

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 55150 / January 23, 2007**

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 2582 / January 23, 2007**

**INVESTMENT COMPANY ACT OF 1940**  
**Release No. 27674 / January 23, 2007**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-12545**

**In the Matter of**

**DOUGLAS P. MILLER,**

**Respondent.**

**ORDER INSTITUTING ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS, MAKING FINDINGS, AND IMPOSING REMEDIAL SANCTIONS AND A CEASE-AND-DESIST ORDER PURSUANT TO SECTIONS 15(b), 17A(c)(4)(C) AND 21C OF THE SECURITIES EXCHANGE ACT OF 1934, SECTION 203(f) OF THE INVESTMENT ADVISERS ACT OF 1940, AND SECTION 9(b) OF THE INVESTMENT COMPANY ACT OF 1940**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 15(b), 17A(c)(4)(C) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) and Section 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”), and Section 9(b) of the Investment Company Act of 1940 (“Investment Company Act”) against Douglas P. Miller (“Miller” or “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, which are admitted, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Sections 15(b), 17A(c)(4)(C) and 21C of the Securities Exchange Act of 1934, Section 203(f) of the Investment Advisers Act of 1940 and Section 9(b) of the Investment Company Act ("Order") as set forth below.

### **III.**

On the basis of this Order and Respondent's Offer, the Commission finds that:

#### **Respondent**

1. Miller, age 32, is a resident of Minot, North Dakota. From August 1998 to March 2006, he was the secretary and treasurer of a North Dakota limited liability company that was dually registered with the Commission as a transfer agent and investment adviser (the "Adviser"). From February 1999 to March 2006, Miller was also a registered representative, secretary and treasurer of a North Dakota limited liability company registered with the Commission as a broker-dealer. From February 1999 to March 2006 he was also vice president, secretary and an interested trustee of a Delaware business trust registered with the Commission as an investment company. Contained within the investment company were four mutual funds managed by the Adviser, one of which is relevant to this proceeding (the "Fund").

#### **Background**

2. From April 2005 through February 2006, Miller made unauthorized charges totaling \$19,250 on a credit card owned by the Adviser and wrote checks and otherwise diverted \$27,318 from the Adviser's bank accounts, without the knowledge or permission of the Adviser and for his personal use.

3. On or about November 25, 2005, Miller redeemed the shares in a Fund account totaling \$51,161, without the knowledge or permission of the shareholder who owned the account. Miller then made the redemption check out to himself, forged the required second signature on the check, and deposited the check in his personal checking account.

4. On or about November 30, 2005 Miller used \$49,027 of the misappropriated proceeds from the Fund account to repay the money he had improperly taken from the Adviser.

5. On or about February 22, 2006, after the Adviser became aware of the unauthorized use of the credit card, the misappropriation of bank account funds and the unauthorized redemption of the Fund account, Miller repaid the victimized shareholder in total.

6. As a result of the conduct described above, Miller willfully violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

### **Disgorgement and Civil Penalties**

7. Respondent has submitted a sworn Statement of Financial Condition dated May 30, 2006 and amended on June 5, 2006 and other evidence and has asserted his inability to pay a civil penalty.

### **Miller's Remedial Efforts**

8. In determining to accept the Offer, the Commission considered remedial acts promptly undertaken by Respondent and cooperation afforded the Commission staff.

## **IV.**

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

Accordingly, pursuant to Sections 15(b), 17A(c)(4)(C) and 21C of the Exchange Act, Sections 203(f) of the Advisers Act, and Section 9(b) of the Investment Company Act, it is hereby ORDERED that:

A. Respondent Miller cease and desist from committing or causing any violations and any future violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder;

B. Respondent Miller be, and hereby is, barred from association with any broker, dealer, transfer agent, or investment adviser, and is prohibited from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter;

C. 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.

D. Based upon Respondent's sworn representations in his Statement of Financial Condition dated May 30, 2006, as amended on June 5, 2006 and other documents submitted to the Commission, the Commission is not imposing a penalty against Respondent.

E. The Division of Enforcement ("Division") may, at any time following the entry of this Order, petition the Commission to: (1) reopen this matter to consider whether Respondent provided accurate and complete financial information at the time such representations were made; and (2) seek an order directing payment of the maximum civil penalty allowable under the law. No other issue shall be considered in connection with this petition other than whether the financial information provided by Respondent was fraudulent, misleading, inaccurate, or incomplete in any material respect. Respondent may not, by way of defense to any such petition: (1) contest the findings in this Order; (2) assert that payment of a penalty should not be ordered; (3) contest the imposition of the maximum penalty allowable under the law; or (4) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

By the Commission.

Nancy M. Morris  
Secretary