

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 84015 / August 31, 2018

ADMINISTRATIVE PROCEEDING
File No. 3-18706

In the Matter of

JOHN M. KIRSCHENBAUM,

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
PROCEEDINGS PURSUANT TO SECTION
15(b) OF THE SECURITIES EXCHANGE
ACT OF 1934, MAKING FINDINGS, AND
IMPOSING REMEDIAL SANCTIONS**

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”) against John M. Kirschenbaum (“Kirschenbaum” or “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, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over him and the subject matter of these proceedings, and the findings contained in paragraph III.2 below, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions (“Order”), as set forth below.

III.

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

1. Kirschenbaum, age 69, resides in Seattle, Washington. From 2010 to the present, he was an independent contractor of RMR Asset Management Company, a California entity that bought and sold new issue municipal bonds. During that time, Kirschenbaum was not an associated person of a registered broker-dealer.

2. On August 17, 2018, a final judgment was entered by consent against Kirschenbaum, permanently enjoining him from future violations of Sections 10(b) and 15(a)(1) of the Exchange Act and Rule 10b-5 thereunder and Rule G-17 of the Municipal Securities Rulemaking Board, in the civil action entitled Securities and Exchange Commission v. John M. Kirschenbaum, et al., Civil Action Number 3:18-cv-01895-AJB-JMA, in the United States District Court for the Southern District of California.

3. The Commission's complaint alleged that, from at least 2010 to the present, Kirschenbaum purchased new issue municipal bonds in primary offerings from underwriters, which he then immediately sold, or "flipped" to broker-dealer customers for a profit. Kirschenbaum functioned as an unregistered broker by taking orders for bonds from broker-dealers who were unable to obtain those bonds directly, filling those orders with bonds he obtained from underwriters in new offerings, and receiving transaction-based compensation. In many cases, Kirschenbaum obtained the bonds by falsely representing himself to underwriters and/or municipal issuers as a retail investor or representative of retail investors, thereby creating the misleading impression that his orders were entitled to a higher priority.

IV.

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

Accordingly, it is hereby ORDERED pursuant to Section 15(b) of the Exchange Act that Respondent Kirschenbaum be, and hereby is barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, with the right to apply for reentry after two years to the appropriate self-regulatory organization, or if there is none, to the Commission.

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