] seeks daily investment results, before fees and expenses, that correspond to the inverse (-1x) of the return of the ICE U.S. Treasury 20+ Year Bond Index (the "Index") for a single day, not for any other period.";
- b. "The return of [TBF] for periods longer than a single day will be the result of its return for each day compounded over the period. [TBF]'s returns for periods longer than a single day will very likely differ in amount, and possibly even direction, from [TBF]'s stated multiple (-1x) times the return of the Index for the same period. For periods longer than a single day, [TBF] will lose money if the Index's performance is flat, and it is possible that [TBF] will lose money even if the level of the Index falls."; and
- c. "Longer holding periods, higher Index volatility, and greater inverse exposure each exacerbate the impact of compounding on an investor's returns. During periods of higher Index volatility, the volatility of the Index may affect [TBF]'s return as much as or more than the return of the Index."

27. From on or about May 19, 2016, to May 12, 2022, Respondent AMP recommended the purchase or sale of TBF at least 14 times in at least 7 advisory accounts belonging to 7 clients.

28. From on or about May 8, 2020, to May 12, 2022, Respondent AMP recommended the purchase or sale of TBF at least 7 times in at least 7 advisory accounts belonging to 7 clients.

29. Out of 32 investment advisory accounts belonging to 7 investors for which Respondent AMP recommended the purchase, sale or exchange of shares of TBF, 5 investment advisory accounts belonged to investors over the age of 60 years old.

30. Out of 32 investment advisory accounts belonging to 7 investors for which Respondent AMP recommended the purchase, sale or exchange of shares of TBF:

- a. The investment objective of 4 accounts was "preservation of capital" and
- b. The investment objective of 3 accounts was "income."

31. Out of 32 investment advisory accounts belonging to 7 investors for which Respondent AMP recommended the purchase, sale or exchange of shares of TBF, at least 6 investment advisory accounts sustained losses ranging from \$264 to \$9,942 over an average of six years.

32. TBF was held in clients' accounts for an average of 634 days while Respondent AMP was registered in Pennsylvania.

33. Respondent AMP did not have a reasonable basis to recommend that investors buy and hold shares of TBF.

34. Respondent AMP did not adequately explain to some or all the investors the risks of investing in shares of TBF.

Section 401(b) of the 1972 Act

35. In connection with the purchase, sale, or exchange of the following inverse ETFs, Respondent AMP omitted to state material facts to some or all the investors, including, but not limited to:

- a. RWM – (1) RWM’s fund will allocate its investments to approximately the same extent as the [Russell 2000 Index], resulting in [RWM] being subject to greater market fluctuations; (2) RWM’s fund is considered “non-diversified” under the Investment Company Act of 1940, as amended, which may increase the fund’s volatility and increase the risk of [RWM]’s performance declining; and (3) RWM’s fund might not be able to acquire or dispose of certain holdings quickly or at prices that represent true market value due to the markets for the financial instruments in which the fund invests may be disrupted by events, such as economic, political, or health crises.
- b. TBF – (1) The value of instruments associated with the U.S. Treasury market may drastically fluctuate due to the U.S. Treasury market can be volatile; (2) U.S. Treasury obligations may provide relatively lower returns than those of other securities; and (3) U.S. Treasury obligations are subject to debt instrument risk and interest rate risk, including U.S. Treasury obligations potentially declining due to the financial condition or credit rating of the U.S. Government.

Respondent AMP’s Written Supervisory Procedures and Failure to Supervise

36. From in or about May 2020 until the present, Respondent AMP employed at least one “investment adviser representative” in Pennsylvania within the definition of Section 102(j.1) of the 1972 Act, 70 P.S. § 1-102(j.1).

37. Regulation 305.011(a), 10 Pa. Code § 305.011(a), requires registered investment advisers to exercise diligent supervision, and accept final responsibility for proper supervision, over the securities activities of their agents, investment adviser representatives, and employees by establishing and maintaining written procedures and a system for applying and enforcing those written procedures which are reasonably designed to achieve compliance with the 1972 Act and other securities laws and regulations.

38. From in or about May 2020 until July 2022, Respondent AMP did not exercise diligent supervision over the securities activities of its investment adviser representative by failing to establish and maintain written procedures and a system for applying and enforcing those written procedures, pursuant to Regulation 305.011(a), 10 Pa. Code § 305.011(a), with respect to securities, such as RWM and TBF.

