

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

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 3586 / April 18, 2013**

**INVESTMENT COMPANY ACT OF 1940**  
**Release No. 30446 / April 18, 2013**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-15282**

**In the Matter of**

**UMESH TANDON**

**Respondent.**

**ORDER INSTITUTING ADMINISTRATIVE  
AND CEASE-AND-DESIST PROCEEDINGS,  
PURSUANT TO SECTIONS 203(f) AND 203(k)  
OF THE INVESTMENT ADVISERS ACT OF  
1940 AND SECTION 9(b) OF THE  
INVESTMENT COMPANY ACT MAKING  
FINDINGS, AND IMPOSING REMEDIAL  
SANCTIONS AND A CEASE-AND-DESIST  
ORDER**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 203(f) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”) and Section 9(b) of the Investment Company Act of 1940 (“Investment Company Act”), against Umesh Tandon (“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, which are admitted, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 203(f) and 203(k) of the Investment Advisers Act of 1940 and Section 9(b) of the Investment Company Act, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

**III.**

On the basis of this Order and Respondent’s Offer, the Commission finds that:

## **Summary**

These proceedings arise out of materially false and misleading overstatements of Simran Capital Management (“Simran”) assets under management made by Tandon and made by others at Tandon’s direction. When responding to a 2008 request for proposal from the California Public Employers’ Retirement System (“CalPERS”), Tandon ignored CalPERS’s minimum selection qualifications and instead falsely certified that Simran managed more than \$200 million in assets as of year-end 2007. Simran actually managed only approximately \$80 million at that time. Induced by this deceit, and after eliminating other candidates for their failure to satisfy the minimum qualifications, CalPERS selected Simran as an adviser. Tandon touted, and instructed others to tout, CalPERS’s selection when soliciting other clients, but without revealing that the selection had been fraudulently induced. In 2009 and 2010, Tandon fraudulently overstated, and instructed others to overstate, Simran’s assets under management when soliciting at least fourteen other potential clients. Furthermore, Tandon filed, and instructed others to file, false Forms ADV with the Commission and otherwise misled the Commission staff.

## **Respondent**

1. Umesh Tandon (“Tandon”), age 37, was a resident of Chicago, Illinois but currently resides in Texas. He holds his Series 7, 24, and 63 licenses, but his Series 65 and 66 licenses have expired. Tandon has neither been associated with a registered broker-dealer nor been registered himself for the last two years. Tandon provided investment advisory services through Simran. He was the entity’s president, Chief Compliance Officer (“CCO”), and sole owner.

## **Related Parties**

2. Simran Capital Management LLC, is a Delaware limited liability company, headquartered in Chicago, Illinois. It was registered with the Commission as an investment adviser from June 2007 until February 2012, when it withdrew its registration. Simran served as a sub-adviser to funds managed by other advisers and provided advisory services to its own private onshore fund (Simran Pre-Event Driven Activist Opportunity Fund LP) and a private offshore fund (Simran Pre-Event Driven Activist Opportunity Fund Ltd), both of which fed into a master fund. Simran has ceased operations, distributed assets to its investors, and is now effectively a defunct entity.

## **Background**

3. Tandon managed Simran as its president and sole owner, and served as Simran’s CCO. Tandon marketed Simran as an experienced fixed income manager that applied a unique risk-averse strategy bearing a low correlation to equity and debt markets. Tandon and Simran responded to numerous requests for proposals issued by municipal and governmental entities, as well as by other managers.

*Tandon Fraudulently Procured CalPERS as a Client*

4. In 2008, the California Public Employers' Retirement System issued a request for proposal to select investment managers. Among other things, CalPERS required that applicants, as of December 31, 2007, manage at least \$200 million for institutional clients. The request for proposal stated that failure to satisfy the minimum qualifications would result in rejection of the applicant.

5. In May 2008, Tandon, on behalf of Simran, falsely certified that Simran met CalPERS's minimum qualifications, including that Simran managed at least \$200 million for institutional clients as of December 31, 2007. Simran actually managed only approximately \$80 million as of year-end 2007. Indeed, Simran's Form ADV, filed with the Commission in February 2008, reported that Simran had \$102 million of assets under management – itself a falsely inflated number.

6. In October 2008, CalPERS's Investment Committee selected Simran as an adviser, incorrectly believing that Simran met the requisite minimum qualifications. Minutes from the committee's meeting indicate that proposals from three other entities were eliminated because they failed to meet the minimum qualifications. After funding its account, CalPERS paid advisory fees to Simran.

7. In September 2009, CalPERS provided Simran with \$50 million to manage. At that time, Simran again overstated its assets under management to CalPERS. A Simran employee claimed that Simran managed net assets of \$325 million, whereas Simran actually managed only approximately \$79 million at the time. Simran ultimately managed up to \$122 million for CalPERS (in May 2010). CalPERS initiated the termination of its relationship with Simran in April 2010.

8. Tandon acted intentionally when inflating, and instructing others to inflate, Simran's assets under management in their communications with CalPERS. In multiple subsequent emails, Tandon, and other Simran managers, admitted that Simran did not meet CalPERS's minimum qualifications, and that Tandon and Simran ignored the qualifications when applying. For example, in January 2010, Tandon wrote in an email to two Simran employees that he "would not pay too much attention to minimum asset requirements nor length of performance record" in requests for proposals from other prospective clients because "CalPERS had similar criteria but we applied anyway." And in June 2010, Tandon wrote in an email that Simran should submit a proposal to another potential client because "CalPERS had a lot more criteria which we did not fit."

*Tandon Touted, and Instructed Others to Tout, CalPERS's Selection, and Falsely Inflated AUM to Other Potential Clients*

9. Although procured by fraud, Tandon touted, and instructed others to tout, Simran's selection as an adviser by CalPERS to the public, to other current clients, and to prospective clients, all of whom were unaware that the relationship with CalPERS was procured by fraud.

