

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
April 17, 2008

ADMINISTRATIVE PROCEEDING
File No. 3-13009

In the Matter of	:	ORDER INSTITUTING ADMINISTRATIVE
	:	PROCEEDINGS PURSUANT TO SECTION
SCOTT B. GANN,	:	15(b) OF THE SECURITIES EXCHANGE ACT
	:	OF 1934 AND SECTION 203(f) OF THE
Respondent.	:	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) of the Securities Exchange Act of 1934 (“Exchange Act”) and Section 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against Scott B. Gann (“Gann” or “Respondent”).

II.

After an investigation, the Division of Enforcement alleges that:

1. Gann, age 42, was a Senior Vice President and registered representative in the Private Client Group at Southwest Securities, Inc., (“Southwest”) from December 2001 to April 2004. Gann has the following FINRA licenses: General Securities Representative (Series 7), Uniform Securities Agent State Law (Series 63), and Registered Investment Adviser (Series 65).

2. On April 4, 2008, a final judgment was entered against Gann, permanently enjoining him from future violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, in the civil action entitled Securities and Exchange Commission v. Scott B. Gann, et al., Civil Action Number 3:05-CV-0063-L/NDTX, in the United States District Court for the Northern District of Texas, Dallas Division. The Court further ordered Gann to pay disgorgement in the amount of \$56,640.67, plus prejudgment interest thereon in the amount of \$13,568.68, and a civil penalty in the amount of \$50,000.

3. The Commission's complaint alleged that Gann and others engaged in a scheme to defraud hundreds of mutual funds and their shareholders by engaging in deceptive market timing practices on behalf of a single client, a hedge fund adviser based in New York ("Hedge Fund"). Knowing that mutual fund companies monitor activity in his family of mutual funds and restrict excessive trading, Gann engaged in a fraudulent scheme to disguise their market timing trading, and thereby circumvented trading restrictions imposed by the fund companies. Specifically, Gann routinely and systematically (i) concealed his identity and the identity of the Hedge Fund, (ii) created multiple accounts for the Hedge Fund and used several broker identification numbers to process market timing trades, (iii) divided trades into amounts designed to evade detection, and (iv) used different branch identification numbers to disguise his trading activity. Using these fraudulent tactics, Gann placed thousands of market timing trades for Hedge Fund that would have otherwise been rejected by the fund companies.

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 are true and, in connection therewith, to afford Respondent an opportunity to establish any defenses to such allegations;

B. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 15(b) of the Exchange Act;

C. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 203(f) of the Advisers Act; and

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 Respondent 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 Respondent fails to file the directed answer, or fails to appear at a hearing after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against him 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 Respondent personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 210 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.

For the Commission, by its Secretary, pursuant to delegated authority.

Nancy M. Morris
Secretary