

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

**SECURITIES ACT OF 1933**  
**Release No. 9547 / February 12, 2014**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 71537 / February 12, 2014**

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 3777 / February 12, 2014**

**INVESTMENT COMPANY ACT OF 1940**  
**Release No. 30918 / February 12, 2014**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-15748**

**In the Matter of**

**Ronald E. Huxtable II,**

**Respondent.**

**ORDER INSTITUTING ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS, PURSUANT TO SECTION 8A OF THE SECURITIES ACT OF 1933, SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, SECTIONS 203(f) AND 203(k) OF THE INVESTMENT ADVISERS ACT OF 1940, AND SECTION 9(b) OF THE INVESTMENT COMPANY ACT OF 1940, 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 Section 8A of the Securities Act of 1933 (“Securities Act”), Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), 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 Ronald E. Huxtable II (“Huxtable” 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 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 Section 8A of the Securities Act of 1933, Section 21C of the Securities Exchange Act of 1934, Sections 203(f) and 203(k) of the Investment Advisers Act of 1940, and Section 9(b) of the Investment Company Act of 1940, 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<sup>1</sup> that:

### Summary

1. Huxtable was a retiree when he met Adviser A, an investment adviser, in December of 2008. In April 2009, Huxtable became a client of Adviser A and began participating in Adviser A’s options trading strategy by trading options in his own on-line brokerage accounts at Adviser A’s direction.

2. In late 2009, Huxtable began recruiting friends and family members as clients to participate in Adviser A’s options trading strategy and commenced trading in client accounts at Adviser A’s direction, invoicing certain clients for management fees which he shared with Adviser A, and communicating with clients and potential clients about Adviser A’s options trading strategy and investment performance.

3. Adviser A violated the anti-fraud provisions of the federal securities laws by charging clients fees for the month of February 2011 based on false performance and concealing from them that they had actually incurred net realized losses that month.

4. Huxtable knew that he and Adviser A’s clients had incurred net realized losses for the month of February 2011. Adviser A decided to spread the losses incurred in these clients’ accounts over five months and to charge one-fifth of the realized losses in these accounts against their realized gains for February, so that it would appear that these clients had net realized profits for February 2011 for which management fees were due.

5. Huxtable aided and abetted and caused Adviser A’s violations by sending clients invoices for unwarranted fees, collecting the fees, and sending one client a misleading email about

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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.

her account performance in February 2011 and an incomplete list of transactions that purported to support the invoiced amount.

### **Respondent**

6. **Ronald E. Huxtable II**, age 68, is a resident of Palm Coast, Florida. He is a retiree. From 2009 through January 2012, Huxtable was associated with Adviser A, an investment adviser.

### **Other Relevant Individual**

7. During the relevant time period, **Adviser A** was an investment adviser. He was not registered with the Commission or any state securities regulator.

### **Background**

8. Adviser A, and others at his direction, traded options in clients' online brokerage accounts. Adviser A exercised near complete control over client accounts by determining the trading strategy and directing what options should be traded and when. He charged clients a percentage of their monthly realized profits as management fees. With few exceptions, Adviser A determined the percentage of monthly realized profits that clients would be charged and when clients should be invoiced.

### **Huxtable's Involvement With Adviser A**

9. Huxtable first met Adviser A in December of 2008.

10. Huxtable became a client of Adviser A and began trading options in his own brokerage accounts at Adviser A's direction in April 2009.

11. Later that year, Huxtable began recruiting friends and family members to participate in Adviser A's options trading strategy. He recruited Clients A, B, and C in 2009 and Clients D, E, F, and G in 2010. Huxtable served as the primary point of contact for each of the clients he recruited except Client C, who dealt with Adviser A directly. At least six of these clients knew, based on their meetings with Adviser A and/or Huxtable, that Adviser A had developed the trading strategy and that Adviser A instructed Huxtable on how to trade in their accounts.

12. Huxtable submitted trades for execution for these clients' accounts, as well as for accounts belonging to other Adviser A clients, at Adviser A's direction.

