

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 4301 / December 22, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-17023

In the Matter of

BART C. GUTEKUNST

Respondent.

**ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS,
MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS PURSUANT
TO SECTION 203(f) OF THE
INVESTMENT ADVISERS ACT OF 1940**

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 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against Bart C. Gutekunst (“Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, Respondent admits the Commission’s jurisdiction over him and the subject matter of these proceedings, and the findings contained in Sections III.3. and III.4. below, and consents to the entry of this Order Instituting Administrative Proceedings, Making Findings, and Imposing Remedial Sanctions Pursuant to Section 203(f) of the Investment Advisers Act of 1940 (“Order”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds that:

1. Respondent, age 63, resided in Weston, Connecticut during the relevant period. During the period of the conduct described below, Respondent was an owner, managing

partner and a founder of New Stream Capital, LLC (“New Stream”), an unregistered investment adviser in Ridgefield, Connecticut that at one time managed a \$750-plus million hedge fund focused on illiquid investments in asset-based lending.

2. On February 26, 2013, the Commission filed a Complaint (“Complaint”) naming Respondent as a defendant in a civil action pending in the United States District Court for the District of Connecticut, SEC v. New Stream Capital, LLC, et al., Civil Action No. 3:13-cv-00264. The Commission’s Complaint alleges, *inter alia*, that Respondent participated in a fraudulent scheme to mislead investors and advisory clients about the capital structure of a hedge fund managed and advised by New Stream.

3. On May 21, 2014, Respondent pled guilty to one count of conspiracy to commit wire fraud in violation of Title 18 United States Code, Section 371 before the United States District Court for the District of Connecticut, in United States v. Gutekunst, 3:13-cr-41 (JCH). On May 20, 2015, a judgment in the criminal case was entered against Respondent. He was sentenced to, among other things, a prison term of 30 months followed by three years of supervised release.

4. On December 21, 2015, the United States District Court for the District of Connecticut entered, by consent, a final judgment against Respondent permanently enjoining him from future violations of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, Section 17(a) of the Securities Act of 1933, and Sections 206(1), (2) and (4) of the Advisers Act and Rule 206(4)-8 thereunder.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent’s Offer.

Accordingly, it is hereby ORDERED pursuant to Section 203(f) of the Advisers Act that Respondent be, and hereby is barred from association with any broker, dealer, investment adviser, municipal securities dealer, or transfer agent.

Any reapplication for association by the Respondent will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

By the Commission.

Brent J. Fields
Secretary