

# **Exhibit W**

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

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 3206 / May 16, 2011**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-14393**

**In the Matter of**  
  
**DANIEL SHOLOM**  
**FRISHBERG,**  
  
**Respondent.**

**ORDER INSTITUTING**  
**ADMINISTRATIVE PROCEEDINGS**  
**PURSUANT TO 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 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against Daniel Sholom Frishberg (“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.2 below, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to 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. Frishberg was the president and majority owner of Daniel Frishberg Financial Services, Inc. d/b/a DFFS Capital Management, Inc. (“DFFS”), an investment adviser registered with the Commission. Frishberg, 65, is a resident of Houston, Texas.

2. On March 30, 2011, a judgment was entered by consent against Frishberg, permanently enjoining him from future violations of Sections 206(1) and 206(2) of the Advisers Act, in the civil action entitled *Securities and Exchange Commission v. Daniel Sholom Frishberg*, Civil Action Number 4:11-cv-1097, in the United States District Court for the Southern District of Texas.

3. The Commission’s complaint in the civil action alleged that, in connection with two separate promissory note offerings to DFFS clients, Frishberg violated Section 206(2) by approving unsuitable investments for recommendation to his advisory clients. In addition, the complaint alleged that Frishberg aided and abetted the Section 206(1) and 206(2) violations committed by Albert Fase Kaleta and by DFFS. Frishberg approved investments despite conflicts of interest between himself and DFFS on the one hand and the advisory clients on the other. In particular, Frishberg controlled the company that issued the promissory notes. Moreover, the issuer’s poor financial condition made it unlikely that it could pay its promissory-note obligations. Frishberg knew such conflicts had not been disclosed to clients or recklessly disregarded whether such conflicts had been disclosed to clients.

#### IV.

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

Accordingly, it is hereby ORDERED:

Pursuant to Section 203(f) of the Advisers Act that Respondent Frishberg be, and hereby is barred from association with any broker, dealer, investment adviser, municipal securities dealer, or transfer agent.

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.

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

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Elizabeth M. Murphy  
Secretary

Service List

Rule 141 of the Commission's Rules of Practice provides that the Secretary, or another duly authorized officer of the Commission, shall serve a copy of the Order Instituting Administrative Proceedings Pursuant to Section 203(f) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions (“Order”), on the Respondent and his legal agent.

The attached Order has been sent to the following parties entitled to notice:

Honorable Brenda P. Murray  
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