

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 63913 / February 15, 2011

INVESTMENT ADVISERS ACT OF 1940
Release No. 3159 / February 15, 2011

ADMINISTRATIVE PROCEEDING
File No. 3-14259

In the Matter of

ROBERT F. MCCULLOUGH,
JR., CPA

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 Robert F. McCullough, Jr., CPA (“McCullough” 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, 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. McCullough has served as Chief Financial Officer of CytoCore, Inc. (“CytoCore” or the “Company”) since September 2005, the Company’s Chief Executive Officer of the Company since October 2007, a Company director since 2005, and Chairman of the Company’s Board of Directors since April 2009. McCullough has also served as President and Portfolio Manager of Summitcrest Capital, Inc., a California-registered investment adviser, since October 2003. McCullough is a licensed Certified Public Accountant in the State of California, with inactive status. McCullough, 56 years old, is a resident of Kentfield, California.

2. On January 26, 2011, a final judgment was entered by consent against McCullough, permanently enjoining him from future violations of Sections 14(a) and 16(a) of the Exchange Act and Rules 14a-9 and 16a-3 thereunder, and from aiding and abetting future violations of Section 15(a) of the Exchange Act, in the civil action entitled Securities and Exchange Commission v. CytoCore, Inc., et al., Civil Action Number 1:11-cv-00246, in the United States District Court for the Northern District of Illinois.

3. The Commission’s complaint alleged that, among other things, during his tenure as an officer of CytoCore, McCullough directed CytoCore to pay Daniel Burns, a CytoCore consultant that was not affiliated with a registered broker-dealer, commissions in connection with Burns’ fundraising efforts for the Company. The complaint alleged that McCullough made these payments despite knowing that commissions for fundraising from investors could be paid only to registered broker-dealers. The complaint further alleged that McCullough failed to disclose numerous personal transactions in CytoCore stock on Forms 4 and in CytoCore’s proxy statements, and that when McCullough did report his CytoCore holdings, he reported inaccurately. The complaint alleged that from July 2007 through February 2010, McCullough purchased 520,812 shares of CytoCore stock in his personal accounts over 76 separate trading days, yet he reported purchases on only 14 trading days totaling 219,000 shares during this period. Moreover, the complaint alleged that from August 2006 through January 2010, Summitcrest Capital Partners, an investment partnership managed by McCullough in which McCullough has a 10% ownership interest, purchased CytoCore stock on 128 separate trading days and sold CytoCore stock on 5 trading days for a net accumulation of 1,786,000 shares, yet McCullough reported purchases on only 32 trading days for a total accumulation of 839,700 shares during this period, and did not report any of the sales.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent McCullough’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 McCullough be, and hereby is suspended from association with any broker, dealer, or investment adviser for a period of twelve months.

The twelve-month suspension shall begin to run from the second Monday following the entry of the Order. Respondent McCullough shall provide to the Commission, within thirty (30) days after the end of the twelve-month suspension period described above, an affidavit that he has complied fully with the sanction described in Section IV of the Order.

By the Commission.

Elizabeth M. Murphy
Secretary

Service List

Rule 141 of the Commission's Rules of Practice provides that the Secretary, or another duly authorized officer of the Commission, shall serve a copy of the 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”), on the Respondent and his legal agent.

The attached Order has been sent to the following parties and other persons entitled to notice:

Honorable Brenda P. Murray
Chief Administrative Law Judge
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