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

SECURITIES EXCHANGE ACT OF 1934
Release No. 59644 / March 27, 2009

INVESTMENT ADVISERS ACT OF 1940
Release No. 2862 / March 27, 2009

INVESTMENT COMPANY ACT OF 1940
Release No. 28682 / March 27, 2009

ADMINISTRATIVE PROCEEDING
File No. 3-13419

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| In the Matter of<br><br>Jason G. Burks,<br><br>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) AND 21C OF THE SECURITIES EXCHANGE ACT OF 1934, SECTION 203(f) OF THE INVESTMENT ADVISERS ACT OF 1940, AND SECTIONS 9(b) AND 9(f) 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) and 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 Jason G. Burks ("Burks" or "Respondent").

**II.**

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement ("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) and 21C of the Securities Exchange Act of 1934, Section 203(f) of the Investment Advisers Act of 1940, and Sections 9(b) and 9(f) of the Investment Company Act of 1940 ("Order"), as set forth below.

**III.**

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

**Respondent**

1. Jason G. Burks, age 35, was a registered representative at Southwest Securities, Inc. ("Southwest") from September 2002 until October 2003 (the "Relevant Period"), when the firm terminated his employment. During the Relevant Period, Southwest was dually registered as a broker-dealer and investment adviser. Burks previously held the following NASD licenses: General Securities Representative (Series 7), Futures Managed Funds (Series 31), Uniform Securities Agent State Law (Series 63), and Registered Investment Adviser (Series 65). Burks is currently employed by Enterprise Rent-a-Car Company in a non-securities-related position. Burks has no known disciplinary history.

**Background**

2. In the Fall of 2002, Southwest hired Burks to be a registered representative in its downtown Dallas branch. Before joining Southwest, Burks worked at Mutuals.com, Inc., where he placed market timing trades and late trades on behalf of several hedge fund adviser clients, including Veras Investment Partners, LLC ("Veras"), a Houston, Texas-based investment advisor to Veras-affiliated hedge funds.[1] Upon joining Southwest, Burks opened five accounts for two Veras-affiliated entities, and began placing market timing trades for Veras on October 1, 2002. During Burks 13-month tenure at Southwest, Veras was his only client, and Veras' primary trading strategy was market timing. Burks executed for Veras approximately 3,000 market timing trades, with an aggregate value of about $1.7 billion, in at least 132 mutual fund families (490 total mutual funds). Southwest earned $1,515,981 in fees from Veras' accounts, of which Burks received $704,235. Soon after joining Southwest, Burks became one of Southwest's top producing registered representatives, and regularly appeared on the firm's "Top Ten Producers" list.

3. Many of the mutual funds in which Burks placed Veras's market timing trades either prohibited market timing, or strictly limited the frequency of trades in order to prevent market timing. During the Relevant Period, at least 35 mutual fund families, representing hundreds of individual mutual funds, detected Burks timing activity. Those fund families typically blocked the client account (one of the accounts managed by Burks) from future trades

[1] The Commission previously instituted settled administrative and cease-and-desist orders against Mutuals.com and Veras. *See In re Mutuals.com, Inc., et al.*, Admin. No. 3-12837 (Sept. 26, 2007); *In re Veras Capital Master Fund, et al.*, Admin. No. 3-12133 (Dec. 22, 2005).

in the fund ("Block Notices"). By policing Burks' market timing activity in this manner, the mutual funds hampered his continuing execution of Veras' market timing trades and, thereby, jeopardized his status as one of the firm's top producers. Burks therefore had a significant incentive to circumvent the policing activities of the mutual funds, and he engaged in a number of strategies, including the use of multiple accounts and legal entities that appeared to be unrelated to Veras, to get transactions executed in mutual funds that imposed trading restrictions on his client.

