

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 81460 / August 22, 2017

INVESTMENT ADVISERS ACT OF 1940
Release No. 4754 / August 22, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-18129

In the Matter of

BRIAN MICHAEL BERGER,

Respondent.

ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 15(b) OF THE
SECURITIES EXCHANGE ACT OF 1934
AND SECTION 203(f) OF THE
INVESTMENT ADVISERS 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 proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”) and Section 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against Brian Michael Berger (“Respondent” or “Berger”).

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENT

1. Berger, age 40, of Coral Springs, Florida, is presently in the custody of the Federal Bureau of Prisons. Berger was associated with Wells Fargo Advisors, LLC from July 2010 through June 2014, and with MetLife Securities, Inc. from June 2014 through April 2015, both broker-dealers and investment advisers registered with the Commission. From April 2015 through June 2015, Berger was associated with Newbridge Securities Corporation and Newbridge Financial Services Group, Inc., respectively a broker-dealer and investment adviser registered with the Commission. From June 2015 through July 2015, Berger was associated with Oak Grove, LLC, an investment adviser registered with the Commission. Additionally, prior to July 2010 and since 1999, Berger was associated with other registered broker-dealers.

B. RESPONDENT'S CRIMINAL CONVICTION

2. On November 22, 2016, Berger pleaded guilty to three counts of wire fraud in violation of Title 18, United States Code, Section 1343, before the United States District Court for the Southern District of Florida. *United States v. Brian M. Berger*, Case No. 9:16-CR-80167-DTKH-1 (S.D. Fla.). On February 1, 2017, a judgment in the criminal case was entered against Berger. He was sentenced to a prison term of 18 months followed by three years of supervised release and was ordered to pay restitution in the amount of \$372,643.00.

3. In connection with that plea, Respondent admitted that between April 2013 and September 2015, he engaged in a scheme to defraud and used his position to either transfer money from client investment accounts to which he had access or convince clients to give him money to invest in non-existent businesses. Respondent admitted to the FBI that he utilized unauthorized transfers from client accounts to pay his personal Discover credit card account and obtained money for personal use by taking cash advances from that same Discover credit card account. He also admitted to making unauthorized withdrawals from the accounts of two clients. Respondent further admitted to taking through his fraud schemes a total of \$372,643.00.

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 proceedings be instituted to determine:

- A. Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford Respondent an opportunity to establish any defenses to such allegations;
- B. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 15(b) of the Exchange Act;
- C. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 203(f) of the Advisers Act; and
- D. Whether, pursuant to Section 15(b) of the Exchange Act, it is appropriate and in the public interest to suspend or bar Respondent from participating in any offering of penny stock, including: acting as a promoter, finder, consultant, agent or other person who engages in activities with a broker, dealer or issuer for purposes of the issuance or trading in any penny stock; or inducing or attempting to induce the purchase or sale of any penny stock.

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 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 Respondent 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 Respondent fails to file the directed answer, or fails to appear at a hearing after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against him 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 Respondent as provided for in the Commission's Rules of Practice.

IT IS FURTHER ORDERED that, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice, 17 C.F.R. § 201.360(a)(2), the Administrative Law Judge shall issue an initial decision no later than 75 days from the occurrence of one of the following events: (A) The completion of post-hearing briefing in a proceeding where the hearing has been completed; (B) Where the hearing officer has determined that no hearing is necessary, upon completion of briefing on a motion pursuant to Rule 250 of the Commission's Rules of Practice, 17 C.F.R. § 201.250; or (C) The determination by the hearing officer that a party is deemed to be in default under Rule 155 of the Commission's Rules of Practice, 17 C.F.R. § 201.155, and no hearing is necessary.

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.

Brent J. Fields
Secretary