

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 2571 / December 18, 2006**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-12508**

**In the Matter of**

**JAMES BARLOW SMITH,**

**Respondent.**

**ORDER INSTITUTING**  
**ADMINISTRATIVE PROCEEDINGS**  
**PURSUANT TO SECTION 203(f) OF THE**  
**INVESTMENT ADVISERS ACT OF 1940,**  
**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 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against James Barlow Smith (“Smith” 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 Section III.2 below, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 203(f) of the Investment Advisers Act of 1940, 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. Smith, age 46, is a resident of Saxonburg, Pennsylvania. In 1994, he joined Advanced Investment Management Inc. ("AIM") as an equity trader. He subsequently became a portfolio manager and, in January 2002, Smith became a six percent shareholder and Vice President of Equity Trading. AIM was registered as an investment adviser with the Commission and as a commodity pool operator with the Commodity Futures Trading Commission from 1992 to February 2003. AIM ceased operations in December 2002 and, in February 2003, filed a Form ADV-W, which became effective.

2. On December 7, 2006, a final judgment was entered by consent against Smith, permanently enjoining him from future violations of Sections 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and Sections 206(1) and 206(2) of the Advisers Act, in the civil action entitled Securities and Exchange Commission v. John Barlow Smith, Civil Action Number 2:05CV453, in the United States District Court for the Western District of Pennsylvania.

3. The Commission's complaint alleged that the officers and principals of AIM, including Smith, leveraged client assets in violation of investment advisory agreements, and concealed the unauthorized trading in the client accounts. As a result of the fraud, the complaint further alleges that clients suffered more than \$415 million in losses. Specifically, the complaint alleges that the majority shareholder, President, and Chief Investment Officer of AIM, formerly a registered investment adviser, orchestrated and conducted the improper trading scheme between January 2002 and July 2002 with the assistance of fellow owner Smith, AIM's Vice President of Equity Trading.

4. As described in the complaint, the Commission alleges that AIM offered a sophisticated investment product known as "Enhanced Indexing"; this investment strategy involved using derivatives to mirror the S&P 500 Index, and using the cash saved from purchasing derivatives to buy high quality debt instruments to "enhance" any return on the S&P 500 Index. The Commission's complaint alleges that Smith and other officers and principals violated client agreements by purchasing derivatives that caused excessive leverage without client knowledge, authorization or consent, and then selling the unauthorized positions before month-end so the monthly statements did not reflect the unauthorized positions. As alleged in the Commission's complaint, as the market steadily declined through the spring and early summer 2002 and the portfolios began underperforming the S&P 500; the complaint finally alleges that Smith and other officers and principals escalated their use of leverage in a failed attempt to recover lost performance, causing hundreds of millions of dollars in losses by July 2002.

**IV.**

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

Accordingly, it is hereby ORDERED:

Pursuant to Section 203(f) of the Advisers Act, that Respondent Smith be, and hereby is, suspended from association with any investment adviser for a period of 12 months.

By the Commission.

Nancy M. Morris  
Secretary