

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

SECURITIES ACT OF 1933  
Release No. 8883 / January 25, 2008

SECURITIES EXCHANGE ACT OF 1934  
Release No. 57202 / January 25, 2008

INVESTMENT ADVISERS ACT OF 1940  
Release No. 2696 / January 25, 2008

INVESTMENT COMPANY ACT OF 1940  
Release No. 28135 / January 25, 2008

ADMINISTRATIVE PROCEEDING  
File No. 3-12934

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**In the Matter of**

**Chronos Asset Management, Inc.  
and Mitchell L. Dong,**

**Respondents.**

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**: ORDER INSTITUTING**  
**: ADMINISTRATIVE AND CEASE-AND-**  
**: DESIST PROCEEDINGS, MAKING**  
**: FINDINGS, AND IMPOSING**  
**: REMEDIAL SANCTIONS AND A**  
**: CEASE-AND-DESIST ORDER**  
**: PURSUANT TO SECTION 8A OF THE**  
**: SECURITIES ACT OF 1933, SECTION**  
**: 21C OF THE SECURITIES**  
**: EXCHANGE ACT OF 1934, SECTIONS**  
**: 203(e) and 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 Section 8A of the Securities Act of 1933 (“Securities Act”), Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), Sections 203(e) and 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 Chronos Asset Management, Inc. (“Chronos”) and Mitchell L. Dong (“Dong”) (collectively “Respondents”).

## II.

In anticipation of the institution of these proceedings, Respondents have 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 them and the subject matter of these proceedings, which are admitted, Respondents consent 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 Section 8A of the Securities Act of 1933, Section 21C of the Securities Exchange Act of 1934, Sections 203(e) and 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 Respondents’ Offer, the Commission finds<sup>1</sup> that:

### **Respondents**

1. Chronos Asset Management, Inc. is a Delaware corporation based in Cambridge, Massachusetts that has been owned and controlled by Dong since it was incorporated in 1995. At all relevant times, Chronos provided investment advisory services to two hedge funds: Chronos Fund I, LP (“Chronos Onshore Fund”) and Chronos Offshore Fund, Inc. (“Chronos Offshore Fund”) (collectively, the “Chronos Funds”). Chronos has never been registered with the Commission.

2. Mitchell L. Dong, age 54, is a resident of Boston, Massachusetts. Dong is Chronos’s founder and at all relevant times owned Chronos and served as its president and chief executive officer. Dong also served as director of the Chronos Offshore Fund. As principal owner of Chronos, Dong had the ultimate decision-making authority for Chronos’s investments.

### **Summary**

3. This case involves a fraudulent market timing and late trading scheme by hedge fund adviser Chronos and its principal, Dong. From January 2001 to September 2003 (the “Relevant Period”), Chronos and Dong used deceptive means to continue market timing in mutual funds that had previously attempted to detect and restrict, or that otherwise would not have permitted, Chronos’s trading. In addition, from May 2003 to September 2003, Chronos traded mutual fund shares after 4:00 p.m. Eastern Time (“ET”) while receiving the same day’s price. By virtue of their conduct, Respondents willfully

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<sup>1</sup> The findings herein are made pursuant to Respondents’ Offers of Settlement and are not binding on any other person or entity in this or any other proceeding.

violated, and aided and abetted and caused violations of, the antifraud and mutual fund pricing provisions of the federal securities laws.

### **Facts**

4. Dong owned and controlled Chronos, which controlled the Chronos Funds. He also oversaw Chronos's overall operations and investment strategies. During the Relevant Period, Chronos managed approximately \$270 million for the Chronos Funds. Chronos used market timing as a primary investment strategy. It executed the strategy through the use of a proprietary statistical model that analyzed historical trading data and market trends and generated "signals" that determined whether and when Chronos should buy and sell mutual fund shares. Market timing includes: (i) frequent buying and selling of shares of the same mutual fund or (ii) buying or selling mutual fund shares in order to exploit inefficiencies in mutual fund pricing. Market timing, while not illegal *per se*, can harm other mutual fund shareholders because it can dilute the value of their shares, if the market timer is exploiting pricing inefficiencies, or disrupt the management of the mutual fund's investment portfolio and can cause the targeted mutual fund to incur costs borne by other shareholders to accommodate frequent buying and selling of shares by the market timer. From May to September 2003, Chronos also engaged in "late trading," whereby Chronos placed mutual funds trade orders after mutual fund companies calculated their daily net asset value ("NAV"), while obtaining the same day's NAV pricing.

