

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 60803 / October 8, 2009

INVESTMENT ADVISERS ACT OF 1940
Release No. 2934 / October 8, 2009

ADMINISTRATIVE PROCEEDING
File No. 3-13642

In the Matter of

Erik R. Franklin,

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 Erik R. Franklin (“Franklin” 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.3 and 5 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. Franklin, 41 years old, is a resident of Denville, New Jersey.
2. From 2001 to 2002, Franklin was associated with Bear, Stearns & Co., Inc. (“Bear Stearns”), which was a broker-dealer and investment adviser registered with the Commission. In 2002, Franklin was associated with DSJ International Resources Ltd. (d/b/a Chelsey Capital) and, from 2003 through 2006, was associated with Q Capital Investment Partners, LP (“Q Capital”). Both Chelsey Capital and Q Capital were investment advisers.
3. On September 29, 2009, a final judgment was entered by consent against Franklin, permanently enjoining him from future violations of Section 17(a) of the Securities Act of 1933 (“Securities Act”), Section 10(b) of the Exchange Act, and Rule 10b-5 thereunder, in the civil action entitled Securities and Exchange Commission v. Guttenberg, et al., Civil Action No. 07 CV 1774, in the United States District Court for the Southern District of New York.
4. The Commission’s complaint alleged, inter alia, that from 2001 through 2006, Franklin engaged in illegal insider trading by using material, nonpublic information concerning upcoming analyst recommendations by UBS Securities LLC (“UBS”) to purchase and sell securities in his personal accounts and on behalf of the two hedge funds that he managed, Lyford Cay Capital, LP, a hedge fund at Bear Stearns, and Q Capital. The complaint further alleged that in 2005, Franklin engaged in illegal insider trading by using material, nonpublic information concerning upcoming corporate acquisition announcements involving investment banking clients of Morgan Stanley & Co., Inc. (“Morgan Stanley”) to purchase securities in a personal brokerage account and on behalf of Q Capital.
5. On March 2, 2007, Franklin pled guilty to two counts of conspiracy to commit securities fraud, in violation of Title 18, United States Code, Section 371, one count of securities fraud, in violation of Title 15, United States Code, Sections 78j(b) & 78ff, Title 17, Code of Federal Regulations, Sections 240.10b-5 and 240.10b5-2, and one count of commercial bribery, in violation of Title 18, United States Code, Section 1952(a)(3), before the United States District Court for the Southern District of New York, in United States v. Erik Franklin, Crim. Information No. 07-CR-164.
6. The counts of the criminal information to which Franklin pled guilty alleged, inter alia, that Franklin illegally conspired with others to trade on material, nonpublic information from Morgan Stanley concerning upcoming corporate acquisitions and from UBS concerning upcoming analyst recommendations. The criminal information also alleged that

Franklin traded on the material, nonpublic UBS information in his personal accounts and on behalf of Q Capital, and that Franklin paid cash kickbacks to an employee of a brokerage firm in exchange for stock allocations to Q Capital in certain initial public offerings and secondary offerings.

IV.

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