

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 70412 / September 16, 2013**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-15494**

**In the Matter of**

**PHILADELPHIA  
FINANCIAL  
MANAGEMENT OF SAN  
FRANCISCO, LLC,**

**Respondent.**

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

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Philadelphia Financial Management of San Francisco, LLC (“Philadelphia Financial” 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 it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order and Civil Penalty (“Order”), as set forth below.

### III.

On the basis of this Order and Respondent's Offer, the Commission finds<sup>1</sup> that:

#### **Summary**

1. These proceedings arise out of violations of Rule 105 of Regulation M of the Exchange Act by Philadelphia Financial, a California-based registered investment adviser. Rule 105 prohibits buying an equity security made available through a public offering, conducted on a firm commitment basis, from an underwriter or broker or dealer participating in the offering after having sold short the same security during the restricted period as defined therein.

2. On two occasions, from June 2009 through September 2009, Philadelphia Financial bought offered shares from an underwriter or broker or dealer participating in a follow-on public offering after having sold short the same security during the restricted period. These violations collectively resulted in profits of \$137,524.

#### **Respondent**

3. Philadelphia Financial Management of San Francisco, LLC is a California limited liability company with its principal place of business in San Francisco, California. Philadelphia Financial Management of San Francisco, LLC has been registered with the Commission as an investment adviser since January 3, 2005 and provides advisory services to two domestic funds and two offshore funds with total assets under management in excess of \$764 million.

#### **Legal Framework**

4. Rule 105 makes it unlawful for a person to purchase equity securities from an underwriter, broker, or dealer participating in a public offering if that person sold short the security that is the subject of the offering during the restricted period defined in the rule, absent an exception. 17 C.F.R. § 242.105; see Short Selling in Connection with a Public Offering, Rel. No. 34-56206, 72 Fed. Reg. 45094 (Aug. 10, 2007) (effective Oct. 9, 2007). The Rule 105 restricted period is the shorter of the period: (1) beginning five business days before the pricing of the offered securities and ending with such pricing; or (2) beginning with the initial filing of a registration statement or notification on Exchange Act Form 1-A or Form 1-E and ending with pricing.

5. "The goal of Rule 105 is to promote offering prices that are based upon open market prices determined by supply and demand rather than artificial forces." Final Rule: Short Sales, Exchange Act Release No. 50103. Rule 105 is prophylactic and prohibits the conduct irrespective of the short seller's intent in effecting the short sale.

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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.

### **Philadelphia Financial's Violations of Rule 105 of Regulation M**

6. From September 14 through September 17, 2009, Philadelphia Financial sold short 156,480 shares of Sonic Automotive Inc. ("SAH") during the restricted period at an average price of \$10.2341 per share. On September 17, 2009, SAH announced the pricing of a follow-on offering of its common stock at \$10.10 per share. Philadelphia Financial received an allocation of 150,000 shares in that offering. The difference between Philadelphia Financial's proceeds from the restricted period short sales of SAH shares and the price paid for the 150,000 shares received in the offering was \$20,115.00. Thus, Philadelphia Financial's participation in the SAH offering netted total profits of \$20,115.00.

7. On May 27, 2009, Philadelphia Financial sold short 5,388 shares of Prudential Financial Inc. ("PRU") during the restricted period at an average price of \$40.5283 per share. On June 2, 2009, PRU announced the pricing of a follow-on offering of its common stock at \$39.00 per share. Philadelphia Financial received an allocation of 70,000 shares in that offering. The difference between Philadelphia Financial's proceeds from the restricted period short sales of PRU shares and the price paid for the 5,388 shares received in the offering was \$8,234.48. Respondent also improperly obtained a benefit of \$109,174.90 by purchasing the remaining 64,612 shares at a discount from PRU's market price. Thus, Philadelphia Financial's participation in the PRU offering netted total profits of \$117,409.38.

8. In total, Philadelphia Financial's violations of Rule 105 resulted in profits of \$137,524.38.

### **Violations**

9. As a result of the conduct described above, Philadelphia Financial violated Rule 105 of Regulation M under the Exchange Act.

### **Philadelphia Financial's Remedial Efforts**

10. In determining to accept the Offer, the Commission considered remedial acts promptly undertaken by Respondent and cooperation afforded to Commission staff.

### **IV.**

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Philadelphia Financial's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Respondent Philadelphia Financial cease and desist from committing or causing any violations and any future violations of Rule 105 of Regulation M of the Exchange Act;

B. Philadelphia Financial shall within fourteen (14) days of the entry of this Order, pay disgorgement of \$137,524.38, prejudgment interest of \$16,919.26, and a civil money penalty in the amount of \$65,000 (for a total of \$219,443.64) to the United States Treasury. If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600. Payments must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;<sup>2</sup>
- (2) Respondent 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
- (3) Respondent 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 Philadelphia Financial as a Respondent 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 Gerald W. Hodgkins, Associate Director, Division of Enforcement, Securities and Exchange Commission, 100 F Street, N.E., Washington, DC 20549.

By the Commission.

Elizabeth M. Murphy  
Secretary

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<sup>2</sup> The minimum threshold for transmission of payment electronically is \$1,000,000. For amounts below the threshold, respondents must make payments pursuant to options (2) or (3) above.