39. Regulation 305.011(c), 10 Pa. Code § 305.011(c), requires registered investment advisers, as evidence of compliance with their supervisory obligations, to implement, maintain, and enforce written procedures, designed to achieve compliance with the 1972 Act and other securities laws and regulations.

40. From in or about May 2020 until July 2022, Respondent AMP did not implement, maintain, and enforce written procedures, pursuant to Regulation 305.011(c), 10 Pa. Code § 305.011(c), with respect to securities, such as RWM and TBF.

**Respondent AMP's Failure to Maintain Written Information Forming Basis for
Recommendations**

41. Regulation 304.012(a)(18), 10 Pa. Code § 304.012(a)(18), requires that every investment adviser registered under the 1972 Act shall make and keep true, accurate and current certain books, ledgers and records, including written information about an investment advisory client that is the basis for making a recommendation or providing investment advice to the client.

42. From in or about May 2020 until July 2022, Respondent AMP did not make and keep written information about its investment advisory clients that was the basis for making the recommendations for the purchase, sale, or exchange of inverse ETFs, RWM and TBF.

43. Out of at least 32 accounts belonging to at least 7 investors that had invested in RWM and TBF, Respondent AMP did not obtain suitability information and investment profiles for at least 7 investors.

COUNTS

Conduct Forming Basis to Deny, Suspend, Revoke, or Condition the Registration of or Censure Respondent AMP and Respondent Letterio Pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation 305.019(c)(3)(i), 10 Pa. Code § 305.019(c)(3)(i), Promulgated Thereunder

12 Counts

44. Paragraphs 1 through 43 are incorporated herein by reference as if set forth in their entirety.

45. By engaging in the acts and conduct set forth in paragraphs 6 through 34 above, Respondent AMP and Respondent Letterio engaged in dishonest or unethical practices in the securities business by recommending to clients the purchase, sale or exchange of securities without reasonable grounds to believe that the recommendation was suitable based upon the clients' investment objectives, financial situation and needs, and other information, which acts and conduct form a basis to deny, suspend, revoke, or condition the registration of Respondent AMP and Respondent Letterio or censure Respondent AMP and Respondent Letterio pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(ix), and Regulation 305.019(c)(3)(i), 10 Pa. Code § 305.019(c)(3)(i), promulgated thereunder.

Violation of Section 401(b) of the 1972 Act, 70 P.S. § 1-401(b)

12 Counts

46. Paragraphs 1 through 45 are incorporated herein by reference as if set forth in their entirety.

47. By engaging in the acts and conduct set for in paragraphs 6 through 35 above, Respondent AMP and Respondent Letterio, in connection with the purchase of shares of RWM, and shares of TBF, 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, in wilful violation of Section 401(b) of the 1972 Act, 70 P.S. § 1-401(b).

Conduct Forming Basis to Deny, Suspend, Revoke, or Condition the Registration of or Censure Respondent AMP and Respondent Letterio Pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation 305.011(a) and 305.011(c), 10 Pa. Code §§ 305.011(a), 305.011(c), Promulgated Thereunder

1 Count

48. Paragraphs 1 through 47 are incorporated herein by reference as if set forth in their entirety.

49. By engaging in the acts and conduct set forth in paragraphs 6 through 10 and paragraphs 36 through 40 above, Respondent AMP and Respondent Letterio failed to exercise diligent supervision over the securities activities of its agents, investment adviser representatives, and employees by failing to establish and maintain written procedures and a system for applying and enforcing those written procedures which are reasonably designed to achieve compliance with the 1972 Act and other securities laws and regulations, which acts and conduct form a basis to deny, suspend, revoke, or condition the registration of Respondent AMP and Respondent Letterio or to censure Respondent AMP and Respondent Letterio pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation 305.011(a) and 305.011(c), 10 Pa. Code §§ 305.011(a), 305.011(c), promulgated thereunder.

