

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 5880 / September 30, 2021

ADMINISTRATIVE PROCEEDING
File No. 3-20611

In the Matter of

**REDWOOD WEALTH
MANAGEMENT, LLC and
BENJAMIN LINCOLN,**

Respondents.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO SECTIONS 203(e) AND
203(k) OF THE INVESTMENT ADVISERS
ACT OF 1940, MAKING FINDINGS, AND
IMPOSING REMEDIAL SANCTIONS AND
A CEASE-AND-DESIST ORDER**

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”) against Redwood Wealth Management, LLC (“Redwood”) and Benjamin Lincoln (together, “Respondents”).

II.

In anticipation of the institution of these proceedings, Respondents have 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 them and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondents consent to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Sections 203(e) and 203(k) of the Investment Advisers Act of 1940, 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 Respondents' Offer, the Commission finds¹ that

Respondents

1. **Redwood Wealth Management, LLC** is a North Carolina limited liability company, with its principal place of business in Santa Monica, California. It is currently registered with the Commission as an investment adviser. It was not registered with the Commission at the time of the conduct referred to below, but was required to be registered then based on the assets under management stated in Redwood's March 2019 Form ADV. Lincoln is the president of Redwood, and president of its owner and managing member, Redwood Holdings, LLC (also a North Carolina limited liability company). According to its most recently filed Form ADV, Redwood has 80 clients, 30 of them high-net-worth individuals, and has more than \$246 million in assets under management. Redwood has no previous disciplinary history.

2. **Benjamin Lincoln**, age 43, resides in Santa Monica, California. He is Redwood's president and majority owner, and provides investment advice regarding securities to Redwood's clients for compensation. Lincoln holds his series 66 license. Lincoln has no previous disciplinary history.

Violations

3. Redwood is an investment adviser whose clients are mainly high-net-worth individuals with investments in diversified portfolios of securities. Redwood client securities were generally custodied in investment accounts at a Registered Broker Dealer. Redwood's clients, Lincoln, Redwood's Chief Compliance Officer ("CCO") and Redwood's Chief Investment Officer ("CIO") could each monitor client investments maintained by the Registered Broker Dealer through the Registered Broker Dealer's online portal.

4. Redwood's internal compliance policies and procedures provide that "[a]dvisors are prohibited from maintaining custody of client funds or securities without prior written approval from the CCO." Redwood's policies and procedures also ensure that the CCO (and others) have the opportunity to "review accounts in order to identify any accounts that may be managed in a manner that is inconsistent with the objectives and guidelines established by the client" and "analyze investment management and trading practices on a regular basis to detect any existing or potential violations."

5. In 2019, a company (the "Mortgage Company") owned and controlled by one of Lincoln's clients (the "Mortgage Company CEO") desired to raise money for additional capital to help support the Mortgage Company's rapid growth. As an alternative to more traditional financing, Lincoln suggested to the Mortgage Company CEO that some of his high-net-worth

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

clients could lend the Mortgage Company funds, but only if the Mortgage Company would pay a favorable interest rate. The Mortgage Company CEO was receptive, and Lincoln went to several of his clients, suggesting to them a high-yield investment in promissory notes issued by the Mortgage Company. The promissory notes paid rates to Redwood clients of 9 or 10%.

6. To fund the promissory note investments, Lincoln also proposed lines of credit secured by the clients' advisory accounts custodied at the Registered Broker Dealer. Several Redwood clients invested a total of \$30 million in promissory notes issued by the Mortgage Company. The promissory note investments were held outside of the clients' managed accounts, but were significant investments for each client. Redwood and Lincoln received no payment or sales compensation from the Mortgage Company or the Redwood clients in connection with the promissory note investments.

7. Redwood, at Lincoln's direction, placed copies of the promissory notes in each client's online "drop box." The clients' periodic account statements did not reflect the promissory note investments.

8. Because the promissory note investments were not held by the Registered Broker Dealer and were not listed on client account statements, neither the CCO nor the CIO was aware of the promissory note investments, and they had no ability to monitor or evaluate the propriety of the investments as required by Redwood's policy manual. In late 2019, the Mortgage Company repaid all of the Redwood clients who invested in promissory notes early and in full. The Mortgage Company's repayment was made voluntarily and for reasons unrelated to its financial condition. No Redwood client lost money in the promissory note investments.

9. The custody rule is designed to protect investment advisory clients from the misuse or misappropriation of their funds and securities. It requires that advisers who are registered or required to be registered with the Commission who have custody of client funds or securities implement an enumerated set of requirements to prevent loss, misuse, or misappropriation of those assets, including ensuring that a qualified custodian maintains the client assets.

10. An investment adviser has custody of client assets if it holds, directly or indirectly, client funds or securities, or if it has the ability to obtain possession of those assets. *See* Rule 206(4)-2(d)(2).

11. Redwood had custody of its clients' Mortgage Company promissory notes because it had possession of and direct access to them, and it failed to comply with the custody rule requirements, including ensuring that a qualified custodian maintained the client assets.

