

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 3727 / November 26, 2013**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-15627**

**In the Matter of**

**TRI-STAR ADVISORS,  
INC., WILLIAM T. PAYNE,  
AND JON C. VAUGHAN,**

**Respondents.**

**ORDER INSTITUTING  
ADMINISTRATIVE AND CEASE-AND-  
DESIST PROCEEDINGS PURSUANT TO  
SECTIONS 203(e) AND 203(k) OF THE  
INVESTMENT ADVISERS ACT OF 1940  
AND SECTION 9(b) OF THE  
INVESTMENT COMPANY ACT OF 1940  
AND NOTICE OF HEARING**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”) and Section 9(b) of the Investment Company Act of 1940 (“Investment Company Act”) against Tri-Star Advisors, Inc. (“TSA”), William T. Payne (“Payne”), and Jon C. Vaughan (“Vaughan”), (collectively, “Respondents”).

**II.**

After an investigation, the Division of Enforcement alleges that:

**A. SUMMARY**

1. TSA, an investment adviser registered with the Commission since November 2009, willfully violated antifraud and compliance provisions of the Advisers Act and the rules thereunder. From July 2009 through July 2011 (“relevant period”), TSA: engaged in thousands of securities transactions with advisory clients on a principal basis through an affiliated broker-dealer, without providing prior written disclosure to, or obtaining consent from, the clients; and failed to adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act.

2. Payne and Vaughan caused TSA’s violations. During the relevant period, Payne was TSA’s CEO, and Vaughan was TSA’s President.

**B. RESPONDENTS**

3. **TSA** is a Texas corporation based in Houston, Texas. TSA became a Commission-registered investment adviser on November 17, 2009. As of December 2012, it managed 313 accounts on a non-discretionary basis and had approximately \$162 million in assets under management.

4. **Payne**, age 57, resides in Sugarland, Texas and is the CEO of TSA. He is also the President and 40% owner of Mutual Money Investments, Inc. d/b/a Tri-Star Financial (“TSF”), an affiliated broker-dealer registered with the Commission.

5. **Vaughan**, age 42, resides in Houston, Texas and is the President of TSA. He is also the Vice President and 20% owner of TSF.

**C. OTHER RELEVANT ENTITY**

6. **TSF** is a Texas corporation based in Houston, Texas. TSF has been a Commission-registered broker-dealer since 1993 and is jointly owned by Payne, Vaughan and another individual.

**D. FACTS**

7. TSA provides investment advisory services to individuals and entities. TSA’s investment strategy focused almost exclusively on fixed income securities, such as mortgage-backed bonds. To execute this strategy, TSA relied on TSF, its affiliated broker-dealer, for fixed income analysis and trade execution.

8. Payne and Vaughan make investment recommendations to TSA clients and, upon the clients’ consent, TSF executes the transactions. During the relevant period, TSF used its inventory account to purchase mortgage-backed bonds for TSA advisory clients and then transferred the bonds to the applicable client account. TSF charged the advisory clients a sales credit for the trades, which was essentially a percentage mark-up (or mark-down). Payne and Vaughan, registered representatives of TSF for the trades, received 55% of the sales credit generated by each trade.

9. Payne and Vaughan are responsible for ensuring that TSA complies with its regulatory requirements, including Advisers Act requirements.

10. From July 2009 through July 2011, TSA, through TSF, engaged in 2,212 principal transactions with its advisory clients (“TSA Principal Transactions”) without providing prior written disclosure to clients that it would effect the trades on a principal basis, or obtaining consent from clients.

11. TSF collected approximately \$1.9 million in gross sales credits from the TSA Principal Transactions. TSF paid approximately \$1 million to Payne and Vaughan for the TSA Principal Transactions while retaining the rest. None of the gross sales credits was paid to TSA.

12. Payne and Vaughan initiated and executed the TSA Principal Transactions. They knew that TSA did not provide written disclosures to, or obtain consent from, TSA clients before completing the TSA Principal Transactions.

13. During the relevant period, TSA failed to adopt and implement written compliance policies and procedures reasonably designed to prevent violations of the Advisers Act provision regarding principal transactions. TSA's compliance manual did not contain any policies and procedures addressing principal transactions.

#### **E. VIOLATIONS**

14. As a result of the conduct described above, TSA willfully violated Section 206(3) of the Advisers Act, which prohibits an investment adviser from executing securities transactions with a client on a principal basis without disclosing to such client in writing, before the completion of such transaction, the capacity in which it is acting and obtaining the consent of the client to such transaction.

15. As a result of the conduct described above, Payne and Vaughan caused TSA's violations of Section 206(3) of the Advisers Act.

16. As a result of the conduct described above, TSA willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, which require that an investment adviser adopt and implement written policies and procedures reasonably designed to prevent violation of the Advisers Act and the rules thereunder.

17. As a result of the conduct described above, Payne and Vaughan caused TSA's violations of Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder.

### **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 and cease-and-desist proceedings be instituted to determine:

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

B. What, if any, remedial action is appropriate in the public interest against TSA pursuant to Section 203(e) of the Advisers Act including, but not limited to, disgorgement and civil penalties pursuant to Section 203 of the Advisers Act;

C. What, if any, remedial action is appropriate in the public interest against TSA pursuant to Section 9(b) of the Investment Company Act including, but not limited to, disgorgement and civil penalties pursuant to Section 9 of the Investment Company Act; and

D. Whether, pursuant to Section 203(k) of the Advisers Act, Respondents should be ordered to cease and desist from committing or causing violations of and any future violations of Sections 206(3) and 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, whether Respondents should be ordered to pay a civil penalty pursuant to Section 203(i) of the Advisers Act, and whether Respondents should be ordered to pay disgorgement pursuant to Section 203 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 not earlier than 30 days and not later than 60 days from service of this Order at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondents 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 Respondents fail to file the directed answer, or fail to appear at a hearing after being duly notified, the Respondents may be deemed in default and the proceedings may be determined against them 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 Respondents personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 300 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.

By the Commission.

Elizabeth M. Murphy  
Secretary