

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 59514 / March 5, 2009

INVESTMENT ADVISERS ACT OF 1940
Release No. 2850 / March 5, 2009

ADMINISTRATIVE PROCEEDING
File No. 3-13398

In the Matter of

FRANK LU,

Respondent.

**ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 15(b) OF THE
SECURITIES EXCHANGE ACT OF 1934
AND 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 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”) and Section 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against Frank Lu (“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, 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 15(b) of the Securities Exchange Act of 1934 and 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. Respondent Lu, 39, is a resident of New Jersey. From January 2003 until his resignation in March 2006, Lu was a registered representative at Oppenheimer & Co. Inc. ("OPCO"), a registered broker-dealer and investment adviser. While at OPCO, Lu held Series 7 and 63 licenses. From July through December 2006, Lu was employed as a registered representative at another broker-dealer. Since that time, Lu has not been associated with any broker-dealer.

2. On February 27, 2009, a final judgment was entered by consent against Respondent Lu, permanently enjoining him from future violations of Section 17(a) of the Securities Act of 1933 and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, in the civil action entitled, *Securities and Exchange Commission v. Victor P. Machado and Frank Lu*, Civil Action Number 09-cv-01711 (RMB), in the United States District Court for the Southern District of New York.

3. The Commission's complaint alleged that, from May 2003 through mid-August 2004, Respondent Lu and Victor P. Machado, a former trader at two related entities, Leumi Investment Services Inc. and Bank Leumi USA, (collectively referred to as "Leumi"), engaged in a scheme to direct Leumi's securities order flow to OPCO in exchange for secret gratuities and entertainment that Lu provided to Machado. The complaint also alleged that Lu was a knowing participant in this scheme as he provided Machado with secret gratuities and entertainment to induce Machado to direct Leumi's order flow to OPCO. It was further alleged that Lu benefited from this scheme because he obtained increased compensation as a result of the increased order flow from Machado. The complaint further alleged that as a result of Lu's and Machado's conduct, Leumi's customers were harmed by approximately \$1.1 million.

IV.

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

Accordingly, it is hereby ORDERED:

Pursuant to Section 15(b)(6) of the Exchange Act and Section 203(f) of the Advisers Act, that Respondent Lu be, and hereby is barred from association with any broker, dealer, or 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