

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 3074 / August 25, 2010

ADMINISTRATIVE PROCEEDING
File No. 3-14020

In the Matter of

E. SHERMAN WARNER,

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 E. Sherman Warner (“Warner” or the “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent 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. Warner is a resident of South Jordan, Utah, and, at the times relevant to the Complaint, was affiliated with Thompson Consulting, Inc. ("TCI") as an investment adviser. Warner participated in the solicitation of investors on behalf of Apex Equity Options Fund, LP ("Apex"). Warner was a trader of Apex's and Premier Portfolio, LP's ("Premier") account.

2. On August 17, 2010, a final judgment was entered by consent against Warner, permanently enjoining him from future violations of Sections 17(a)(2) and (3) of the Securities Act of 1933 in the civil action entitled Securities and Exchange Commission v. Thompson Consulting, Inc., et al., Civil Action Number 2:08-CV-171, in the United States District Court for the District of Utah.

3. The Commission's Complaint alleged that TCI, a registered investment adviser, managed seven accounts including the Apex and Premier hedge funds. During the month of August 2007, Apex and Premier collapsed as a result of a high risk trading strategy implemented by TCI and its president and principal trader Kyle Thompson ("Thompson") and in which Warner participated. The investment strategy TCI utilized during July and August 2007 was contrary to the much more conservative trading strategy TCI had presented to investors through Thompson and Warner. The Complaint further alleged that the trading strategy employed by Warner and Thompson involved a significantly higher degree of risk than the strategy presented to investors. In August 2007, Apex and Premier lost virtually all value, declining from an aggregate net asset value of \$53.8 million on July 31 to barely \$200,000 by the end of August, resulting in an almost complete loss of the more than \$50 million invested in the funds.

IV.

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

Accordingly, it is hereby ORDERED:

Pursuant to Section 203(f) of the Advisers Act, that Respondent be, and hereby is barred from association with any investment adviser.

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

Service List

Rule 141 of the Commission's Rules of Practice provides that the Secretary, or another duly authorized officer of the Commission, shall serve a copy of the Order Instituting Administrative Proceedings Pursuant to Section 203(f) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions ("Order") on the Respondent.

The attached Order has been sent to the following parties and other persons entitled to notice:

Honorable Brenda P. Murray
Chief Administrative Law Judge
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-2557

Thomas M. Melton, Esq.
Salt Lake Regional Office
Securities and Exchange Commission
15 West South Temple, Suite 1800
Salt Lake City, UT 84101

Mr. E. Sherman Warner
3354 West 10305 South
South Jordan, UT 84095