

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

**SECURITIES ACT OF 1933**  
**Release No. 8748 / October 11, 2006**

**SECURITIES ACT OF 1934**  
**Release No. 54586 / October 11, 2006**

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 2561 / October 11, 2006**

**INVESTMENT COMPANY ACT OF 1940**  
**Release No. 27513 / October 11, 2006**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-11292**

**In the Matter of**

**STEVEN B. MARKOVITZ,**

**Respondent.**

**ORDER MAKING FINDINGS AND  
IMPOSING DISGORGEMENT AND  
CIVIL PENALTIES PURSUANT TO  
SECTION 203(f) OF THE INVESTMENT  
ADVISERS ACT OF 1940 AND SECTION  
9(b) OF THE INVESTMENT COMPANY  
ACT OF 1940**

**I.**

On October 2, 2003, the Securities and Exchange Commission (“Commission”) instituted partially settled cease-and-desist and public administrative proceedings pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”), Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), Section 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”), and Sections 9(b) and 9(f) of the Investment Company Act of 1940 (“Investment Company Act”) against Steven B. Markovitz (“Markovitz” or “Respondent”).

## II.

Following institution of these proceedings, Markovitz submitted an Offer of Settlement (the “Offer”) with respect to disgorgement and a civil penalty 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, Markovitz consents to the entry of this Order Making Findings and Imposing Disgorgement and Civil Penalties Pursuant to Section 203(f) of the Investment Advisers Act of 1940 and Section 9(b) of the Investment Company Act of 1940 (the “Order”), as set forth below.

## III.

On the basis of this Order and Respondent’s Offer, the Commission finds<sup>1</sup> that:

A. On October 2, 2003, the Commission issued, by consent, an order finding that Markovitz had willfully violated Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5, and caused violations of Rule 22c-1 under the Investment Company Act by engaging in late trading in certain mutual funds and ordered that Markovitz cease-and-desist from committing or causing any violations and any future violations of these provisions.

B. Markovitz’s willful violations of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 involved fraud and created a significant risk of substantial losses to other persons and resulted in substantial pecuniary gain to Markovitz.

## IV.

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

Accordingly, it is hereby ORDERED:

A. That Respondent shall, within 30 days of the entry of this Order, pay disgorgement and prejudgment interest in the total amount of \$1 to the United States Treasury. Such payment shall be: (A) made by United States postal money order, certified check, bank cashier’s check or bank money order; (B) made payable to the Securities and Exchange

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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.

Commission; (C) hand-delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Alexandria, Stop 0-3, VA 22312; and (D) submitted under cover letter that identifies Steven B. Markovitz as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Bruce Karpati, Assistant Regional Director, Division of Enforcement, Securities and Exchange Commission, Northeast Regional Office, 3 World Financial Center, New York, New York 10281.

B. It is further ordered that Respondent shall, within 30 days of the entry of this Order, pay a civil money penalty in the amount of \$400,000 to the United States Treasury. Such payment shall be: (A) made by United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA 22312; and (D) submitted under cover letter that identifies Steven B. Markovitz as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Bruce Karpati, Assistant Regional Director, Division of Enforcement, Securities and Exchange Commission, Northeast Regional Office, 3 World Financial Center, New York, New York 10281.

C. It is further ordered that the disgorgement and penalties referenced in Paragraphs IV.A and B above shall be paid into the Fair Fund created pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002 in In the Matter of Millennium Partners, L.P. et al., Administrative Proceeding File No. 3-12116 (December 1, 2005). 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 he shall not, after offset or reduction in any Related Investor Action based on Respondent's payment of disgorgement in this action, argue that he is entitled to, nor shall he further benefit by offset or reduction 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.

By the Commission.

Nancy Morris  
Secretary