

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 3887 / August 1, 2014

ADMINISTRATIVE PROCEEDING
File No. 3-15998

In the Matter of

KEITH WELLNER,

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 Keith Wellner (“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 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 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. From 2007 through 2012, Wellner 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. Wellner, 47 years old, is a resident of New York, New York.

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 Advisers Act 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 sanctions agreed to in Respondent Wellner’s Offer.

Accordingly, it is hereby ORDERED pursuant to Section 203(f) of the Advisers Act that Respondent Wellner 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 with the right to apply for reentry after 1 year to the appropriate self-regulatory organization, or if there is none, to the Commission.

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.

Jill M. Peterson
Assistant Secretary