

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 64317 / April 20, 2011

INVESTMENT ADVISERS ACT OF 1940
Release No. 3188 / April 20, 2011

ADMINISTRATIVE PROCEEDING
File No. 3-14230

In the Matter of

TORREY PINES
SECURITIES, INC.

Respondent.

ORDER MAKING FINDINGS AND
IMPOSING REMEDIAL SANCTIONS
PURSUANT TO SECTION 15(b) OF THE
SECURITIES EXCHANGE ACT OF 1934
AND SECTION 203(e) OF THE
INVESTMENT ADVISERS ACT OF 1940

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest to enter this Order Making Findings and Imposing Remedial Sanctions Pursuant to Section 15(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Section 203(e) of the Investment Advisers Act of 1940 ("Advisers Act") against Torrey Pines Securities, Inc. ("Torrey Pines" or "Respondent").

II.

Following the institution of these proceedings on February 3, 2011, Respondent has submitted an Offer of Settlement ("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 it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Making Findings and Imposing Remedial Sanctions Pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Section 203(e) of the Investment Advisers Act of 1940 ("Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that:

Summary

These proceedings arise out of Torrey Pines' failure reasonably to supervise Dennis Lee Keating II ("Keating") in connection with an unregistered private securities offering from August 2006 to November 2008. During this time, Keating was associated with Torrey Pines, a registered broker-dealer and state-registered investment adviser. Keating violated Section 15(a) of the Exchange Act, the broker-dealer registration provision of the federal securities laws, by conducting the unregistered private securities offering outside the scope of his employment with Torrey Pines.

Torrey Pines failed reasonably to supervise Keating because the firm did not establish reasonable policies and procedures to assign responsibility for supervising Keating, causing Keating to supervise himself. Torrey Pines also failed to develop systems to implement the firm's procedures regarding outside business activities by registered representatives. As a result, Torrey Pines failed reasonably to supervise Keating within the meaning of Section 15(b)(4)(E) of the Exchange Act and Section 203(e) of the Advisers Act.

Respondent

1. **Torrey Pines Securities, Inc.** is a broker-dealer headquartered in Del Mar, California. Torrey Pines has been registered as a broker-dealer with the Commission since 1985 (File No. 8-35004). Torrey Pines has also been registered in California and Nevada as an investment adviser since 2001 and 2007, respectively.

Other Relevant Person

2. **Dennis Lee Keating, II**, age 46, resides in Highland, Utah. In April 2006, Keating became part-owner and a registered representative of Torrey Pines, working in and supervising the Corona, California branch office. Keating resigned from Torrey Pines in November 2008, and sold his ownership interest. Keating was permanently enjoined on June 28, 2010 for violations of the securities and broker-dealer registration and antifraud provisions, specifically Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933, and Sections 10(b) and 15(a) of the Exchange Act and Rule 10b-5 thereunder. *SEC v. Dennis Lee Keating, II*, Case No. 2:10cv419 (Dist. Utah filed May 6, 2010), Litigation Release No. 21520 (May 6, 2010). The Commission also barred Keating from associating with a broker-dealer or investment adviser. *Dennis Lee Keating, II*, Exchange Act Release No. 62456 (July 6, 2010).

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

Keating's Unregistered Offering

3. Keating joined Torrey Pines in April 2006, opening the Torrey Pines Corona, California branch office (the "Corona Office") where he had overall supervisory responsibility.

4. In August 2006, Keating formed a privately-held company, and until April 2007, he raised over \$17 million from friends, family, and Torrey Pines's customers in a private, unregistered offering of securities. Until at least November 2008, Keating also continued lulling investors with false assurances that they would receive a return on their investments. Keating acted as an unregistered broker-dealer in violation of Section 15(a) of the Exchange Act, as he conducted the offering outside the scope of his employment with Torrey Pines.

Torrey Pines Failed To Establish Reasonable Supervisory Procedures And Systems

5. Torrey Pines failed to establish reasonable policies and procedures to assign responsibility for supervising Keating. When Keating became a part-owner of Torrey Pines, Torrey Pines did not revise its written supervisory procedures manual or create other policies or procedures for Keating to be supervised reasonably at the firm's Corona Office. No one other than Keating oversaw the daily activities of the Corona Office. No one reviewed Keating's daily correspondence or telephone calls, other than in cursory annual audits. The delegation of the Corona Office's daily responsibilities to Keating resulted in Keating supervising himself. If Keating had not been left to supervise himself, his outside sales activities, which violated Section 15(a) of the Exchange Act, likely would have been detected.

