

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

**INVESTMENT ADVISERS ACT OF 1940**  
Release No. 3072 / August 24, 2010

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-14017**

**In the Matter of**

**ROBERT T. HARVEY,**

**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 Robert T. Harvey (“Harvey” 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. Harvey, age 63, resides in Prosper, Texas. In May 2005, Harvey formed a California limited liability company, Harvest Income, LLC. Harvey was Harvest Income's sole manager from its inception until February 2007. Harvey is not registered with the Commission in any capacity.

2. On September 15, 2008, the Commission filed a complaint against Harvey in SEC v. Jeanne M. Rowzee, et al. (Civil Action No. SACV 08-1025 DOC (ANx)), in the United States District Court for the Central District of California, Southern Division. On July 29, 2010, the court entered an order permanently enjoining Harvey, by consent, from future violations of Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933 ("Securities Act"), Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 thereunder, and from violations of Sections 206(1) and 206(2) of the Advisers Act.

3. The Commission's complaint alleged, among other things, that Jeanne Rowzee, James Halstead, and Respondent each took part in the fraudulent offer and sale of \$52.7 million of securities to approximately 150 investors, in which they falsely represented that the investors' funds would be used to purchase PIPE investments which were described as "a private investment being converted into a public entity." Respondent raised at least \$7.9 million from approximately forty-one (41) investors by selling membership interests in Harvest Income, beginning in June 2005. The complaint alleged that Respondent was an investment adviser to Harvest Income and advised it as to the purported value of PIPEs and the advisability of such investments. The complaint further alleged that Respondent gave prospective investors a copy of the Harvest Income operating agreement, which identified him as the company's sole manager and gave him complete control over the company's business, including its investment decisions. The complaint alleged that Respondent purportedly relied on the private placement exemption under the Securities Act and the safe harbor provisions of Regulation D, and further alleged that at least thirteen (13) of the Harvest Income investors were unsophisticated and unaccredited as defined in Rule 501 of Regulation D under the Securities Act, 17 C.F.R. § 230.501. The complaint alleged that Respondent represented to investors that Jeanne M. Rowzee was an experienced securities attorney who had access to lucrative private investment opportunities through brokers that she controlled, and promised returns of 19% to 54% within 12 to 16 weeks. The complaint further alleged that Respondent created a PowerPoint presentation which he gave to some prospective investors in which, among other things, the Respondent represented to investors that he, Rowzee, and a certified public accountant constituted a "loan committee" that evaluated every new potential PIPE for Harvest Income. The complaint further alleged that, in fact, no such loan committee existed. The complaint alleged that the membership units in Harvest Income were securities, and that Respondent sold unregistered securities.

4. On September 11, 2002, the California Department of Corporations issued a Desist and Refrain Order against Harvey which found that Harvey violated the state's antifraud and securities registration provisions in connection with the offer and sale of securities. Desist-

and-Refrain Order Against Robert Thomas Harvey, California Department of Corporations (Sept. 11, 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 Harvey's Offer.

Accordingly, it is hereby ORDERED:

Pursuant to Section 203(f) of the Advisers Act, that Respondent Harvey 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

## Service List

Rule 141 of the Commission's Rules of Practice provides that the Secretary, or another duly authorized officer of the Commission, shall serve a copy of the Order Instituting Administrative Proceedings Pursuant to Section 203(f) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions ("Order") on the Respondent and his legal agent.

The attached Order has been sent to the following parties and other persons entitled to notice:

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