13. Huxtable and Adviser A agreed to share equally in the management fees generated from client accounts that Huxtable traded. Typically, Huxtable and Adviser A each issued invoices to Clients C and H for 50% of the total management fees due. In addition, Huxtable invoiced Client B for the total management fees due and then remitted 50% of what he collected to Adviser A pursuant to an invoice from Adviser A to Huxtable.

### **Huxtable Aided and Abetted and Caused Adviser A's Violations**

14. In February 2011, Huxtable and Clients B, C, and H sustained net realized losses in their accounts. Adviser A decided to spread the losses incurred in these clients' accounts over five months and to charge one-fifth of the realized losses in these accounts against their realized gains for February, so that it would appear that Clients B, C, and H had net realized profits for February 2011 for which management fees were due. Adviser A knew that these clients had actually sustained net realized losses and that no management fees were due. Huxtable also knew that he and Clients B, C, and H had sustained net realized losses for February 2011 and that no management fees were due. Adviser A, or a record-keeper at his direction, adjusted client records to first exclude 80% of the losses from client records for February 2011 and then to include 20% of these losses in future months.

15. Adviser A sent Huxtable, Client C, and Client H invoices for management fees based on the false net realized profits. Huxtable paid the invoices for his own accounts. Clients C and H also paid Adviser A's invoices.

16. In addition, Huxtable sent Clients B, C, and H invoices for management fees based on the false net realized profits. Clients B, C, and H paid these invoices. Huxtable remitted the agreed-upon portion of the fees he collected from Client B to Adviser A. Huxtable did not tell Clients B, C, and H that they were paying excessive fees.

17. In addition, Huxtable sent Client B an email in which he claimed that she had "a great month in February," when in fact, her account had suffered nearly \$47,000 of realized losses. Huxtable also provided Client B with a list of transactions that purported to support the net realized profits for which he invoiced her. Huxtable knew that 80% of the loss-generating positions were omitted from this document, but did not disclose this to Client B.

18. Huxtable did not invoice Clients B, C, or H in subsequent months.

### **Violations**

19. As a result of the conduct described above, Huxtable willfully aided and abetted and caused Adviser A's violations of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in the offer or sale of securities and in connection with the purchase or sale of securities.

20. As a result of the conduct described above, Huxtable willfully aided and abetted and caused Adviser A's violations of Sections 206(1) and 206(2) of the Advisers Act, which prohibit fraudulent conduct by an investment adviser.

### **IV.**

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

Accordingly, pursuant to Section 8A of the Securities Act, Section 21C of the Exchange Act, 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 Huxtable cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and Sections 206(1) and 206(2) of the Advisers Act.

B. Respondent Huxtable be, and hereby is:

- (1) barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; and
- (2) 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 Respondent Huxtable 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 Huxtable shall, within 10 days of the entry of this Order, pay disgorgement of \$12,132.00, prejudgment interest of \$952.01, and a civil money penalty in the amount of \$50,000.00 to the Securities and Exchange Commission. If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600 or to 31 U.S.C. 3717. Payment must be made in one of the following ways:

- (1) 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
- (2) 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 Huxtable as the 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 Paul Montoya, Assistant Regional Director, Chicago Regional Office, Securities and Exchange Commission, 175 W. Jackson Blvd., Suite 900, Chicago, Illinois 60604.

E. Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, a Fair Fund is created for the disgorgement, interest and penalties referenced in paragraph D above. Regardless of whether any such Fair Fund distribution is made, 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.

F. After receipt of Respondent Huxtable's payment of disgorgement, prejudgment interest and civil money penalty, the Commission shall, within 30 days, distribute funds from the Fair Fund to Clients B, C and H. This disbursement will consist of two parts. First, Clients B, C and H will each receive from the Fair Fund their respective share of the dollar amount of fees collected and retained by Respondent Huxtable for February 2011 from each client. Second, Clients B, C and H will receive on a pro rata basis from the Fair Fund an amount of the remaining funds less any funds needed to pay Fair Fund administrative costs and expenses on a pro rata basis. Each Client's pro rata share of the remainder will be determined by totaling the decline in value of each client's investment between May 1, 2011 and January 31 2012, and dividing that sum by the dollar amount of the decline in value for all three clients. Brokerage account statements will be used to determine the decline in value for each client.

By the Commission.

Elizabeth M. Murphy  
Secretary