

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

**SECURITIES ACT OF 1933**

**Release No. 8848 / September 27, 2007**

**SECURITIES EXCHANGE ACT OF 1934**

**Release No. 56544 / September 27, 2007**

**INVESTMENT ADVISERS ACT OF 1940**

**Release No. 2662 / September 27, 2007**

**INVESTMENT COMPANY ACT OF 1940**

**Release No. 27997 / September 27, 2007**

**ADMINISTRATIVE PROCEEDING**

**File No. 3-12840**

**In the Matter of**

**STEVEN ANDREW ROBERTS,**

**Respondent.**

**ORDER INSTITUTING ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS, 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(f) AND 203(k) OF THE INVESTMENT ADVISERS ACT OF 1940, and SECTION 9(b) OF THE INVESTMENT COMPANY ACT OF 1940**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”), Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), Sections 203(f) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”), and Section 9(b) of the Investment Company Act of 1940 (“Investment Company Act”) against Steven Andrew Roberts (“Roberts” 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, which are admitted, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Section 8A of the Securities Act of 1933, Sections 21C of the Securities Exchange Act of 1934, Sections 203(f) and 203(k) of the Investment Advisers Act of 1940, and Section 9(b) of the Investment Company Act of 1940 (“Order”), as set forth below.

## III.

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

### Summary

This matter involves a hedge fund manager’s unauthorized transfer of monies from one hedge fund to satisfy a redemption request of an investor in another affiliated hedge fund. This matter also involves material misstatements in the hedge funds’ offering memoranda. In particular, in May 2006, Steven A. Roberts, while serving as a fund manager for three hedge funds headquartered in Delray Beach, Florida—the R Futures A, B and C Funds (hereinafter referred to as the “A Fund,” “B Fund” and “C Fund,” respectively and the “R Futures Funds,” collectively)—transferred \$2 million from the A Fund in order to fulfill a redemption request of an investor in the C Fund. Roberts also made material misstatements concerning his educational credentials in the A, B and C Funds’ offering memoranda. As a result of this conduct, Roberts violated Advisers Act Sections 206(1) and 206(2), Securities Act Section 17(a), and Exchange Act Section 10(b) and Rule 10b-5 thereunder.

### **Respondent**

1. Roberts, age 45, resides in Delray Beach, Florida and has at all relevant times served as one of two fund managers for the R Futures A, B and C Funds. At all relevant times, Roberts has co-owned the A, B and C Funds’ managing member, Excalibur Partners, LLC, a registered investment adviser. Between 1988 and 1995, Roberts was associated with several different broker-dealer firms registered with the Commission pursuant to Section 15(a) of the Exchange Act. Roberts was not associated with a broker-dealer at the time of the misconduct. Roberts’ formal education ended at the high school level, when he attained a General Equivalency Diploma, or G.E.D., in 1978.

### **Other Relevant Persons and Entities**

2. R Futures, LLC (the “A fund”) is a Florida limited liability company that was formed in July 2002. At all relevant times, Roberts was one of two joint managers who made all

investment and day-to-day operating decisions for the A Fund. As of December 2005, the A Fund had approximately twenty-six investors.

3. R Futures B, LLC (the “B fund”) is a Florida limited liability company that was formed in November 2003. At all relevant times, Roberts was one of two joint managers who made all investment and day-to-day operating decisions for the B Fund. As of December 2005, the B Fund had approximately fifteen investors.

4. R Futures C, LLC (the “C fund”) is a Delaware limited liability company that was formed in June 2004. At all relevant times, Roberts was one of two joint managers who made all investment and day-to-day operating decisions for the C Fund. As of December 2005, the C Fund had just one investor.

5. Excalibur Partners, LLC (“Excalibur”) is a Florida limited liability company that was formed in December 2003. Excalibur is a registered investment adviser. At all relevant times, Excalibur was owned by Roberts and DiMatteo. Excalibur is headquartered in Delray Beach, Florida. Excalibur is the managing member for all three R Futures Funds.

### **The Material Misstatements**

6. Roberts founded and co-managed the R Futures A, B and C Funds. He contributed to, edited and reviewed the Offering Memoranda for those Funds, each of which listed him as the contact. As co-founder and manager of the Funds’ investment adviser, Roberts disseminated the Offering Memoranda to investors and offered and sold interest in the Funds to investors. These Offering Memoranda misstated material facts regarding Roberts’ educational background. In particular, each Offering Memorandum stated that Roberts held a Masters in Business Administration. In fact, as Roberts well knew, he had merely paid a fee to an online service in exchange for a “Masters in Business Administration” certificate, the only prerequisite for which had been the payment of that fee. As Roberts further well knew, (i) he had neither completed, nor even begun, any coursework toward any actual M.B.A. degree, and (ii) his completed formal education had not extended beyond high school.

