

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 76432 / November 12, 2015

INVESTMENT ADVISERS ACT OF 1940
Release No. 4262 / November 12, 2015

INVESTMENT COMPANY ACT OF 1940
Release No. 31900 / November 12, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16955

In the Matter of

**METIS WEALTH
ADVISORS, LLC and
JUAN R. MONTERMOSO,**

Respondents.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO SECTIONS 21C OF THE
SECURITIES EXCHANGE ACT OF 1934,
SECTIONS 203(e), 203(f) AND 203(k) OF THE
INVESTMENT ADVISERS ACT OF 1940,
AND SECTION 9(b) OF THE INVESTMENT
COMPANY 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 21C of the Securities Exchange Act of 1934 (“Exchange Act”), Sections 203(e), 203(f) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”), and Section 9(b) of the Investment Company Act of 1940 (“Investment Company Act”) against Metis Wealth Advisors, LLC and Juan R. Montermoso (collectively, “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 21C of the Securities Exchange Act of 1934, Sections 203(e), 203(f) and 203(k) of the Investment Advisers Act of 1940 and Section 9(b) of the Investment Company 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 finds that:

Respondents

1. Juan R. Montermoso (“Montermoso”), age 43, is a resident of Issaquah, Washington. He is a former Financial Industry Regulatory Authority (“FINRA”) registered representative who held Series 7, 24, 31, 63, and 65 licenses. From 2003 until July 2010, Montermoso was associated sequentially with two different registered broker-dealers, subsequent to which Montermoso contracted with a third registered broker-dealer for custodial, execution, clearing and back-office services in connection with the investment advisory firm he formed in 2010: Metis Wealth Advisors, LLC. In November 2011, FINRA permanently barred Montermoso for failing to respond to its requests for information pursuant to FINRA Rule 8210.

2. Metis Wealth Advisors, LLC (“Metis”) was registered in Virginia as an investment adviser during the period July 2010 through December 2010. Montermoso was Metis’s owner, president, chief investment officer, and managing member. From July 2010 until June 2014, Montermoso conducted an investment advisory business through Metis. From July 2010 until December 2011, a registered broker-dealer executed transactions ordered by Montermoso in Metis client accounts.

Background

3. After working as a broker at two different firms for seven years, in July 2010 Montermoso began conducting investment advisory business through his newly-formed Metis Wealth Advisors, LLC. Montermoso registered Metis as an investment adviser in Virginia and transferred approximately 40 accounts to the new firm. He entered into an arrangement with a broker-dealer to execute trades for Metis and provide back-office services to it.

4. In September 2010, shortly after Montermoso formed Metis, one of his clients at his previous firm, (“Client 1”), had a \$28,000 portfolio containing securities that were traded on the NYSE or NASDAQ. Client 1 told Montermoso she wanted to sell the investments and transfer the proceeds to her savings account. Montermoso omitted to inform her that she could instruct her brokerage firm—the one Montermoso had recently left—to sell the securities from her account and remit the sale proceeds to her bank account. Instead, he persuaded Client 1 to transfer her account to Metis so that he could “manage the liquidations after the transfer.” Montermoso assured her the securities in the account would be liquidated and the sale proceeds transferred to her bank account, all within a few days of the account being transferred. Client 1 followed Montermoso’s advice and transferred her account to Metis in September 2010.

5. Contrary to Montermoso's assurance, he did not immediately sell all of the securities or send her the proceeds. He sold one of the securities in early October, but Client 1 did not receive the first payment, a check for about one-third of the value of the account before the transfer, until October 31, 2010. She received a second payment in December 2010. But this time the payment did not come from Client 1's brokerage account. Rather, Montermoso wired it from his personal bank account. Montermoso made two more payments to Client 1 from his personal bank account in February 2011—six months after she instructed him to liquidate her account. The value of the account continued to decline due to the decline in value of underlying investments and due to fees withdrawn by Metis's back-office firm. Montermoso did not complete the sales of the securities until August 2011, after which \$5,812.95 remained in the account. Montermoso ordered the liquidation of the securities in order to draw the remaining funds, which he deemed to be an investment advisory fee and transfer them to his personal account. He then instructed the broker-dealer to close the account. If Montermoso had liquidated Client 1's account in September 2010, when ordered to do so, he would not have been entitled to this fee, and the client would have received the full balance of her account at that time.

6. On December 31, 2010, Metis' investment advisory registration in Virginia lapsed and Montermoso failed to renew it. Montermoso omitted to inform his clients that Metis's registration had lapsed, but continued to maintain his advisory relationship with Client 1 through August 2011. He also continued to maintain his advisory relationship with his other clients through December 2011, except in the case of Client 2, discussed below. In November 2011, FINRA barred Montermoso after he failed to respond to its information request arising from a dispute Montermoso had with a former client. Montermoso omitted to inform his clients of the FINRA bar. In December 2011, after learning of these events, the broker-dealer with which Metis contracted to execute its clients' transactions terminated its relationship with Metis.

