

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**  
**September 15, 2004**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-11664**

**In the Matter of**

**ADAM G. KRUGER,**

**Respondent.**

**ORDER INSTITUTING ADMINISTRATIVE  
PROCEEDINGS PURSUANT TO SECTION  
203(f) OF THE INVESTMENT ADVISERS  
ACT OF 1940**

**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 Sections 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against Adam G. Kruger (“Respondent” or “Kruger”).

**II.**

After an investigation, the Division of Enforcement alleges that:

1. Kruger, age 23, was associated with Kruger, Miller and Tummillo, Inc. in his capacity as president. He is not registered with the Commission in any capacity. Kruger resided in Roselle, Illinois during the relevant time.

2. Kruger, Miller and Tummillo, Inc. (“KMT”) is an unregistered investment adviser and was incorporated in Illinois on December 16, 1999. It was dissolved by the Illinois Secretary of State in May 2003. Kruger operated KMT’s investment advisory business out of his home in Roselle, Illinois. KMT has since ceased operations.

3. On November 19, 2003, the Commission filed a Complaint in the United States District Court for the Northern District of Illinois against Kruger and KMT captioned Securities and Exchange Commission v. Adam G. Kruger, et al., No. 03 C 8288.

4. The Complaint alleges that Kruger operated two fraudulent investment schemes through KMT raising at least \$908,750 from at least twelve investors. The Complaint alleges that, starting in approximately August 2000, Kruger represented to investors that he would

pool their money to day-trade various stocks and would distribute the profits accordingly. The Complaint further alleges that, in March 2001, Kruger began to represent to investors that he would pool their money into a “hedge fund” and use the fund to purchase stock in a privately-held company named Efoora, Inc. According to the Complaint, Kruger did not use investor funds for day-trading or for investments in Efoora, but instead used the funds to pay personal expenses, to pay off old investors and to invest in other schemes. The Complaint also asserts that, to conceal his fraud, Kruger made numerous oral and written misrepresentations to investors representing that the investments were producing high rates of return. Based on these allegations, the Complaint asserts that Kruger and KMT violated Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder. It also asserts that KMT, aided and abetted by Kruger, violated Section 206(1) and 206(2) of the Advisers Act.

5. On April 13, 2004, the Court entered an order permanently enjoining Kruger and KMT from violating Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and Section 206(1) and 206(2) of the Advisers Act. In a written consent, Kruger and KMT agreed to the entry of the order of permanent injunction and admitted the allegations of the Complaint.

### **III.**

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative proceedings be instituted to determine:

A. Whether the allegations set forth in Section II are true and, in connection therewith, to afford Respondent an opportunity to establish any defenses to such allegations;

B. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 203(f) of the Advisers Act.

### **IV.**

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 200 of the Commission's Rules of Practice, 17 C.F.R. § 201.200.

IT IS FURTHER ORDERED that Respondent shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If Respondent fails to file the directed answer, or fails to appear at a hearing after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against him upon consideration of this Order, the allegations of which may be deemed to be true as

provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f) and 201.310.

This Order shall be served forthwith upon Respondent personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 210 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

For the Commission, by its secretary, pursuant to delegated authority.

Jonathan G. Katz  
Secretary