### **The Unauthorized Transfer of Funds**

7. On June 28, 2005, a C Fund investor submitted a redemption notice, requesting withdrawal of its entire investment—the original amount of which was \$5 million—based on the C Fund’s December 31, 2005 valuation, which was approximately \$4.7 million according to records maintained by the fund’s managing members. The C Fund confirmed receipt of the redemption request on July 11, 2005. Under the terms of the C Fund’s offering memorandum, the investor was eligible to receive at least 90% of its funds no later than sixty days after December 31, 2005.

8. In March 2006, after the investor confirmed that it had not and would not withdraw its redemption request, Roberts and the investor agreed that the investor’s redemption would be made in early April at the C Fund’s net asset value (“NAV”) for March 31, 2006, provided it was

equal to or greater than the C Fund's December 31, 2005 NAV as originally requested. This resulted in an agreement that the investor would receive \$4.8 million.

9. At the time Roberts agreed to fulfill the C Fund investor's redemption request, he knew that the C Fund's liquid assets were insufficient to fulfill that request, because Roberts had, in September 2005, used \$2 million of the C Fund's assets to buy a derivative, the terms of which included a three-year lockup period.

10. On April 26, 2006, Roberts caused to be sent, and the investor received, two wire transfers totaling approximately \$2.8 million, in partial satisfaction of the investor's redemption request. On May 2, 2006, Roberts wired the remaining \$2 million to the C Fund investor—but transferred funds from the A Fund without authorization in order to do so. In particular, Roberts liquidated \$2 million in A Fund money market mutual fund holdings and then used the proceeds to complete the repayment of the C Fund investor.

11. Roberts' sale of \$2 million in A Fund securities and subsequent unauthorized transfer of A Fund assets was for the sole purpose of freeing himself from the uncomfortable position in which he had placed himself by pledging prompt and full redemption to the C Fund investor. Roberts lacked authority to engage in this self-serving use of A Fund assets. In this way, Roberts knowingly made an unauthorized transfer from the A Fund in order to fulfill a redemption request of an investor in the C Fund.

12. On May 17, 2006, fortuitously for Roberts, the counter-party to the derivative transaction elected to unwind it, returning most of the \$2 million in C Fund assets that had been used to buy the derivative. Roberts then caused those funds to be returned to the A Fund.

#### **Provisions Violated**

13. As a result of the conduct described above, Roberts willfully violated Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in the offer and sale of securities and in connection with the purchase or sale of securities, respectively.

14. As a result of the conduct described above, Roberts willfully violated Sections 206(1) and 206(2) of the Advisers Act, which prohibit investment advisers from employing any device, scheme or artifice to defraud any client or prospective client, or to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client.

#### **IV.**

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

Accordingly, pursuant to Section 8A of the Securities Act, Section 21C of the Exchange Act, Sections 203(f) and 203(k) of the Advisers Act, and Section 9(b) of the Investment Company Act, it is hereby ORDERED that:

A. Respondent Roberts cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and Sections 206(1) and 206(2) of the Advisers Act

B. Respondent Roberts be, and hereby is barred from association with any investment adviser, with the right to reapply for association after three (3) years to the appropriate self-regulatory organization, or if there is none, to the Commission.

C. Respondent is prohibited from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter.

D. 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.

E. It is further ordered that Respondent Roberts shall pay \$35,000 as a civil money penalty. Respondent Roberts shall satisfy this obligation by making payments according to the following schedule: (1) \$14,000 within thirty (30) days of the entry of this Order, plus post-judgment interest;<sup>1</sup> (2) \$7,000 within ninety (90) days of the entry of this Order, plus post-judgment interest; (3) \$7,000 within one-hundred and eighty (180) days of the entry of this Order, plus post-judgment interest; and (4) \$7,000 within two-hundred-seventy (270) days of the entry of this Order, plus post-judgment interest. Each payment shall be: (A) made by United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA 22312; and (D) submitted under cover letter that identifies Steven Andrew Roberts as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to J. Lee Buck, II, Deputy

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<sup>1</sup> For purposes of paragraphs IV.E. and F. of the Order, post-judgment interest shall be calculated through the date of payment at the rate of interest set forth in 31 U.S.C. § 3717. The current rate, applicable through December 31, 2007, is 4.00%. See Department of the Treasury, "Notice of Rate for Use in Federal Debt Collection and Discount and Rebate Evaluation," 71 Federal Register 61539 (Oct. 18, 2006).

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N.E., Washington, D.C. 20549-5631-A.

F. Respondent agrees that if the full amount of any payment described above is not made by the date the payment is required by this Order, the entire amount of civil penalties and any interest accrued pursuant to 31 U.S.C. § 3717 minus payments made, if any, is due and payable immediately without further application.

By the Commission.

Nancy M. Morris  
Secretary