

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 68499 / December 20, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-15147

In the Matter of

David E. Ruskjer,

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
PROCEEDINGS PURSUANT TO SECTION
15(b) OF THE SECURITIES EXCHANGE
ACT OF 1934 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”), against David E. Ruskjer (“Respondent” or “Ruskjer”).

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENT

1. From about September 2004 to December 2008, Ruskjer, individually and doing business as Ruskjer & Associates, raised approximately \$16 million from at least 140 investors nationwide by selling and offering to sell securities in the form of promissory notes purportedly paying fixed monthly interest rates ranging from 3% to 5%, and making various fraudulent representations about the notes, as set forth below. No registration statement was ever filed or in effect with the Commission for the offering of the notes. During the period in which he engaged in the conduct underlying the conviction and injunction described below, Respondent was also acting as an unregistered broker-dealer. Respondent, 60 years old, was a resident of Koloa, Hawaii, during the period of the relevant conduct; he is currently incarcerated in federal prison in Sheridan, Oregon, serving a 120 month prison sentence as a result of his conviction described below.

B. RESPONDENT'S CRIMINAL CONVICTION AND ENTRY OF THE INJUNCTION

2. On, September 26, 2011, Ruskjer was found guilty in a jury trial of sixteen counts of mail fraud in violation of Title 18 United States Code, Sections 1341 and 1343, two counts of structuring financial transactions in violation of Title 31 United States Code, Sections 5324(a)(3) and (d)(2), and twenty-two counts of money laundering in violation of Title 18 United States Code, Section 1957, before the United States District Court for the District of Hawaii, in United States v. David E. Ruskjer, Case No. 1:09-CR-249-HG. On January 11, 2012, a judgment in the criminal case was entered against Ruskjer. He was sentenced to a prison term of 120 months followed by three years of supervised release and ordered to make restitution in the amount of \$11,586,334.85.

3. The counts of the criminal indictment as to which Ruskjer was found guilty, alleged, among other things, that Ruskjer defrauded investors and obtained money and property by means of materially false and misleading statements in connection with the fraudulent sale of notes underlying the Commission's complaint described in Paragraph 5 below.

4. On September 28, 2012, a final judgment was entered following the Court granting the Commission's motion for summary judgment against Ruskjer, permanently enjoining him from future violations of Sections 5 and 17(a) of the Securities Act of 1933, and Sections 10(b) and 15(a) of the Exchange Act and Rule 10b-5 thereunder, in the civil action entitled Securities and Exchange Commission v. David E. Ruskjer, Civil Action Number 1:09-CV-00237-HG, in the United States District Court for the District of Hawaii.

5. The Commission's complaint alleged that, from about September 2004 to December 2008, Ruskjer, individually and doing business as Ruskjer & Associates, raised approximately \$16 million from at least 140 investors nationwide by selling and offering to sell securities in the form of promissory notes purportedly paying fixed monthly interest rates ranging from 3% to 5%. No registration statement was ever filed or in effect with the Commission for the offering of the notes. Ruskjer personally solicited prospective investors at presentations at places like coffee shops, hotel lounges, and private residences. Ruskjer represented to investors that he had a lucrative investment strategy for selling call options that emphasized "safety first" and "doesn't rely on speculation." He also told investors that he used their funds to operate his trading strategy, made 5% to 5.5% per month from such trading, and used these profits to pay investors their returns. Contrary to Ruskjer's representations, from September 2004 through December 2008, Ruskjer used only \$7.9 million (or about half of the \$16 million raised) to trade securities and incurred \$2.6 million in trading losses for a cumulative loss of 95% and an average thirty-day return of negative 5.8%. Ruskjer used about \$5.5 million to pay purported returns to investors and misappropriated the remaining investor funds for personal expenses, including \$523,466 to purchase a condominium. During the period in which he engaged in the conduct underlying the conviction and injunction described above, Respondent was also acting as an unregistered broker-dealer.

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; and

B. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 15(b) of the Exchange Act.

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