

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

**SECURITIES ACT OF 1933**  
**Release No. 9459 / September 27, 2013**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 70547 / September 27, 2013**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-15529**

**In the Matter of**

**COMMONWEALTH INCOME  
& GROWTH FUND, INC. and  
KIMBERLY SPRINGSTEEN-  
ABBOTT,**

**Respondents.**

**ORDER INSTITUTING CEASE-AND-  
DESIST PROCEEDINGS PURSUANT TO  
SECTION 8A OF THE SECURITIES ACT  
OF 1933 AND SECTION 21C OF THE  
SECURITIES EXCHANGE ACT OF 1934,  
MAKING FINDINGS, AND IMPOSING A  
CEASE-AND-DESIST ORDER**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) and Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Commonwealth Income & Growth Fund, Inc. (“CIGF”) and Kimberly Springsteen-Abbott (“Springsteen-Abbott”) (collectively, “Respondents”).

**II.**

In anticipation of the institution of these proceedings, Respondents have 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 them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act and Section 21C of the

Exchange Act, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.

### **III.**

On the basis of this Order and Respondents’ Offer, the Commission finds<sup>1</sup> that:

#### **Summary**

From 2006 through 2011, CIGF made misleading disclosures concerning the expenses that it charged to nine equipment leasing funds that were sponsored by CIGF’s parent company (the “Commonwealth Funds” or the “Funds”). CIGF represented in the Funds’ offering documents, which were reviewed and approved by its chief executive officer (“CEO”) Springsteen-Abbott, that the salary expenses of CIGF’s and its parent’s “Controlling Persons” would not be charged to the Funds. The offering documents describe ten to fifteen individuals for each Fund that serve as directors or executive and senior management for CIGF and its parent. The offering documents further describe the various functions and activities of these individuals and refer to them as CIGF’s key management and the persons responsible for making all of the Funds’ investment decisions.

CIGF and Springsteen-Abbott negligently failed to disclose that she was the sole Controlling Person under their interpretation of the definition and that CIGF and its corporate parent routinely expensed a portion of the salaries of all other employees, executive officers, and directors to the Commonwealth Funds. Each Fund’s documentation and each public Funds’ Forms 10-K and 10-Q filed with the Commission between 2006 and 2011 disclosed the aggregate amount of reimbursable expenses charged to the Funds, including all salaries charged to the Funds; however, the documentation and filings did not break down those expenses such that an investor or prospective investor in a Fund necessarily would know that those expenses charged to that Fund included a portion of the salaries of all CIGF employees, executive officers, and directors other than its CEO.

#### **Respondents**

1. CIGF is a Pennsylvania corporation established in 1993 with its principal place of business in Chadds Ford, Pennsylvania. Since 2006, CIGF has served as the general partner or managing member of nine public and private equipment leasing funds: (i) Commonwealth Income & Growth Fund IV, LP; (ii) Commonwealth Income & Growth Fund V, LP; (iii) Commonwealth Income & Growth Fund VI, LP; (iv) Commonwealth Income & Growth Fund VII, LP; (v) Commonwealth Opportunity Fund, LLC; (vi) Commonwealth Income & Growth Private Fund I, LLC; (vii) Commonwealth Income & Growth Private Fund II, LLC; (viii) Commonwealth Income & Growth Private Fund III, LLC; and (ix) Commonwealth Income & Growth Private Fund IV, LLC. CIGF is not registered with the Commission in any capacity.

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<sup>1</sup> The findings herein are made pursuant to Respondent’s Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

2. Springsteen-Abbott, age 53, is a resident of Garnet Valley, Pennsylvania and Holiday, Florida. Since April 2006, Springsteen-Abbott has been the 100% owner, chairman, and CEO of CIGF and its parent company, Commonwealth Capital Corporation (“Commonwealth”).

## **Background**

### **The Commonwealth Funds**

3. CIGF and Commonwealth are in the business of sponsoring both publicly and privately offered equipment leasing funds, including the Commonwealth Funds. The Commonwealth Funds purchase medical and technological equipment and lease it to corporations and institutions for periods generally ranging from one to four years. The Funds are structured as limited partnerships or limited liability companies and generally have 10-year lifespans, after which the Funds sell or otherwise dispose of any remaining equipment, make final distributions to investors, and dissolve.