### **Market Timing**

5. During the Relevant Period, Respondents engaged in deceptive tactics by placing mutual fund trade orders with registered broker-dealer Prudential Securities, Inc. ("Prudential") that contained false and misleading information to hide Chronos's identity from mutual funds and otherwise facilitate Chronos' market timing strategies. Chronos disguised its identity and volume and frequency of its trading by using multiple customer account names (some of which were in the names of other corporate entities) and numbers.

6. Chronos's traders typically placed multiple mutual fund transactions per day with Prudential during the Relevant Period. Chronos opened its first account with registered representatives based in Prudential's Boston, Massachusetts branch office in January 2000. During the Relevant Period, Respondents were aware that mutual fund companies typically placed limits on the number of mutual fund trades that could be placed in a particular mutual fund and tracked mutual fund trades by customer name and customer account number. As a result, Respondents were aware that if they repeatedly placed short-term mutual fund trades using a single account name and number through one broker, the mutual fund companies would likely determine that Chronos's market timing was excessive and would block any further trades. Throughout the Relevant Period, through Prudential, Chronos was notified of "block notices" from mutual fund

companies prohibiting Chronos from further trading in those fund families because of Chronos's previous market timing activity.<sup>2</sup>

7. Respondents opened a total of 21 additional accounts at Prudential (between 2000 and February 2003) after Chronos was prohibited from trading in certain mutual fund families. Respondents maintained, and market timed through, these accounts until Chronos ceased its market timing activities in September 2003. Many of Chronos's accounts at Prudential bore names that appeared unrelated to Chronos, such as the names of a Chronos trader's wife, hometown and dog. The primary purpose in opening these accounts was to conceal the accounts' connection to Chronos and thereby allow Chronos to continue to trade in mutual funds that had previously attempted to prohibit it from trading due to market timing.

8. Chronos used separate Prudential accounts as part of a "rotation strategy" to disguise its market timing activities from mutual fund companies. As part of its rotation strategy, Chronos made multiple purchases into a fund family using multiple accounts and traded in one fund until an account was blocked. Then Chronos rotated the blocked account out of the fund into another fund, and continued to use the remaining accounts to trade in the original fund, with the intent of deceiving mutual funds as to their identity. Using its various accounts, Chronos also divided large trades into smaller-sized trades in an effort to "fly under the radar" of mutual funds that detected market timers by monitoring trades with high dollar values.

### **Late Trading**

9. Rule 22c-1(a) under the Investment Company Act requires registered open-end investment companies ("mutual funds"), persons designated in such funds' prospectuses as authorized to consummate transactions in any such security, their principal underwriters, and dealers in the funds' securities to sell and redeem fund shares at a price based on the current NAV next computed after receipt of an order to buy or redeem. Late trading refers to the act of executing trades in a mutual fund's shares after the time as of which the mutual fund has calculated its NAV in a manner that allows the trade to receive that day's net asset value per share, rather than the next day's net asset value per share. Most mutual funds, including the funds Chronos traded, calculate their daily net asset value as of the close of major United States securities exchanges and markets (normally 4:00 p.m. ET). Although Respondents were not themselves subject to Rule 22c-1, persons subject to that Rule must sell mutual fund shares at the NAV next computed after receipt of the trade order.