Conduct Forming Basis to Deny, Suspend, Revoke, or Condition the Registration of or Censure Respondent AMP and Respondent Letterio Pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation 304.012(a)(18), 10 Pa. Code § 304.012(a)(18)

12 Counts

50. Paragraphs 1 through 49 are incorporated herein by reference as if set forth in their entirety.

51. By engaging in the acts and conduct set forth in paragraphs 6 through 10 and paragraphs 41 through 43 above, Respondent AMP and Respondent Letterio failed to make and keep true, accurate and current written information about investment advisory clients that was the basis for making recommendations or providing investment advice to the clients, which acts and conduct form a basis to deny, suspend, revoke, or condition the registration of Respondent AMP and Respondent Letterio or to censure Respondent AMP and Respondent Letterio pursuant to Section 305(a)(v) of the 1972 Act, 70 P.S. § 1-305(a)(v), and Regulation 304.012(a)(18), 10 Pa. Code § 304.012(a)(18).

SANCTIONS AND REMEDIES

WHEREAS, the Bureau respectfully requests the penalties and relief pursuant to its authority under the 1972 Act:

1. That an order be issued pursuant to Section 305 of the 1972 Act, 70 P.S. § 1-305, that the registration of Respondent AMP and Respondent Letterio be suspended, revoked, or conditioned, or that Respondent AMP and Respondent Letterio be censured.

2. That an order be issued pursuant to Section 512 of the 1972 Act, 70 P.S. § 1-512, which bars, conditionally or unconditionally, and either permanently or for such period of time as may be determined, Respondent AMP and Respondent Letterio from:

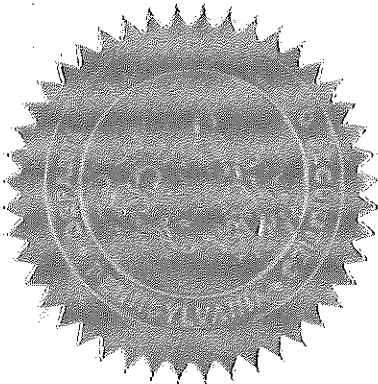
a. Representing an issuer offering or selling securities in this State;

- b. Acting as a promoter, officer, director or partner of an issuer (or an individual occupying a similar status or performing similar functions) offering or selling securities in this State or of a person who controls or is controlled by such issuer;
- c. Being registered as a broker-dealer, agent, investment adviser or investment adviser representative under Section 301 of the 1972 Act;
- d. Being an affiliate of any person registered under Section 301 of the 1972 Act; or
- e. Relying upon an exemption from registration contained in Section 202, 203 or 302 of the 1972 Act.

3. That Respondent AMP and Respondent Letterio be ordered to pay the costs of the investigation pursuant to Section 602.1(b) of the 1972 Act, 70 P.S. §1-602.1(b).

4. That Respondent AMP and Respondent Letterio be ordered to pay an administrative assessment of up to \$100,000.00 for each act or omission constituting a wilful violation of the 1972 Act, pursuant to Section 602.1(c) of the 1972 Act, 70 P.S. §1-602.1(c).

IT IS SO ORDERED.



FOR THE COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES
BUREAU OF SECURITIES COMPLIANCE AND
EXAMINATIONS

Redacted

Eric Pistilli
Deputy Secretary for Securities

Dated: 12/23/2022

FILED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

PA DEPARTMENT OF
BANKING AND SECURITIES

2022 DEC 27 AM 7:59

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND
SECURITIES, BUREAU OF SECURITIES
COMPLIANCE AND EXAMINATIONS

Docket No.: 220056 (SEC-OSC)

v.

ALTAIR MANAGEMENT PARTNERS, INC.
LARRY LETTERIO

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing *Order to Show Cause* upon the parties below, who constitute the only parties of record in this proceeding, in accordance with the requirements of 1 Pa. Code §§ 33.35, 33.36 and 33.37:

BY CERTIFIED AND FIRST-CLASS MAIL

Altair Management Partners, Inc.
305 Overbrook Road
Valencia, PA 16059

Larry Letterio
305 Overbrook Road
Valencia, PA 16059

Date: December 27th, 2022

Redacted

Eileen Smith
Legal Office Administrator
Office of Chief Counsel
FOR: Commonwealth of Pennsylvania
Department of Banking and Securities
Market Square Plaza
17 North Second Street, Suite 1300
Harrisburg, PA 17101
(717) 787-1471