4. Investors in the Commonwealth Funds share in the profits and losses generated by the leases of equipment purchased with the Funds’ assets. Investors receive quarterly distributions throughout the life of the Funds and at the end of each Fund’s life, the Fund returns all remaining capital to its investors.

5. CIGF serves as the general partner or managing member for each of the Funds, handling all operations, including purchasing equipment, and negotiating, executing, and administering the leases. CIGF also prepares the Funds’ offering documents and public filings. Springsteen-Abbott, CIGF’s CEO, reviewed and approved the offering documents and public filings that are the subject of this action. CIGF and Commonwealth each have a board of directors with five members in addition to Springsteen-Abbott. The Funds have no employees, directors, or executive officers.

6. CIGF receives a variety of fees from the Commonwealth Funds including organization fees, equipment acquisition fees, and lease management fees. Each of the Funds’ prospectuses, private placement memoranda, limited partnership agreements, and/or limited liability company operating agreements (collectively, the “Fund Documents”) states that CIGF is also entitled to reimbursement by the Funds for certain costs of goods, supplies, services, and expenses in connection with the administration and operation of the Funds.

7. However, certain salary and related expenses incurred by CIGF are not reimbursable by the Funds. The Fund Documents for each of the Funds specify that “salaries, fringe benefits, travel expenses and other administrative items incurred or allocated to any Controlling Person of the General Partner [or Manager]” cannot be charged to the Funds. The Fund Documents define a “Controlling Person” as:

any person, whatever his or her title, performing functions for the General Partner [or Manager] or its Affiliates [expressly defined to include Commonwealth] similar to those of chairman or member of the Board of Directors or executive management (such as the president, vice president, or senior vice president, corporate secretary or treasurer), senior management (such as the vice president of an operating division who reports directly to executive management), or any person holding a five percent or more equity interest in the General Partner [or Manager] or its Affiliates or having the power to direct or cause the direction of the General Partner [or Manager] or its Affiliates, whether through the ownership of voting securities, by contract, or otherwise.

The Fund Documents further note that “[t]he same individuals that control and manage [CIGF] also manage Commonwealth [its parent company].” Based on this definition, the Controlling Person salaries of CIGF and its parent cannot be charged to the Funds.

8. The Fund Documents identify ten to fifteen individuals for each fund, including Springsteen-Abbott, who serve as CIGF’s and Commonwealth’s directors, officers, executive management, and senior management. The Fund Documents describe these individuals as CIGF’s “key management” and the “individuals responsible for making all of [the Funds’] investment decisions.” The Fund Documents and public Funds’ Forms 10-K and 10-Q disclose the existence of the CIGF and Commonwealth boards of directors. The Fund Documents further indicate that five people in addition to the CEO sit on Commonwealth’s and CIGF’s boards of directors. The public Funds’ Forms 10-K and 10-Q also describe the various activities of the boards, including their review of management’s assessment of a Fund’s internal control over financial reporting and pre-approval of independent audit and tax planning services.

9. Between 2006 and 2010, CIGF and Springsteen-Abbott deemed only Springsteen-Abbott to be a Controlling Person, and routinely charged the Funds for the salary expenses of persons identified in the Fund Documents and public filings as CIGF’s and its parent company’s executive management, senior management, officers, and members of their advisory boards of directors.

10. The fact that CIGF charged the Funds for these salaries is not otherwise apparent from the Funds’ individual financial statements, which the Funds publicly filed on Forms 10-Q and 10-K, or issued to private fund investors in annual reports between 2006 and 2011. These salary amounts are included in a single figure in the footnotes to the financial statements representing all “reimbursable expenses,” without any detail as to the nature and amount of the expenses, although the aggregate amounts are fully disclosed.

### **Violations**

11. As a result of the conduct described above, CIGF and Springsteen-Abbott violated Sections 17(a)(2) and (3) of the Securities Act between 2006 and 2011 by their negligent

misrepresentations and omissions in the Fund Documents and public Funds' Forms 10-K and 10-Q filed during those Funds' offering periods.