6. Although Torrey Pines had a policy prohibiting selling securities outside of the firm, and a policy for registered representatives to report outside business activities, the firm failed to develop systems for supervisors and the compliance department to monitor for adherence with the provisions, e.g., reviewing documents relating to registered representatives' outside business activities to ensure that the activities did not involve selling any private securities transactions outside the scope of a representative's employment in violation of Section 15(a) of the Exchange Act. If Torrey Pines had established systems providing for better monitoring for adherence with those provisions, a supervisor or the compliance officer would reasonably have been expected to detect that Keating's outside investment business involved a private, securities-related offering and that Keating violated Section 15(a) of the Exchange Act by conducting this activity without registering as a broker-dealer.

7. From August 2006 through January 2008, a number of suspicious events concerning Keating's outside business activities came to the attention of supervisors and/or compliance staff at Torrey Pines in various ways, including through oral and written complaints to Torrey Pines from an individual who had invested in Keating's private offering. If Torrey Pines had put procedures and systems in place requiring supervisors or the compliance officer to

follow-up on suspicious activities that might signal violations of the firm's prohibition against selling securities outside the firm, Torrey Pines might have prevented and detected Keating's violations of Section 15(a)(1) of the Exchange Act.

Violations

8. As a result of his conduct described above, Keating violated Section 15(a) of the Exchange Act.

9. Section 15(b)(4)(E) of the Exchange Act requires broker-dealers reasonably to supervise persons subject to their supervision, with a view toward preventing violations of the federal securities laws. See, e.g., *Dean Witter Reynolds, Inc.*, Exchange Act Rel. No. 46578 (October 1, 2002). The Commission has emphasized that the "responsibility of broker-dealers to supervise their employees by means of effective, established procedures is a critical component in the federal investor protection scheme regulating the securities markets." *Id.* Section 15(b)(4)(E) of the Exchange Act provides for the imposition of a sanction against a broker or dealer who "has failed reasonably to supervise, with a view to preventing violations of the securities laws, another person who commits such a violation, if such other person is subject to his supervision."

10. As a result of the conduct described above, Torrey Pines failed reasonably to supervise Keating within the meaning of Section 15(b)(4)(E) of the Exchange Act, and within the meaning of Section 203(e) of the Advisers Act, when it failed to supervise Keating with a view to detecting and preventing violations of Section 15(a) of the Exchange Act.

Civil Penalties

11. Respondent has submitted a sworn Statement of Financial Condition dated January 31, 2011 and other evidence and has asserted its inability to pay a civil penalty.

Undertakings

Torrey Pines has undertaken to:

12. Retain, not later than 45 days after the date of this Order, at its expense, an independent consultant not unacceptable to the Commission's staff (the "Independent Consultant"). Torrey Pines shall require the Independent Consultant to:

- a. Conduct a comprehensive review of Torrey Pines's policies, procedures, and systems with respect to (1) supervision of registered representatives, regardless of ownership interest in the firm; (2) outside business activities of its associated persons (including, but not limited to, procedures and systems to ensure compliance with Section 15(a) of the Exchange Act and NASD Rule 3040) (collectively the "Policies/Systems").

- b. Make recommendations for changes or improvements to the Policies/Systems and a procedure for implementing the recommended changes or improvements; and
- c. Conduct an annual review, for each of the following two years from the date of the issuance of the Independent Consultant's initial report, to assess whether Torrey Pines is complying with its revised Policies/Systems and whether the revised Policies/Systems are effective in achieving their stated purposes, and make additional recommendations for changes or improvements to the Policies/Systems, if needed.

13. No later than 10 days following the date of the Independent Consultant's engagement, provide to the Commission staff a copy of an engagement letter detailing the Independent Consultant's responsibilities pursuant to paragraph 12 above. To ensure independence, Torrey Pines shall not have the authority to terminate the Independent Consultant without prior written approval of the Commission's staff.

