

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 64924 / July 20, 2011

INVESTMENT ADVISERS ACT OF 1940
Release No. 3247 / July 20, 2011

ADMINISTRATIVE PROCEEDING
File No. 3-14475

In the Matter of

RICHARD D. MITTASCH,

Respondent.

**ORDER INSTITUTING PUBLIC
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 15(b) OF THE
SECURITIES EXCHANGE ACT OF 1934
AND SECTION 203(f) OF THE
INVESTMENT ADVISERS ACT OF 1940,
AND NOTICE OF HEARING**

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 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”) and Section 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against Richard D. Mittasch (“Respondent” or “St. Jean”).

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENT

1. From August 2008 to at least May 2009, Mittasch was the chief executive officer and managing partner of Imperium Investment Advisers, LLC (“Imperium”), an investment adviser registered with the Commission during the same time period. He holds Series 6, 7, 63 and 24 securities licenses. From July 2007 through September 2008, Mittasch was affiliated with Maximum Financial Investment Group, Inc. (“Maximum”), a broker-dealer formerly registered

with the Commission. Maximum and Imperium served as trustee for Bradenton, Florida-based hedge fund Vestium Equity Fund, LLC (“Vestium”) and Maximum provided various broker-dealer services for a second, related Florida-based hedge fund, Arcanum Equity Fund, LLC (“Arcanum”).

B. ENTRY OF THE INJUNCTION

2. On June 30, 2011, a final judgment was entered against Respondent, permanently enjoining him from future violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and from aiding and abetting violations of Sections 206(1), 206(2), and 206(4) of the Advisers Act and Rule 206(4)-8 thereunder, in the civil action entitled *Securities and Exchange Commission v. Richard D. Mittasch, et al.*, Civil Action Number 8:10-CV-02859-JDW-MAP, in the United States District Court for the Middle District of Florida.

3. The Commission’s complaint alleged that, from at least August 2008 through May 2009, Respondent was Imperium’s chief executive officer. During this period, Imperium and Vestium were parties to a trust indenture agreement that obliged Imperium to hold investor funds in a custodial account and to monitor Vestium’s investments to ensure the fund used investor proceeds only for uses specified in the fund’s offering materials. The trust indenture was incorporated into Vestium’s securities offering materials. Mittasch also was the co-signatory for Vestium’s custodial bank account. However, he approved hedge fund transactions and disbursed investor funds for uses not permitted by the fund’s offering documents or the trust indenture. In at least one of the transactions Respondent approved, he had a direct, undisclosed financial interest. This transaction created an undisclosed conflict of interest between Respondent and the fund’s investors.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative proceedings be instituted to determine:

A. Whether the allegations set forth in Section II are true and, in connection therewith, to afford Respondent an opportunity to establish any defenses to such allegations;

B. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 15(b) of the Exchange Act; and

C. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 203(f) of the Advisers Act.

IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an

Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondent shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If Respondent fails to file the directed answer, or fails to appear at a hearing after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against him upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f) and 201.310.

This Order shall be served forthwith upon Respondent personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 210 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice, 17 C.F.R. § 360(a)(2).

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

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

Elizabeth M. Murphy
Secretary