

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 90061 / September 30, 2020**

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 5603 / September 30, 2020**

**INVESTMENT COMPANY ACT OF 1940**  
**Release No. 34038 / September 30, 2020**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-20114**

**In the Matter of**

**MEREDITH A. SIMMONS,**  
**Esq.**

**Respondent.**

**ORDER INSTITUTING PUBLIC  
ADMINISTRATIVE AND CEASE-AND-  
DESIST PROCEEDINGS, PURSUANT TO  
SECTIONS 4C AND 15(b) OF THE  
SECURITIES EXCHANGE ACT OF 1934,  
SECTIONS 203(f) AND 203(k) OF THE  
INVESTMENT ADVISERS ACT OF 1940,  
SECTION 9(b) OF THE INVESTMENT  
COMPANY ACT OF 1940, AND RULE  
102(e) OF THE COMMISSION'S RULES OF  
PRACTICE, MAKING FINDINGS, AND  
IMPOSING REMEDIAL SANCTIONS AND  
A CEASE-AND-DESIST ORDER**

**I.**

The Securities and Exchange Commission (“Commission” or “SEC”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 4C<sup>1</sup> and 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”), Sections 203(f) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”), Section 9(b) of the Investment Company Act of 1940 (“Investment Company

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<sup>1</sup> Section 4C provides, in relevant part, that:

The Commission may censure any person, or deny, temporarily or permanently, to any person the privilege of appearing or practicing before the Commission in any way, if that person is found . . . (3) to have willfully violated, or willfully aided and abetted the violation of, any provision of the securities laws or the rules and regulations thereunder.

Act”), and Rule 102(e)(1)(iii) of the Commission’s Rules of Practice<sup>2</sup>, against Meredith A. Simmons, Esq. (“Respondent” or “Simmons”).

## 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 her and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondent consents to the entry of this Order Instituting Public Administrative and Cease-and-Desist Proceedings, Pursuant to Sections 4C and 15(b) of the Securities Exchange Act of 1934, Sections 203(f) and 203(k) of the Investment Advisers Act of 1940, Section 9(b) of the Investment Company Act of 1940, and Rule 102(e) of the Commission’s Rules of Practice, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

## III.

On the basis of this Order and Respondent’s Offer, the Commission finds<sup>3</sup> that:

### Summary

1. These proceedings arise out of Simmons’s backdating of a record of her employer, a registered investment adviser (“Adviser A”), her provision of that backdated record to the Commission staff in the course of the staff’s compliance examination of Adviser A, and her failure to produce all requested records to the staff of the Commission’s Office of Compliance Inspections and Examinations (“examination staff”).

2. In October 2016, Simmons’s supervisor asked her to memorialize the compliance reviews that Simmons, in her role as Adviser A’s Chief Compliance Officer (“CCO”), had conducted in the preceding weeks in connection with Adviser A’s decision in October 2016 to invest its clients’ assets in the securities of a company (“Company A”) shortly before it

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<sup>2</sup> Rule 102(e)(1)(iii) provides, in pertinent part, that:

The Commission may . . . deny, temporarily or permanently, the privilege of appearing or practicing before it . . . to any person who is found . . . to have willfully violated, or willfully aided and abetted the violation of any provision of the Federal securities laws or the rules and regulations thereunder.

<sup>3</sup> 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.

announced an agreement to be acquired by another company on October 22, 2016 (the “October 2016 Investment”). Simmons’s supervisor made clear to her that he was making this request because he was concerned about possible future regulatory inquiries into the October 2016 Investment, including by the Commission. Simmons, however, did not do so at that time.

3. Instead, nearly eleven months later, in September 2017, after receiving an inquiry from her supervisor about multiple open compliance matters, Simmons drafted and backdated two versions of a memorandum that purported to memorialize her reviews related to the October 2016 Investment (the “Compliance Memo”). Without reviewing any substantive contemporaneous written analysis or notes of the prior year’s events, or otherwise taking sufficient steps to confirm her recollection of those events, Simmons first created and emailed to her supervisor a version of the Compliance Memo dated October 28, 2016, a date approximately one week following the announcement of Company A’s acquisition. Then, just an hour later, she created and saved to Adviser A’s files another version, dated October 21, 2016, a date immediately preceding the acquisition announcement, which made it appear that she had completed both her compliance reviews and their memorialization before the announcement. Both versions of the Compliance Memo contained multiple factual inaccuracies.

4. Just six weeks later, in October 2017, Simmons provided the Compliance Memo version dated October 21, 2016 to examination staff in the course of its compliance examination of Adviser A. She did not provide the version of the Compliance Memo dated October 28, 2016, although it was responsive to the Staff’s request. In her cover letter to the staff, Simmons described the October 21, 2016 version as a contemporaneous memorialization of the events it described. Shortly thereafter, in another written submission to the examination staff, Simmons repeated the inaccuracies contained in the backdated October 21, 2016 Compliance Memo and further perpetuated the notion that she wrote the document in October 2016. Simmons’s actions delayed and impeded the Commission staff’s inquiry into the October 2016 Investment.

