

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

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 2859 / March 27, 2009**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-13345**

**In the Matter of**

**GARY ALAN TANAKA,**

**Respondent.**

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

**I.**

On January 16, 2009, the Securities and Exchange Commission (“Commission”) instituted public interest that public administrative proceedings pursuant to Section 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against Gary Alan Tanaka (“Respondent” or “Tanaka”).

**II.**

In response to 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 and III.3 below, which are admitted, Respondent consents to the entry of this Order 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:

#### RESPONDENT

1. Tanaka, age 65, resided in the United Kingdom during the relevant time period. Since approximately May 2005, Tanaka has resided in New York, New York. During the relevant time period, Tanaka was a person associated with an investment adviser.

#### CRIMINAL CONVICTION

2. Beginning in September 2008, Tanaka and Alberto W. Vilar ("Vilar") were tried before a jury in the United States District Court for the Southern District of New York, in United States v. Alberto William Vilar and Gary Alan Tanaka, S3 05 Cr. 621 (RJS).

3. On November 19, 2008, Tanaka was found guilty on 1 count of securities fraud; 1 count of investment adviser fraud; and 1 count of conspiracy to commit securities fraud, investment adviser fraud, wire fraud, mail fraud and money laundering, in violation of 15 U.S.C. §§ 80b-6, 80b-17, 78j(b) and 78ff; 17 C.F.R. § 240.10b-5; and 18 U.S.C. §§ 371 and 2.

4. The counts of the criminal indictment to which Tanaka was found guilty alleged that Tanaka engaged in a scheme to defraud that involved (a) misappropriation of millions of dollars of investor assets and (b) misrepresentation to investors of how their money was being invested.

5. It is further alleged in the criminal indictment that (a) beginning in or about 1986, Vilar and Tanaka solicited, and caused others to solicit, clients to invest in Amerindo Guaranteed Fixed Rate Deposit Accounts ("GFRDAs") based on misrepresentations that they would invest the majority of the clients' funds in short-term debt instruments that would earn a fixed-rate of interest, but Vilar and Tanaka did not invest the funds as promised, nor did they provide the investors with the promised rate of return on their GFRDA investments; and (b) beginning in or about June 2002, Vilar induced a client to invest approximately \$5 million in an Amerindo venture (the "Amerindo SBIC") based on misrepresentations concerning the Amerindo SBIC investment, but misappropriated the client's investment and repeatedly made misrepresentations to the client concerning her investment in the Amerindo SBIC.

### 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 investment adviser.

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.

For the Commission, by its Secretary, pursuant to delegated authority.

Elizabeth M. Murphy  
Secretary