14. Arrange for the Independent Consultant to issue its first report within 90 days after the date of the engagement. For the annual reviews conducted for each of the following two years, arrange for the Independent Consultant to issue each of these reports 365 days following the preceding report. Within 10 days after the issuance of each of the reports, Torrey Pines shall require the Independent Consultant to submit to Diana Tani of the Commission's Los Angeles Regional Office a copy of the Independent Consultant's reports. The Independent Consultant's reports shall describe the review performed and the conclusions reached and shall include any recommendations deemed necessary to make the Policies/Systems adequate and address the deficiencies set forth in Section III of the Order.

15. Within thirty days of receipt of the Independent Consultant's reports, adopt all recommendations contained in the reports and remedy any deficiencies in its written policies, procedures, and systems; provided, however, that as to any recommendation that Torrey Pines believes is unnecessary or inappropriate, Torrey Pines may, within fifteen days of receipt of the reports, advise the Independent Consultant in writing of any recommendations that it considers to be unnecessary or inappropriate and propose in writing an alternative policy or procedure designed to achieve the same objective or purpose.

16. With respect to any recommendation with which Torrey Pines and the Independent Consultant do not agree, attempt in good faith to reach an agreement with the Independent Consultant within thirty days of receipt of the reports. In the event that Torrey Pines and the Independent Consultant are unable to agree on an alternative proposal acceptable to the Commission's staff, Torrey Pines will abide by the original recommendation of the Independent Consultant.

17. Within thirty days after the date of the Independent Consultant's second annual report, submit an affidavit to the Commission's staff stating that it has implemented any and all recommendations of the Independent Consultant, or explaining the circumstances under which it has not implemented such recommendations.

18. Cooperate fully with the Independent Consultant and provide the Independent Consultant with access to its files, books, records and personnel as reasonably requested for the Independent Consultant's review.

19. Require the Independent Consultant to enter into an agreement that provides that for the period of engagement and for a period of two years from completion of the engagement, the Independent Consultant shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with Torrey Pines, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity. The agreement will also provide that the Independent Consultant will require that any firm with which he/she is affiliated or of which he/she is a member, and any person engaged to assist the Independent Consultant in performance of his/her duties under this Order shall not, without prior written consent of the Los Angeles Regional Office enter into any employment, consultant, attorney-client, auditing or other professional relationship with Torrey Pines, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement.

20. Within thirty days after the date of the entry of this Order, Torrey Pines shall disseminate, at its own expense, a copy of the Order to all current clients and customers and, for a period of two calendar years starting from the date of the entry of this Order, to all prospective clients and customers, including posting a link to a copy of the Order on the home page, in a readily viewed area, of any and all of Torrey Pines' website(s).

21. Certify, in writing, compliance with each of the undertakings set forth above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and Respondents agree to provide such evidence. The certification and supporting material shall be submitted to Diana Tani, Assistant Regional Director, with a copy to the Office of Chief Counsel of the Enforcement Division, no later than sixty days from the date of the completion of each of the undertakings.

22. For good cause shown, and upon timely application from Torrey Pines or the Independent Consultant, the Commission's staff may extend any of the procedural dates set forth above.

IV.

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

Accordingly, pursuant to Sections 15(b)(4)(E) of the Exchange Act and Section 203(e) of the Advisers Act it is hereby ORDERED that:

- A. Respondent Torrey Pines is censured.
- B. Based upon Respondent's sworn representations in its Statement of Financial Condition dated January 31, 2011 and other documents submitted to the Commission, the Commission is not imposing a penalty against Respondent.
- C. The Division of Enforcement ("Division") may, at any time following the entry of this Order, petition the Commission to: (1) reopen this matter to consider whether Respondent provided accurate and complete financial information at the time such representations were made; and (2) seek an order directing payment of the maximum civil penalty allowable under the law. No other issue shall be considered in connection with this petition other than whether the financial information provided by Respondent was fraudulent, misleading, inaccurate, or incomplete in any material respect. Respondent may not, by way of defense to any such petition: (1) contest the findings in this Order; (2) assert that payment of a penalty should not be ordered; (3) contest the imposition of the maximum penalty allowable under the law; or (4) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.
- D. Respondent shall comply with the undertakings enumerated in Section III above.

By the Commission.

Elizabeth M. Murphy
Secretary