12. Redwood also failed to comply with the requirement that every investment adviser registered or required to be registered with the Commission adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules thereunder. *See* Rule 206(4)-7(a). While Redwood's written policies and procedures referenced the custody rule, they were not implemented to prevent violations of the rule.

13. Rule 206(4)-2 requires that investment advisers registered or required to be registered with the Commission ensure that a qualified custodian maintains client funds or securities. Rule 206(4)-7 requires, among other things, that an investment adviser registered or required to be registered with the Commission adopt and implement written policies and procedures reasonably designed to prevent violation of the Advisers Act and the rules thereunder.

14. As a result of the conduct described above, Redwood willfully violated, and Lincoln was a cause of Redwood's violations of, Section 206(4) of the Advisers Act and Rules 206(4)-2 and 206(4)-7 thereunder.

Undertakings

15. Redwood shall retain, within sixty (60) days of this Order, at its expense, an Independent Compliance Consultant ("ICC") not unacceptable to the Commission's staff, to conduct a review of Redwood's implementation of its compliance policies and procedures, in particular those relating to Redwood's compliance with the custody rule, Rule 206(4)-2 of the Advisers Act.

16. Redwood shall provide to the Commission staff, within thirty (30) days of retaining the Independent Compliance Consultant, a copy of an engagement letter detailing the ICC's responsibilities, which shall include reviews to be made by the ICC as described in this Order. The ICC's responsibilities shall include the review of Redwood's enforcement of its policies and procedures regarding the custody rule (Section 206(4) of the Advisers Act and Rule 206(4)-2 thereunder).

17. Redwood shall require that, within thirty (30) days from the end of the ICC's Review, which in no event will be more than ninety (90) days after the date of the consultant's retention, the ICC shall submit a written and dated report of its findings to the Commission staff (the "Report"). Redwood shall require that the Report include a description of the review performed, the names of individuals who performed the review, the conclusions reached, any recommendations for changes in or improvements to the enforcement of Redwood's policies and procedures and a procedure for implementing the recommended changes in or improvements to the enforcement of Redwood's policies and procedures.

18. Within thirty (30) days of Redwood's adoption and implementation of all of the recommendations in the ICC's reports that the ICC deems appropriate, as determined pursuant to the procedures set forth herein, Redwood shall certify in writing to the ICC and the Commission staff that Redwood has adopted and implemented all recommendations in the applicable report. The Commission staff may make reasonable requests for further evidence of compliance, and Redwood agrees to provide such evidence.

19. Redwood shall require the ICC 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 ICC shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with Redwood, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity. The agreement will also provide that the

ICC 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 ICC in performance of his/her duties under this Order shall not, without priorwritten consent of the Commission staff, enter into any employment, consultant, attorney-client, auditing or other professional relationship with Redwood, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the periodof the engagement and for a period of two years after the engagement.

20. The reports by the ICC will likely include confidential financial, proprietary, competitive business or commercial information. Public disclosure of thereports could discourage cooperation, impede pending or potential government investigations orundermine the objectives of the reporting requirement. For these reasons, among others, the reports and the contents thereof are intended to remain and shall remain non-public, except (1) pursuant to court order, (2) as agreed to by the parties in writing, (3) to the extent that the Commission determines in its sole discretion that disclosure would be in furtherance of the Commission's discharge of its duties and responsibilities, or (4) is otherwise required by law.

21. Redwood shall certify, in writing, compliance with 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 Redwood agrees to provide such evidence. The certification and supporting material shall be submitted to Matthew McNamara, with a copy to the Office of Chief Counsel of the Enforcement Division, no later than sixty (60) days from the date of the completion of the undertakings.

22. Redwood shall fully cooperate with the ICC and shall provide the ICC with access to such of its files, books, records and personnel as reasonably requested for the ICC's review, including access by on-site inspection.

23. For good cause shown, the Commission staff may extend any of the procedural dates relating to these undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered the last day.

IV.

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

Accordingly, pursuant to Sections 203(e) and 203(k) of the Advisers Act, it is hereby ORDERED that:

A. Respondents cease and desist from committing or causing any violations and any future violations of Section 206(4) of the Advisers Act and Rules 206(4)-2 and 206(4)-7 promulgated thereunder.

B. Redwood is censured.

C. Lincoln shall, within 30 days of the entry of this Order, pay a civil money penalty in the amount of \$20,000 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.

D. Redwood shall, within 30 days of the entry of this Order, pay a civil money penalty in the amount of \$50,000 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 Respondent's name 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 Justin Jeffries, Division of Enforcement, Securities and Exchange Commission, 950 East Paces Ferry Road, Suite 900, Atlanta, GA 30326.

E. 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, Respondents agree that in any Related Investor Action, they shall not argue that they are entitled to, nor shall they 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, Respondents agree that they 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.

F. Redwood shall comply with the undertakings enumerated in Paragraphs 15 through 23 above.

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 Lincoln, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent Lincoln 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 Lincoln 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