

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 72735 / August 1, 2014

ADMINISTRATIVE PROCEEDING
File No. 3-15997

In the Matter of

KEITH WELLNER, Esq.,

Respondent.

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**ORDER INSTITUTING ADMINISTRATIVE
PROCEEDINGS PURSUANT TO RULE
102(e) OF THE COMMISSION’S RULES OF
PRACTICE, 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 against Keith Wellner (“Respondent” or “Wellner”) pursuant to Rule 102(e)(3)(i) of the Commission’s Rules of Practice.

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, and the findings contained in Section III.2 below, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Rule 102(e) of the Commission’s Rules of Practice, 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. Wellner, age 47, is a resident of New York, New York. Wellner is a member of the New York State Bar. From 2007 through 2012, he was the general counsel, chief compliance officer, and chief operating officer of Weston Capital Asset Management, LLC (“Weston”), an investment adviser previously registered with the Commission.

2. On July 7, 2014, a judgment was entered by consent against Wellner, providing permanent injunctive relief under Section 10(b) of the Securities Exchange Act of 1934, and Rules 10b-5(a) and (c) thereunder, and Sections 206(1), 206(2) and 206(4) and Rule 206(4)-8(a)(2) of the Investment Advisers Act of 1940 in the civil action entitled Securities and Exchange Commission v. Weston Capital Asset Management, LLC, et al., Civil Action Number 14-CV-80823-COHN, in the United States District Court for the Southern District of Florida.

3. The Commission’s complaint alleged that from at least August 2011 through June 2012, Wellner aided and abetted Weston’s and Weston’s president’s violations of Section 10(b) of the Exchange Act and Rules 10b-5(a) and (c), and Sections 206(1), 206(2) and 206(4) and Rule 206(4)-8(a)(2) of the Advisers Act resulting from Wellner’s facilitation of Weston and its president’s misappropriation of hedge fund client assets in contravention of fund offering documents.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanction agreed to in Respondent Wellner’s Offer.

Accordingly, it is hereby ORDERED pursuant to Rule 102(e)(3)(i) of the Commission’s Rules of Practice, effective immediately, that:

A. Wellner is suspended from appearing or practicing before the Commission as an attorney for 1 year from the date of the Order.

B. After 1 year from the date of the Order, Respondent may request that the Commission consider his application to resume appearing and practicing before the Commission as an attorney. The application should be sent to the attention of the Office of the General Counsel.

C. In support of such an application, Respondent must provide a certificate of good standing from each state bar where Respondent is a member.

D. In support of such an application, Respondent must also submit an affidavit truthfully stating, under penalty of perjury:

1. that Respondent has complied with the Order;
2. that Respondent:

- a. is not currently suspended or disbarred as an attorney by a court of the United States (or any agency of the United States) or the bar or court of any state, territory, district, commonwealth, or possession; and
 - b. since the entry of the Order, has not been suspended as an attorney for an offense involving moral turpitude by a court of the United States (or any agency of the United States) or the bar or court of any state, territory, district, commonwealth, or possession, except for any suspension concerning the conduct that was the basis for the Order;
3. that Respondent, since the entry of the Order, has not been convicted of a felony or misdemeanor involving moral turpitude as set forth in Rule 102(e)(2) of the Commission's Rules of Practice; and
 4. that Respondent, since the entry of the Order:
 - a. has not been found by the Commission or a court of the United States to have committed a violation of the federal securities laws, except for any finding concerning the conduct that was the basis for the Order;
 - b. has not been charged by the Commission or the United States with a violation of the federal securities laws, except for any charge concerning the conduct that was the basis for the Order;
 - c. has not been found by a court of the United States (or any agency of the United States) or any state, territory, district, commonwealth, or possession, or any bar thereof, to have committed an offense involving moral turpitude, except for any finding concerning the conduct that was the basis for the Order; and
 - d. has not been charged by the United States (or any agency of the United States) or any state, territory, district, commonwealth, or possession, or any bar thereof, with having committed an offense involving moral turpitude, except for any charge concerning the conduct that was the basis for the Order.

E. If Respondent provides the documentation required in Paragraphs C and D, and the Commission determines that he truthfully attested to each of the items required in his affidavit, he shall by Commission order be permitted to resume appearing and practicing before the Commission as an attorney.

F. If Respondent is not able to truthfully attest to the statements required in Subparagraphs D(2)(b) or D(4), Respondent shall provide an explanation as to the facts and circumstances pertaining to the matter and the Commission may hold a hearing to determine whether there is good cause to permit him to resume appearing and practicing before the Commission as an attorney.

By the Commission.

Jill M. Peterson
Assistant Secretary