

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 4753 / August 22, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-18127

In the Matter of

MARTIN SHKRELI,

Respondent.

ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 203(f) OF THE
INVESTMENT ADVISERS ACT OF 1940
AND NOTICE OF HEARING

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 Martin Shkreli (“Shkreli” or “Respondent”).

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENT

1. Shkreli, age 34, is a resident of New York, NY. Shkreli was the Managing Partner and the portfolio manager for hedge funds called MSMB Capital Management LP (“MSMB”) and MSMB Healthcare LP (“MSMB Healthcare”). Shkreli obtained a Series 7 license in 2003. Shkreli is not currently associated with a registered broker dealer or registered investment adviser. In March 2011, Shkreli founded Retrophin LLC, a pharmaceuticals company that went public, by way of a reverse merger, in December 2012 and became Retrophin, Inc. (collectively with Retrophin LLC, “Retrophin”). Shkreli was Retrophin's President and CEO until September 30, 2014.

B. RESPONDENT’S CRIMINAL CONVICTION

2 On August 4, 2017, a jury in the case *United States v. Shkreli*, 15-cr- 637-KAM (E.D.N.Y.), returned a verdict finding Shkreli guilty of violations of Title 15, United States Code, Section 78j(b); and Title 18, United States Code, Section 371.

3. The counts of the indictment on which Shkreli was convicted charged, *inter alia*, that Shkreli committed securities fraud by, among other things: defrauding investors and potential investors in MSMB and MSMB Healthcare through material misrepresentations and omissions relating to, among other things, MSMB’s and MSMB Healthcare’s prior performance, assets under management, and misappropriations by Shkreli of fund assets; and conspired to defraud investors and potential investors in Retrophin through material misrepresentations and omissions about the control of Retrophin’s unrestricted or “free trading” shares.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative proceedings be instituted to determine:

A. Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford Respondent an opportunity to establish any defenses to such allegations;

B. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 203(f) of the Advisers Act.

IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondent shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If Respondent fails to file the directed answer, or fails to appear at a hearing after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against him upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f) and 201.310.

This Order shall be served forthwith upon Respondent as provided for in the Commission's Rules of Practice.

IT IS FURTHER ORDERED that, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice, 17 C.F.R. § 201.360(a)(2), the Administrative Law Judge shall issue an initial decision no later than 75 days from the occurrence of one of the following events: (A) The completion of post-hearing briefing in a proceeding where the hearing has been completed; (B) Where the hearing officer has determined that no hearing is necessary, upon completion of briefing on a motion pursuant to Rule 250 of the Commission's Rules of Practice, 17 C.F.R. § 201.250; or (C) The determination by the hearing officer that a party is deemed to be in default under Rule 155 of the Commission's Rules of Practice, 17 C.F.R. § 201.155 and no hearing is necessary.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

For the Commission, by its Secretary, pursuant to delegated authority.

Brent J. Fields
Secretary