

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 3377 / February 27, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14772

In the Matter of

SHAWN R. MERRIMAN,

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 Shawn R. Merriman (“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 and III.4 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. From about 1994 through 2009, Respondent, through his wholly-owned entity, Market Street Advisors, and several other entities under his control, acted as an investment adviser, soliciting funds from investors purportedly to manage the funds to make a profit for investors. Respondent entered into operating agreements with investors wherein he agreed to manage investor money to invest in securities, including options, exercising complete control over the securities trading on behalf of the investors in exchange for fee-based compensation. During the period at issue, Merriman resided in Denver, Colorado.

2. On December 23, 2011, a final judgment was entered by consent against Merriman, permanently enjoining him from future violations of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and Section 206 of the Advisers Act and Rule 206(4)-8 thereunder, in the civil action entitled Securities and Exchange Commission v. Merriman, Civil Action Number 1:09-cv-00786-PAB, in the United States District Court for the District of Colorado.

3. The Commission's complaint alleged that from about 1994 through 2009, when soliciting funds from investors, Merriman made materially false and misleading statements to them regarding, among other things, the purported uses of investor funds and the expected rates of return. The Complaint further alleged that Merriman misappropriated and misused investor proceeds, failed to trade in securities as represented to investors, and otherwise engaged in a variety of conduct which operated as a fraud or deceit on investors. The Complaint further alleged that Merriman sent false account statements to investors through the United States mail system in order to conceal the scheme.

4. On December 2, 2009, Merriman entered a plea of guilty to one count of mail fraud in violation of Title 18 United States Code, Section 1341 before the United States District Court for the District of Colorado, in United States v. Merriman, Case No. 09-cr-00369-MSK-01. On September 14, 2010, a judgment in the criminal case was entered against Merriman. He was sentenced to a prison term of 151 months followed by three years of supervised release and ordered to make restitution in the amount of \$20,124,183.13.

5. The counts of the criminal information to which Merriman pled guilty alleged, inter alia, that Merriman defrauded investors and obtained money and property by means of materially false and fraudulent pretenses, representations, and promises, and that he used the United States mails to send false account statements.

IV.

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

Accordingly, it is hereby ORDERED:

Pursuant to Section 203(f) of the Advisers Act, that Respondent Merriman be, and hereby is:

barred from association with any broker, dealer, investment adviser, municipal securities dealer, or transfer agent.

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.

By the Commission.

Elizabeth M. Murphy
Secretary