4. During the Relevant Period, Burks regularly used multiple accounts, with multiple client-affiliated entities as account holders, in an effort to circumvent trading restrictions that the mutual funds imposed. By rotating trades in multiple accounts, Burks disguised Veras' market timing trading and gained access to funds that had previously restricted Veras' market timing activities. Burks also used the multiple Veras accounts to divide timing trades into dollar amounts that would more likely evade detection by the mutual fund companies.

5. During the Relevant Period, Southwest, through Burks, engaged in late trading in mutual fund shares. Southwest's back-office systems permitted registered representatives to enter mutual fund trades until 6:30 p.m. EST, and all trades entered by that time, including trades received after the close of the U.S. equity markets (typically 4:00 p.m. EST), were processed at that day's net asset value ("NAV"). The firm, therefore, did not have procedures to ensure that trades received after the close of the U.S. equity markets would be processed at the next day's NAV, as required by Rule 22c-1 under the Investment Company Act.[2]

6. Burks regularly executed late trades (after 4:00 p.m. EST) on Veras' behalf. Southwest received as many as 90% (over 2500) of all Veras's orders after 4:00 p.m. EST, yet Veras received that day's NAV for the trades.

**Violations**

7. As a result of the conduct described above, Burks willfully violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder in that he, in connection with the purchase or sale of securities, directly or indirectly, by the use of the means or instrumentalities of interstate commerce, or of the mails, employed devices, schemes or artifices to defraud; made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit, as described above. Further, Burks knowingly or recklessly provided substantial assistance to, and thus willfully aided and abetted the violations of Section 10(b) of the Exchange Act and Rule 10b-5 committed by his clients in connection with the market timing and late trading transactions alleged above.

[2] During the relevant period, Southwest had dealer agreements with numerous mutual funds. By virtue of these dealer agreements, Southwest was a "dealer" within the meaning of Rule 22c-1 under the Investment Company Act. As a general rule, these dealer agreements, directly or by reference to the prospectus, prohibited late trading.

8. Southwest cleared transactions in fund shares through various clearing firms. Southwest, by engaging in the conduct described above, sold, redeemed or repurchased the shares of registered investment companies at prices not based upon the current NAV of such securities as next computed after receipt of the orders to sell, redeem, or repurchase the shares of such registered investment companies. By engaging in the conduct described above, Burks willfully aided and abetted and caused Southwest's violations of Rule 22c-1 promulgated under Section 22(c) of the Investment Company Act.

**Disgorgement and Civil Penalties**

9. Respondent Burks has submitted a sworn Statement of Financial Condition dated March 14, 2008, and other evidence and has asserted his inability to pay disgorgement, plus prejudgment interest, and a civil penalty.

**Cooperation**

10. In determining to accept the Offer, the Commission considered the cooperation afforded by Respondent to the Commission staff.

**IV.**

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

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

A. Respondent shall 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 shall cease and desist from committing or causing any violations and any future violations of Rule 22c-1 under the Investment Company Act;

C. Respondent Burks be, and hereby is barred from association with any broker, dealer 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, with a right to reapply to the Commission to serve or act in any such capacities after five years from the date of this Order;

D. 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: (i) any disgorgement ordered against the Respondent, whether or not the Commission

has fully or partially waived payment of such disgorgement; (ii) any arbitration award related to the conduct that served as the basis for the Commission order; (iii) any self-regulatory organization arbitration award to a client, whether or not related to the conduct that served as the basis for the Commission order; and (iv) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order;

E. Respondent Burks shall pay disgorgement of $704,235, plus prejudgment interest of $232,329.33, but that payment of such amount is waived based upon Respondent's sworn representations in his Statement of Financial Condition dated March 14, 2008, and other documents submitted to the Commission; and

F. The Division of Enforcement 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 disgorgement and pre-judgment interest. No other issue shall be considered in connection with such a 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 disgorgement and interest should not be ordered; (3) contest the amount of disgorgement and interest to be ordered; or (4) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

By the Commission.

Elizabeth M. Murphy
Secretary