5. Section 204(a) of the Advisers Act provides, in pertinent part, that all records of an investment adviser are subject to examination by the Commission. The Commission’s examination authority is fundamental to its ability to protect investors by monitoring investment advisers’ compliance with the federal securities laws. Employees of regulated entities may not undermine this crucial component of Commission oversight. By her actions, Simmons willfully aided and abetted and was a cause of Adviser A’s violations of Section 204(a).

### **Respondent**

6. Simmons, age 39, is a resident of New York, New York. From 2012 until June 2018, Simmons was the CCO of Adviser A. She was also the CCO of Adviser A’s affiliated registered broker-dealer from April 2014 to June 2018. Simmons is an attorney currently licensed in the state of New York and has appeared and practiced as an attorney before the Commission.

## **Relevant Entity**

7. Adviser A is a limited liability company based in New York, New York. It has been registered as an investment adviser with the Commission since 2012. As of September 30, 2017, Adviser A had approximately \$3.2 billion in assets under management (“AUM”), and according to its Form ADV filed in March 2020, Adviser A had four accounts and approximately \$2.4 billion in AUM. During the relevant time, Adviser A served as an investment adviser to one onshore and one offshore feeder hedge funds and one master fund.

## **Facts**

8. In October 2016, Simmons evaluated at least one instance in which a junior investment professional of Adviser A (“Analyst A”) may have been exposed to potential material nonpublic information relevant to the potential acquisition of Company A, in the context of a social interaction with a friend. Following that evaluation, Simmons determined that no exposure to material nonpublic information had occurred and cleared Analyst A to continue to work on the October 2016 Investment.

9. In late October 2016, shortly after Adviser A made the October 2016 Investment and the acquisition of Company A was publicly announced, Simmons’s supervisor instructed her to memorialize the compliance reviews that she had conducted in connection with Adviser A’s October 2016 Investment. Although at the time no request from Commission staff related to the October 2016 Investment was outstanding, Simmons’s supervisor made clear to her that he was making this request because he was concerned about possible future regulatory inquiries into the October 2016 Investment, including by the Commission. Adviser A had been examined by the Commission twice in the preceding four years and received two deficiency letters as a result of those examinations. Following her supervisor’s request, Simmons created and saved a blank “memo to file” concerning the October 2016 Investment that contained only the subject and a date “10-21-16,” but had no content. She did not substantively document either her evaluation or any other events related to the October 2016 Investment at that time.

10. Instead, Simmons drafted the Compliance Memo in mid-September 2017, after her supervisor asked her to update him on several outstanding compliance matters. Despite having drafted the Compliance Memo in September 2017, Simmons backdated the Compliance Memo to October 28, 2016. Simmons then emailed this version of the backdated Compliance Memo to her supervisor, and, approximately an hour later, further backdated the Compliance Memo version saved in Adviser A’s files to October 21, 2016, the day immediately preceding the announcement of Company A’s acquisition by another company.

11. In drafting the Compliance Memo in September 2017, Simmons did not rely on any substantive contemporaneous written analysis or notes of the prior year’s events, nor did she reinterview the relevant Adviser A employees to confirm her recollection of her work in October 2016. As a result, the Compliance Memo contained multiple factual inaccuracies, including inaccuracies about the facts surrounding Analyst A’s potential exposure to material nonpublic

information that Simmons had evaluated in the prior year and the nature of Analyst A's relationship with the source of that information.

12. Approximately two weeks after she drafted the Compliance Memo, on October 3, 2017, Simmons received an initial request letter from examination staff commencing a compliance examination of Adviser A (the "SEC Exam"). As the CCO and only compliance professional at Adviser A at that time, Simmons was responsible for Adviser A's responses to the SEC Exam.

13. On October 30, 2017, Simmons responded in writing to the examination staff's request for all supporting documentation, including emails, demonstrating Adviser A's internal review of the October 2016 Investment. As part of this response, Simmons, on behalf of Adviser A, produced the version of the backdated Compliance Memo dated October 21, 2016, which made it appear that the review had been conducted before the public announcement of the acquisition of Company A. She did not produce the version of the Compliance Memo dated October 28, 2016 that she had emailed to her supervisor on September 18, 2017. In her cover letter accompanying the production to the examination staff, Simmons described the Compliance Memo as "a contemporaneous memo to file" documenting her review of the October 2016 Investment.

14. On November 15, 2017, Simmons, on behalf of Adviser A, sent an additional, expanded narrative response to the examination staff about the October 2016 Investment, in which she reiterated some of the factual inaccuracies contained in the backdated Compliance Memo and again referenced the Compliance Memo without correcting her earlier statement that the document was created contemporaneously with the events it described. The narrative response included multiple additional inaccuracies related to the timeline of Adviser A's analysis and decision-making with respect to the October 2016 Investment.

15. On May 8, 2018, in response to a February 2018 subpoena issued by the Commission's Enforcement staff, Adviser A provided to the Commission multiple backdated versions of the Compliance Memo that had been created by Simmons without correcting Simmons's prior misstatements to the SEC staff concerning the provenance of the Compliance Memo.

