

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 10-11665-GAO

SECURITIES AND EXCHANGE COMMISSION,
Plaintiff,

v.

SAGE ADVISORY GROUP, LLC, and
BENJAMIN LEE GRANT,
Defendants.

ORDER

O'TOOLE, D.J.

After consideration of the parties' written submissions and oral arguments, I conclude that the defendants' motion to dismiss the Complaint (dkt. no. 9) ought to be, and it hereby is, DENIED.

The Complaint adequately alleges a scheme to obtain clients for the defendants by means of misleading representations and omissions. Qualified only by the requirement of Federal Rule of Civil Procedure 9(b) that allegations of fraud be pled with particularity, Rule 12(b)(6), even after Bell Atl. Corp. v. Twombly, 550 U.S. 554 (2007), and Ashcroft v. Iqbal, --- U.S. ----, 129 S.Ct. 1937 (2009), still requires only notice pleading. Whether the allegations of the Complaint can ultimately be supported by evidence that can or will persuade a trier of fact is a matter left to a later occasion. The pleading is sufficient.

SO ORDERED.

/s/ George A. O'Toole, Jr.
United States District Judge