

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933

Release No. 9361 / September 14, 2012

SECURITIES EXCHANGE ACT OF 1934

Release No. 67860 / September 14, 2012

INVESTMENT ADVISERS ACT OF 1940

Release No. 3464 / September 14, 2012

INVESTMENT COMPANY ACT OF 1940

Release No. 30202 / September 14, 2012

ADMINISTRATIVE PROCEEDING

File No. 3-15024



In the Matter of

WALTER V.
GERASIMOWICZ,
MEDITRON ASSET
MANAGEMENT, LLC,
MEDITRON
MANAGEMENT GROUP,
LLC,

Respondents.

MEMORANDUM OF LAW OF THE DIVISION OF ENFORCEMENT
WITH RESPECT TO THE NRSRO AND MUNICIPAL ADVISOR BARS

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July 22, 2010, the effective date of the Dodd-Frank Act, you may request that the Commission issue an order vacating the bar(s).”

Thus, only one issue of fact is relevant to this determination: whether or not misconduct post-dating Dodd-Frank’s effective date was the basis of the NRSRO and municipal advisor bar in this matter, or whether the bars were premised “solely on conduct that occurred before July 22, 2010.” Because significant misconduct occurred after that date, as set forth below, Respondent’s application to vacate these bars must be denied.

THE VIOLATIVE MISCONDUCT AT ISSUE IN THIS PROCEEDING

In earlier proceedings, the parties entered into a settlement whereby all the facts of the May 3, 2013 Order Making Findings and Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Section 8A of the Securities Act of 1933, Section 21C of the Securities Exchange Act of 1934, Sections 203(e), 203(f) and 203(k) of the Investment Advisers Act of 1940, and Section 9(b) of the Investment Company Act of 1940, and Ordering Continuation of Proceedings (“Order”) were deemed admitted. The sole issue that remained for the ALJ was the question of monetary remedies, since the settlement provided that Respondent would be barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

Ultimately, the Initial Decision (the “ID”), dated July 12, 2013, ordered Respondents to pay disgorgement of \$3,143,029.41, plus prejudgment interest, and pay third-tier penalties of \$1,950,000. The ID’s award (which remains unsatisfied) was premised upon the agreed-upon facts, as well as certain trial exhibits that were admitted into the record. Several of these exhibits are attached hereto, to the extent they justify the NRSRO and municipal advisor bars.

Respondents made these transfers from the Fund largely in three different fashions: transfers that were memorialized in purported promissory notes issued by SMC (the "Notes"); undocumented transfers to SMC or to MREP, which then were funneled to SMC; and transfers from the Fund directly to SMC's creditors. (Order ¶¶ 22-27; SEC Trial Ex. 149 at 1-8; SEC Trial Ex. 256.) Exhibits 149 and 256 demonstrate that many of these transfers occurred after July 22, 2010. Indeed, they show that between September 2010 and September 2011, Gerasimowicz directed 37 additional transfers of Meditron Fund assets, totaling approximately \$1.7 million, to SMC, to MREP for SMC's benefit, or directly to SMC's creditors. (Order ¶ 26; SEC Trial Ex. 149 at 1-8; SEC Trial Exs. 256, 258-260.)

Lies to Investors About the Value of their Investments

Respondent lied to investors about the value of their investments, by distributing quarterly summary evaluations grossly misrepresenting their Net Asset Values, as well as total fund returns. Many of these post-dated Dodd-Frank's effective date. *See* Trial Exhibit 58 (as of September 30, 2010); Trial Exhibit 59 (as of December 31, 2010); Trial Exhibit 84 (as of March 31, 2011); Trial Exhibit 85 (as of June 30, 2011); Trial Exhibit 86 (as of September 30, 2011); Trial Exhibit 87 (as of December 31, 2011); Trial Exhibit 88 (as of March 31, 2012); and Trial Exhibit 89 (as of June 30, 2012). *See also* Order ¶¶ 40-43.

Respondent also distributed to investors a number of "Quarterly Communiques" after the first transfers to SMC which concealed the fact of those transfers, and which misrepresented the Fund's holdings. Several of these post-dated July 22, 2010. *See* Trial Exhibits 192 (June 30, 2011 Quarterly Communique); 160 (September 30, 2011 Quarterly Communique.) *See also* Order ¶ 39.

assets to prop up a failing business in which he had an interest. He lied to investors about this malfeasance, and misrepresented the value of their investments, as well as the holdings of the Fund. Finally, he lied to the SEC, and to the public at large, in filing false Forms ADV.

Nor were these isolated events. They were part of a long-lasting scheme, extending over years, which manifested itself in repeated misuse of Fund assets, lies to investors and the public, and lies to the SEC. Furthermore, all of these acts involved a high degree of scienter. Respondent had to affirmatively act to make the numerous transfers from the Fund's accounts, to outrageously lie to investors, and to distribute materials that utterly misrepresented the performance and holdings of the Fund.

Despite the egregious nature of Respondent's violations, he has consistently refused to take responsibility for the wrongful nature of his conduct or made any credible assurances that he would refrain from similar conduct in the future. To the contrary, Respondent continues to blame others for the effects of his own misconduct.²

Moreover, he has made no assurances against future misconduct. To the contrary; the fact that he filed the instant petition to vacate the NRSRO and municipal advisor bars at least implies that he intends to practice in the financial industry in some capacity, with no recognition that his misconduct deserves any censure. Any vacating of these bars would only present opportunities for future violations.

² For example, in his May 17, 2013 Memorandum of Law Regarding Damages, Respondent continually referred to himself as a victim of others who misused the funds he stole from investors, and contended that he had "suffered greatly." *See* <https://www.sec.gov/litigation/apdocuments/3-15024-event-42.pdf>.

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CERTIFICATE OF SERVICE

I, Howard A. Fischer, certify that on the 28th day of February, 2017, I caused true and correct copies of the Division of Enforcement's Memorandum of Law with Respect to the NRSRO and Municipal Advisor Bars to be filed and served by UPS and fax on:

Brent Fields, Secretary
Office of the Secretary
Securities and Exchange Commission
100 F Street, N.E., Mail Stop 1090
Washington, DC 20549
(original plus three copies) (via fax (brief only) and UPS (brief and exhibits))

Dr. Walter V. Gerasimowicz

via UPS) (brief and exhibits)

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