

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 3373 / February 15, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14550

In the Matter of

JAMES DAVIS RISHER,

Respondent.

ORDER MAKING FINDINGS AND
IMPOSING REMEDIAL SANCTIONS
PURSUANT TO SECTION 203(f) OF THE
INVESTMENT ADVISERS ACT OF 1940

I.

James Davis Risher (the "Settling Respondent"), pursuant to Rule 240(a) of the Rules of Practice for the Securities and Exchange Commission ("Commission") [17 C.F.R. § 201.240(a)] submitted an Offer of Settlement ("Offer") in the above-captioned proceeding, which was instituted against him on September 14, 2011 by the Commission, pursuant to Section 203(f) of the Investment Advisers Act of 1940 ("Advisers Act").

II.

Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission or in which the Commission is a party prior to a hearing pursuant to the Commission's Rules of Practice, 17 C.F.R. § 201.100 *et seq.*, and without admitting or denying the findings contained herein, except as to the Commission's jurisdiction over him and the subject matter of these proceedings, and the findings contained in Section III.3 below, which are admitted, the Settling Respondent consents to the entry of an Order Making Findings and Imposing Remedial Sanctions Pursuant to Section 203(f) of the Advisers Act ("Order") by the Commission containing the following findings and remedial sanctions set forth below.

III.

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

1. From no later than January 2007 through July 2010, Risher was the sole trader for a purported private equity fund operating under various names including the Safe Harbor Private Equity Fund, Managed Capital Fund, and Preservation of Principal Fund (collectively the

“Fund”). During the relevant time period, Risher acted as an unregistered investment adviser to the Fund.

2. Risher falsely represented to investors that the Fund earned annual returns ranging from 14% to 124% by investing in public equity securities through a FINRA-regulated broker-dealer. Only a fraction of the money raised was actually invested; Risher instead misappropriated a large portion for his personal use. He also misrepresented that the Fund was registered in Bermuda and that it was audited annually by a Bermudan auditor. Risher boasted to investors that he had substantial experience in trading equities and providing wealth and asset management services. In reality, Risher had no such experience but rather a lengthy criminal history, spending 11 of the last 21 years in jail instead of growing a thriving retail brokerage business as he claimed.

3. On September 9, 2011, Risher pled guilty to one count of mail fraud, one count of money laundering, and one count of engaging in an illegal monetary transaction, in violation of Title 18 United States Code, Sections 1341 and 2, Sections 1956(a)(1)(A)(i) and 2, and Sections 1957 and 2, respectively, before the United States District Court for the Middle District of Florida in the criminal case entitled United States v. James Davis Risher, Case No. 8:11-CR-343-T-23TGW.

4. Count one of the criminal information to which Risher pled guilty alleged, among other things, that Risher defrauded investors and obtained money and property by means of materially false and misleading statements which caused investors to invest their funds with him in the Fund. Count two of the criminal information alleged, among other things, that Risher knowingly conducted a financial transaction involving proceeds from the unlawful activity of mail fraud. Count three alleged, among other things, that Risher knowingly engaged in a monetary transaction involving funds that were the proceeds of his criminal activity of mail fraud.

IV.

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

Accordingly, it is hereby **ORDERED**:

Pursuant to Section 203(f) of the Advisers Act that Respondent Risher is hereby barred from association with any transfer agent, broker, dealer, investment adviser, municipal securities dealer, municipal advisor, or nationally recognized statistical rating organization.

By the Commission.

Elizabeth M. Murphy
Secretary