

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 3275 / September 8, 2011

ADMINISTRATIVE PROCEEDING
File No. 3-14542

In the Matter of

ANTHONY SCOLARO,

Respondent.

ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO 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 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against Anthony Scolaro (“Scolaro” 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 and III.4 below, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to 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. Scolaro, age 50, was a portfolio manager at Diamondback Capital Management, LLC ("Diamondback"), a registered Connecticut-based hedge fund investment adviser, until he left the firm in November 2009. Scolaro is a resident of Darien, Connecticut. Scolaro graduated from the University of Vermont in 1982 with a B.A. degree in economics and political science. He held Series 7, 63 and 65 securities licenses.

2. On September 1, 2011, a final judgment was entered by consent against Scolaro, permanently enjoining him from future violations of Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 thereunder, in the civil action entitled Securities and Exchange Commission v. Anthony Scolaro, et al., Civil Action Number 11-CV-6112, in the United States District Court for the Southern District of New York.

3. The Commission's complaint alleged, inter alia, that, while working as a portfolio manager at Diamondback in 2007, Scolaro was tipped material, nonpublic information concerning the acquisition of Axcan Pharma Inc. ("Axcan"), which had been misappropriated in violation of a duty. The complaint further alleged that Scolaro traded in the securities of Axcan based on that material, nonpublic information and that he knew, or should have known, that the information was obtained in breach of a fiduciary or other duty of trust and confidence owed to the source of the information.

4. On November 19, 2010, Scolaro pled guilty to one count of securities fraud and one count of conspiracy to commit securities fraud in violation of 15 U.S.C. §§ 78j(b) and 78ff and 18 U.S.C. § 371 before the United States District Court for the Southern District of New York in United States v. Anthony Scolaro, 11-CR-429.

5. The counts of the criminal information to which Scolaro pled guilty alleged, inter alia, that Scolaro, and others, participated in a scheme to defraud by executing securities trades based on material, nonpublic information regarding certain inside information concerning public companies that had been misappropriated in violation of duties of trust and confidence, and that he unlawfully, willfully and knowingly did so, directly and indirectly, by use of the means and instrumentalities of interstate commerce, and of the mails, and of the facilities of national securities exchanges, in connection with the purchase and sale of securities.

IV.

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

Accordingly, it is hereby ORDERED:

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

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