

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 3606 / May 9, 2013

ADMINISTRATIVE PROCEEDING
File No. 3-15322

In the Matter of

JESSE TORTORA,

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 Jesse Tortora (“Tortora” 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, Respondent consents to the Commission’s jurisdiction over him and the subject matter of these proceedings and 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. Tortora, age 35, resides in Pembroke Pines, Florida. From August 2007 to April 2010, Tortora was employed as a research analyst at Diamondback Capital Management, LLC, a registered investment adviser based in Stamford, Connecticut.

2. On January 18, 2012, the Commission filed a civil action against Tortora in SEC v. Adondakis et al., Civil Action No. 12-CV-0409 (S.D.N.Y.). On March 8, 2013, the Court entered an order permanently enjoining Tortora, by consent, from future violations of Section 10(b) of the Securities Exchange Act of 1934, Rule 10b-5 thereunder, and Section 17(a) of the Securities Act of 1933.

3. The Commission's complaint alleged that, in connection with the purchase or sale of securities, Tortora knew, recklessly disregarded, or should have known, that material non-public information he received from multiple tippers was disclosed or misappropriated in breach of a fiduciary duty, or similar relationship of trust and confidence, and Tortora is liable for the trading by Diamondback because he directly or indirectly caused Diamondback to place trades and/or unlawfully tipped inside information to Diamondback.

4. On May 18 2011, Tortora pleaded guilty to one count of securities fraud and one count of conspiracy to commit securities fraud and in violation of 15 U.S.C. §§ 78j(b) and 78ff and 18 U.S.C. § 371 before the United States District Court for the Southern District of New York, in United States v. Jesse Tortora, 11-CR-430-WHP-1.

5. The counts of the criminal information to which Tortora pleaded guilty alleged, inter alia, that Tortora, and others, participated in a scheme to defraud by executing securities trades based on material nonpublic information that had been disclosed or misappropriated in violation of duties of trust and confidence, and that he unlawfully, willfully and knowingly did so, directly and indirectly, by use of the means and instrumentalities of interstate commerce, and of the mails, and of the facilities of national securities exchanges, in connection with the purchase and sale of securities.

IV.

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

Accordingly, it is hereby ORDERED pursuant to Section 203(f) of the Advisers Act that Respondent Tortora be, and hereby is:

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

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