16. Simmons knew or recklessly disregarded the risk that not all records responsive to the examination staff's request were produced.

17. Simmons's conduct with respect to the Compliance Memo substantially delayed and impeded the SEC staff's inquiry into the October 2016 Investment.

18. In June 2018, Adviser A and its affiliates first placed Simmons on administrative leave and then terminated her employment in connection with her backdating of the Compliance Memo.

## Violations

19. Section 204(a) of the Advisers Act provides that all records of an investment adviser are subject to examination by the Commission. As a result of the conduct described above, Simmons willfully aided and abetted and was a cause of Adviser A's violation of Section 204(a) of the Advisers Act.

### IV.

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

Accordingly, pursuant to Sections 4C and 15(b) of the Exchange Act, Sections 203(f) and 203(k) of the Advisers Act, Section 9(b) of the Investment Company Act, and Rule 102(e) of the Commission's Rules of Practice, it is hereby ORDERED that:

A. Respondent cease and desist from committing or causing any violations and any future violations of Section 204(a) of the Advisers Act.

B. Respondent shall be, and hereby is, subject to the following limitations and prohibitions on her activities:

- (1) Respondent shall not act in a compliance capacity with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.
- (2) Respondent may apply to act in such a compliance capacity after three (3) years to the appropriate self-regulatory organization, or if there is none, to the Commission.

Any application to act in such a compliance capacity will be subject to the applicable laws and regulations governing the reentry process, and permission to act in such a compliance capacity may be conditioned upon a number of factors, including, but not limited to, compliance with the Commission's order and payment of any or all of the following: (a) any disgorgement or civil penalties ordered by a Court against the Respondent, in any action brought by Commission; (b) any disgorgement amounts ordered against the Respondent for which the Commission waived payment; (c) any arbitration award related to the conduct that served as the basis for the Commission order; (d) 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 (e) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

C. Respondent is censured.

D. Respondent is denied the privilege of appearing or practicing before the Commission as an attorney for twelve (12) months from the date of the Order.

E. After twelve (12) months from the date of the Order, Respondent may request that the Commission consider her application to resume appearing or practicing before the Commission as an attorney. The application should be sent to the attention of the Office of the General Counsel.

F. In support of such an application, Respondent must provide a certificate of good standing from each state bar where Respondent is a member.

G. In support of such an application, Respondent must also submit an affidavit truthfully stating, under penalty of perjury:

1. that Respondent has complied with the Order, including any orders requiring payment of disgorgement or penalties;
2. that Respondent:
  - a. is not currently suspended or disbarred as an attorney by a court of the United States (or any agency of the United States) or the bar or court of any state, territory, district, commonwealth, or possession; and
  - b. since the entry of the Order, has not been suspended as an attorney for an offense involving moral turpitude by a court of the United States (or any agency of the United States) or the bar or court of any state, territory, district, commonwealth, or possession, except for any suspension concerning the conduct that was the basis for the Order;
3. that Respondent, since the entry of the Order, has not been convicted of a felony or misdemeanor involving moral turpitude as set forth in Rule 102(e)(2) of the Commission's Rules of Practice; and
4. that Respondent, since the entry of the Order:
  - a. has not been found by the Commission or a court of the United States to have committed a violation of the federal securities laws, except for any finding concerning the conduct that was the basis for the Order;
  - b. has not been charged by the Commission or the United States with a violation of the federal securities laws, except for any charge concerning the conduct that was the basis for the Order;
  - c. has not been found by a court of the United States (or any agency of the United States) or any state, territory, district, commonwealth, or

possession, or any bar thereof, to have committed an offense involving moral turpitude, except for any finding concerning the conduct that was the basis for the Order; and

- d. has not been charged by the United States (or any agency of the United States) or any state, territory, district, commonwealth, or possession, or any bar thereof, with having committed an offense involving moral turpitude, except for any charge concerning the conduct that was the basis for the Order.

H. If Respondent provides the documentation required in Paragraphs F and G, and the Commission determines that she truthfully attested to each of the items required in her affidavit, she shall by Commission order be permitted to resume appearing and practicing before the Commission as an attorney.

I. If Respondent is not able to truthfully attest to the statements required in Subparagraphs G(2)(b) or G(4), Respondent shall provide an explanation as to the facts and circumstances pertaining to the matter and the Commission may hold a hearing to determine whether there is good cause to permit her to resume appearing and practicing before the Commission as an attorney.

J. Respondent shall, within 14 days of the entry of this Order, pay a civil money penalty in the amount of \$25,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center  
Accounts Receivable Branch  
HQ Bldg., Room 181, AMZ-341  
6500 South MacArthur Boulevard  
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Meredith A. Simmons, Esq., as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Joseph G. Sansone, Chief, Market Abuse Unit, Division of Enforcement, Securities and Exchange Commission, 200 Vesey Street, Suite 400, New York, New York 10281.

K. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, she shall not argue that she is entitled to, nor shall she benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that she shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

#### V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the findings in this Order are true and admitted by Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

By the Commission.

Vanessa A. Countryman  
Secretary