

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**  
**May 26, 2009**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-13484**

**In the Matter of**

**JOSE DANIEL IRIARTE, JR.,**

**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 Jose Daniel Iriarte, Jr. (“Respondent” or “Iriarte”).

**II.**

After an investigation, the Division of Enforcement alleges that:

**A.     RESPONDENT**

1.       At all relevant times in which he engaged in the misappropriation of customer funds, which is the conduct underlying the indictment and criminal conviction described below, Iriarte was a registered broker-dealer representative at a company that is registered with the Commission as a broker-dealer and an investment adviser. Respondent, 37 years old, is currently incarcerated at the Federal Correctional Institute in Cumberland, Maryland.

**B.     ENTRY OF THE RESPONDENT’S CRIMINAL CONVICTION**

2.       On August 19, 2008, Iriarte pled guilty to the sole count of an indictment charging him with wire fraud involving the misappropriation of customer funds. *U.S. v. Jose*

*Daniel Iriarte*, Criminal No. RWT-08-0294 (D. Md. 2008). On January 23, 2009, Iriarte was sentenced to a prison term of eighteen months to be followed by three years of supervised release, and was ordered, among other things, to make restitution in the amount of \$130,000.

3. The indictment alleged, and the Respondent in his plea agreement admitted, that in April 2007, while employed as a financial adviser for a registered broker-dealer and investment adviser, Iriarte committed wire fraud by knowingly transmitting and causing to be transmitted in interstate commerce, by means of a wire communication, a wire transfer of \$130,000. The \$130,000 was given to Iriarte by one of his brokerage customers for purposes of investment. However, instead of depositing the funds in that customer's account, Iriarte deposited the funds into the account of another of his brokerage customers in order to repay a personal debt.

4. Respondent's federal convictions are offenses specified in Section 15(b)(6)(A)(ii), incorporating by reference Section 15(b)(4)(B)(iii) of the Exchange Act and Section 203(f), incorporating by reference Section 203(e)(2)(C) of the Advisers Act.

### **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 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

### **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 personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 210 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