Moreover, from June 2009 through November 2010, and potentially longer, Simran and Tandon continued to falsely inflate Simran's assets under management to others.

10. In December 2009, Simran served as sub-adviser to an adviser to a registered investment company. At that time, Simran falsely told the adviser that Simran had assets under management of approximately \$250 million. Simran actually managed only approximately \$115 million at the time. Tandon and Simran acted intentionally when falsely inflating Simran's assets under management to the adviser.

11. Similarly, in communications made to at least fourteen prospective clients during 2009 and 2010, Simran and Tandon grossly overstated Simran's assets under management, in many instances by many multiples. Tandon acted intentionally when he personally made, or instructed others to make, misrepresentations about Simran's assets under management to each of these fourteen prospective clients.

*Tandon Filed, and Instructed Others to File, False Forms ADV with the Commission*

12. In at least four Forms ADV filed with the Commission, including at least one signed by Tandon, Simran falsely overstated its assets under management. First, in its Form ADV filed in February 2008, Simran claimed to manage \$102 million. Simran actually managed only approximately \$80 million at that time. Second, in its Form ADV filed in March 2009 (and signed by Tandon), Simran claimed to manage \$108 million. Simran actually managed only approximately \$30 million at that time. In its Schedule D to this Form ADV, Simran also falsely represented that the Simran Pre-Event Driven Activist Opportunity Fund LP and the Simran Pre-Event Driven Activist Opportunity Fund LTD had a current asset value totaling \$54 million, whereas the value actually was approximately \$4 million. Third, in its Form ADV filed in March 2010, Simran claimed to manage \$375 million. Simran actually managed only approximately \$115 million at that time. In its Schedule D to this Form ADV, Simran also falsely represented that the Simran Pre-Event Driven Activist Opportunity Fund LP and the Simran Pre-Event Driven Activist Opportunity Fund LTD had a current asset value totaling \$80 million, whereas the value actually was approximately \$7 million. Fourth, in its Form ADV filed in July 2010, Simran claimed to manage \$375 million. Simran actually managed only approximately \$25 million at that time.

13. In January 2011, the Commission staff began a routine examination of Simran. During the examination, Tandon provided inaccurate information to the Commission staff about Simran's AUM, statements made in its Forms ADV, and the reasons for CalPERS's departure as a Simran client.

14. In its Form ADV filed in February 2011, Simran reduced its reported assets under management to \$28,729,296. And in its Schedule D to this Form ADV, Simran reported that the Simran Pre-Event Driven Activist Opportunity Fund LP and the Simran Pre-Event Driven Activist Opportunity Fund LTD had current asset values totaling approximately \$6.5 million.

15. In February 2012, Simran withdrew its registration with the Commission as an investment adviser. Since then, Simran has sold all liquid positions, distributed the proceeds to its clients, and effectively ceased operations pending a final audit.

### **Violations**

16. As a result of the conduct described above, Tandon willfully violated Advisers Act Section 207 by making untrue statements of a material fact in registration applications or reports filed with the Commission and willfully omitting to state in such applications or reports material facts which were required to be stated therein.

17. As a result of the conduct described above, Tandon willfully violated Advisers Act Sections 206(1) and 206(2), by making false or misleading statements to, or otherwise defrauding, clients or prospective clients.

### **IV.**

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

Accordingly, pursuant to Sections 203(f) and 203(k) of the Advisers Act, and Section 9(b) of the Investment Company Act, it is hereby ORDERED that:

A. Respondent Tandon cease and desist from committing or causing any violations and any future violations of Sections 206(1), 206(2), and 207 of the Advisers Act.

B. Respondent Tandon is:

i. barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; and

ii. prohibited from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter.

C. 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.

D. Respondent shall pay disgorgement of \$20,018, prejudgment interest of \$1,680 and a civil money penalty of \$100,000. Respondent shall satisfy these obligations by disbursing the foregoing disgorgement, prejudgment interest, and civil monetary penalty as follows:

1. Respondent shall make a \$20,018 payment to and for the benefit of the CalPERS within ten days of the date of the Commission's order instituting proceedings and making findings in this matter. If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600. Respondent shall simultaneously transmit a copy of such payment and notification to Peter K. M. Chan, Assistant Regional Director, Chicago Regional Office, 175 W. Jackson Blvd., Suite 900, Chicago, IL 60604. Respondent shall cooperate with the staff of the Commission to obtain evidence of receipt of the payment by CalPERS. In the event that Respondent fails to complete the disbursement under the terms set forth in the Order, payment of the full disbursement amount (or the balance thereof) shall be due and payable immediately to the Commission, without further application. The Commission shall then disburse that payment to CalPERS. Further, Respondent agrees to be responsible for all tax compliance responsibilities associated with the disbursement of the \$20,018 to CalPERS and may retain professional services as necessary. The costs and expenses relating to Respondent's responsibility for tax compliance shall be borne solely by Respondent and shall not be paid out of the \$20,018 payment to CalPERS or the civil penalty paid pursuant to part two below.
2. Respondent shall pay the civil money penalty and prejudgment interest in the amount of \$101,680 to the Commission for transfer to the United States Treasury within ten days of the date of the Commission's order instituting proceedings and making findings in this matter. If 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:
  - (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
  - (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 Tandon 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 Peter K.M. Chan, Assistant Regional Director, Chicago Regional Office, Securities and Exchange Commission, 175 W. Jackson Blvd., Suite 900, Chicago, Illinois, 60604.

E. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, he shall not argue that he is entitled to, nor shall he benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that he 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 Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Elizabeth M. Murphy  
Secretary