10. From May 2003 to September 2003, Chronos late traded through two broker-dealers (Broker-Dealer A and Broker-Dealer B) (which were unrelated to Prudential). Broker-Dealer A and Broker-Dealer B submitted Chronos' mutual fund trades through clearing brokers (Clearing Broker-Dealer A and Clearing Broker-Dealer

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<sup>2</sup> Block notices restricted market timing trading by, among other things, prohibiting future trades in specific accounts, by particular registered representatives or by broker-dealer, and typically included a statement concerning the mutual fund's aversion to market timing.

B, respectively), each of which had dealer agreements with the relevant mutual funds. Broker-Dealer A and Broker-Dealer B routinely allowed Chronos to communicate orders to purchase and sell mutual fund shares after 4:00 p.m. ET at that day's NAV. During this period, between approximately 4:00 and 4:15 p.m. ET each day, Chronos traders analyzed both aftermarket news reports and the movement in the futures market (which continues to trade until 4:15 p.m. ET) to determine whether to buy or sell large cap mutual funds. Chronos' late trading arrangements thus allowed the traders to purchase or sell mutual fund shares at prices set as of the market close with the benefit of the aftermarket information. Chronos thereby obtained a competitive advantage by being able to capitalize on the aftermarket news and futures market trading, while obtaining the previously calculated NAV.

11. Respondents realized significant profits as a result of the conduct set forth in paragraphs 4-10, above.

### **Violations of the Federal Securities Laws**

12. As a result of the conduct described in paragraphs 5-8 and 11 above, Respondents willfully violated Section 17(a) of the Securities Act, which prohibits fraudulent conduct in the offer or sale of securities.

13. As a result of the conduct described in paragraphs 5-8 and 11 above, Respondents willfully violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in connection with the purchase or sale of securities.

14. As a result of the conduct described in paragraphs 9-11 above, Respondents willfully aided and abetted and caused Clearing Broker-Dealer A's and Clearing Broker-Dealer B's violations of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

15. As a result of the conduct described in paragraphs 9-11 above, Respondents willfully aided and abetted and caused violations of Rule 22c-1(a) of the Investment Company Act by Clearing Broker-Dealer A and Clearing Broker-Dealer B.

### **Undertakings**

Respondent Dong undertakes to provide to the Commission, within 10 days after the end of the 12-month suspension period described below, an affidavit that he has complied fully with the sanctions described in Section IV below.

## **IV.**

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions specified in Respondents' Offers.

Accordingly, pursuant to Section 8A of the Securities Act, Section 21C of the

Exchange Act, Sections 203(e) and 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 Chronos is hereby censured;

B. Respondents Chronos and Dong shall cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and Rule 22c-1 under the Investment Company Act;

C. Respondent Dong be, and hereby is, suspended from association with any 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 for a period of 12 months, effective on the second Monday following entry of this Order; and

D. IT IS FURTHER ORDERED THAT Respondents shall together, on a joint and several basis, pay disgorgement in the amount of \$303,000 plus prejudgment interest in the amount of \$73,915.80, and pay a civil money penalty in the amount of \$1,800,000. Respondents shall satisfy this obligation by making payment to the United States Treasury within 30 days of the entry of this Order. Such payment shall be: (i) made by United States postal money order, certified check, bank cashier's check or bank money order; (ii) made payable to the Securities and Exchange Commission; (iii) 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 (iv) submitted under cover letter that identifies Chronos and Dong as Respondents in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to John T. Dugan, Associate Regional Director, Securities and Exchange Commission, Boston Regional Office, 33 Arch Street, 23rd Floor, Boston, Massachusetts 02110. Such disgorgement, prejudgment interest and civil money penalty may be distributed pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002 ("Fair Fund distribution"). Regardless of whether 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, Respondents agree that they shall not, after offset or reduction in any Related Investor Action based on Respondent's payment of disgorgement in this action, argue that they are entitled to, nor shall they further benefit by offset or reduction of any part of Respondents' payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondents agree that they 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 Respondents 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 M. Morris  
Secretary