12. Also as a result of the conduct described above, CIGF and Springsteen-Abbott caused Commonwealth Income & Growth Fund IV, LP's, Commonwealth Income & Growth Fund V, LP's, Commonwealth Income & Growth Fund VI, LP's, and Commonwealth Income & Growth Fund VII, LP's violations of Section 15(d) of the Exchange Act and Rules 12b-20, 15d-1, and 15d-13 thereunder, which require every issuer who has filed a registration statement which becomes effective pursuant to the Securities Act to file with the Commission, information, documents, and annual and quarterly reports as the Commission may require, and mandate that periodic reports contain such further material information as may be necessary to make the required statements not misleading.

#### IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in CIGF's and Springsteen-Abbott's Offers.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act, Respondents CIGF and Springsteen-Abbott cease and desist from committing or causing any violations and any future violations of Sections 17(a)(2) and (3) of the Securities Act and Section 15(d) of the Exchange Act and Rules 12b-20, 15d-1, and 15d-13 thereunder.

B. Respondents CIGF and Springsteen-Abbott shall pay, on a joint and several basis, disgorgement of \$1,548,688, less a credit of \$1,408,598 for reimbursements, contributions, and fee waivers already made to the Funds. Respondents shall also pay prejudgment interest of \$77,566 and a civil money penalty of \$150,000, both on a joint and several basis. Respondents shall satisfy these obligations by disbursing the foregoing disgorgement, prejudgment interest, and civil monetary penalty as follows:

1. Respondents shall satisfy the disgorgement and prejudgment interest by making a total payment of \$217,656 to and for the benefit of the Funds. Payment shall be made in the following installments: (1) \$18,138 shall be due and payable within 10 days of the entry of this Order; and (2) eleven equal payments each in the amount of \$18,138 shall be made within 11 months of the entry of this Order, each such payment to be made on the first day of each month following the first payment. If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of disgorgement and prejudgment interest, plus any additional interest accrued pursuant to SEC Rule of Practice 600 or pursuant to 31 U.S.C. 3717 shall be due and payable immediately without further application. Respondents shall simultaneously transmit a copy of such payment and notification to Chad Alan Earnst, Assistant

Regional Director, Miami Regional Office, 801 Brickell Avenue, Suite 1800, Miami, FL 33131. Respondents shall cooperate with the staff of the Commission to obtain evidence of receipt of the payment by the Funds. In the event that Respondents fail to complete the disbursement under the terms set forth in this Order, payment of the full disbursement amount (or balance thereof) shall be due and payable immediately to the Commission, without further application. The Commission shall then disburse that payment to the Funds. Further, Respondents agree to be responsible for all tax compliance responsibilities associated with the disbursement of the \$217,656 to the Funds. The costs and expenses relating to Respondents' respective responsibilities for tax compliance shall be borne solely by Respondents and shall not be paid out of the \$217,656 payment to the Funds or the civil penalty paid pursuant to part two below.

2. Respondents shall pay, on a joint and several basis, a civil money penalty in the amount of \$150,000 to the Commission for transfer to the United States Treasury. Payment shall be made in the following installments: (1) \$12,500 shall be due and payable within 10 days of the entry of this Order; and (2) eleven equal payments each in the amount of \$12,500 shall be made within 11 months of the entry of this Order, each such payment to be made on the first day of each month following the first payment. If any payment is not made by the date payment is required by this Order, the entire outstanding balance plus any additional interest accrued pursuant to 31 U.S.C. 3717 shall be due and payable immediately, without further application. Payment must be made in one of the following ways:

- (a) Respondents may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (b) Respondents may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center  
Accounts Receivable Branch  
HQ Bldg., Room 181, AMZ-341  
6500 South MacArthur Boulevard  
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying CIGF and Springsteen-Abbott as Respondents in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Chad Alan Earnst, Assistant Regional Director, Miami Regional Office, Securities and Exchange Commission, 801 Brickell Avenue, Suite 1800, Miami, Florida 33131.

C. Amounts ordered to be paid as a civil money penalty pursuant to this Order shall be treated as a penalty paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondents agree that in any Related Investor Action, they shall not argue that they are entitled to, nor shall they benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondents' payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondents agree that they shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against either or both Respondents by or on behalf of one or more investors based on substantially the same facts as alleged in this Order.

By the Commission.

Elizabeth M. Murphy  
Secretary