7. Another Metis/Montermoso client, ("Client 2"), a retired widow, had for a number of years been drawing from her account monthly cash distributions of \$5,000 or more. By 2010, however, her portfolio value had diminished to the point that her assets could not generate the cash for distributions. Rather than informing Client 2 that she could not afford the distributions, in September 2010 Metis and Montermoso began wiring her cash each month from Montermoso's personal bank account while leading her to believe that her own assets were the source of the distributions. By June 2014, Montermoso had transferred more than \$320,000 to Client 2. These transfers of money led her to believe for over three years that she held assets that would support a more extravagant lifestyle than she could in fact afford. Montermoso transferred an additional \$187,500 to Client 2 to settle her potential claims, such that the total that Montermoso transferred to Client 2 from his personal account totaled more than \$507,000.

8. From 2012 until June 2014, Metis and Montermoso misled Client 2 into believing that he was still a registered representative, that Metis was still a registered investment adviser, and that she remained Metis' investment advisory client. Specifically, he omitted to inform her that he had been barred by FINRA, and continued his advisory relationship with her after November 2011.

9. By July 2012, Client 2's two brokerage accounts held assets worth \$25,000 and \$67,000, respectively. At that time, Montermoso communicated to her that "[f]ortunately, we are ahead of pace for the year which means I can afford to take additional cash over and above the \$5000 monthly withdrawal." In the same communication, Montermoso told Client 2 that she had another brokerage account worth \$271,000, as well as a bond fund worth \$68,000. Neither the brokerage account nor the bond fund existed.

10. To further the illusion that Client 2's assets were generating the distributions, Montermoso created a phantom brokerage account in the client's name. He did so by providing her with an Automated Customer Account Transfer Service ("ACATS") form¹ for the brokerage firm to which her holdings were ostensibly being transferred, fabricating account statements and periodically emailing them to her, as well as emailing her regarding the amount and nature of the nonexistent holdings. The account statements, which bore the legend of Metis Wealth Advisors, purported to reflect her securities holdings, the securities transactions through her account and its value. The list of securities that appeared on the account statements was fictitious and the securities transactions described in them never took place. The first fictitious account statement, purporting to cover the period ended June 2012, reflected investments worth \$333,000. A later fictitious account statement—purporting to cover the period ended May 2014—reflected that Client 2's assets had grown dramatically in less than two years, to \$624,000. During this period, Metis and Montermoso continued to advise Client 2 on investing in, purchasing, or selling securities and, in communications with her, misrepresented that Metis was still a registered investment adviser.

11. As a result of the conduct described above, Montermoso and Metis willfully violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in connection with the purchase or sale of securities.

12. As a result of the conduct described above, Montermoso and Metis willfully violated Sections 206(1) and 206(2) of the Advisers Act, which prohibit fraudulent conduct by an investment adviser.

13. As a result of the conduct described above, Montermoso willfully aided and abetted and caused Metis's violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and Sections 206(1) and 206(2) of the Advisers Act, which prohibit fraudulent conduct in connection with the purchase or sale of securities and prohibit fraudulent conduct by an investment adviser, respectively.

IV.

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

¹ ACATS is a system that facilitates the transfer of securities from one trading account to another at a different brokerage firm or bank.

Accordingly, pursuant to Sections 21C of the Exchange Act, Sections 203(e), 203(f) and 203(k) of the Advisers Act, and Section 9(b) of the Investment Company Act, it is hereby ORDERED that:

A. Respondents cease and desist from committing or causing any violations and any future violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and Sections 206(1) and 206(2) of the Advisers Act.

B. Respondent Metis is censured; and

prohibited from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter.

C. Respondent Montermoso be, and hereby is:

barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; and

prohibited from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter.

D. Any reapplication for association by the Respondents 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 Respondents, 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.

E. Respondents shall, jointly and severally, pay disgorgement of \$5,812.95, which represents profits gained as a result of the conduct described herein, prejudgment interest of \$677.97 and civil penalties of \$65,000.00 to the Securities and Exchange Commission. Payment shall be made in the following installments:

- 1) Within 14 days of the entry of this Order, disgorgement of \$5,812.95, prejudgment interest of \$677.97 and penalties of \$17,872.73;
- 2) Within 180 days of the entry of this Order, penalties of \$29,254.54; and

3) Within 365 days of the entry of this Order, penalties of \$17,872.73.

If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of disgorgement, prejudgment interest, and civil penalties, plus any additional interest accrued pursuant to SEC Rule of Practice 600, or pursuant to 31 U.S.C. 3717, shall be due and payable immediately, without further application. Payment must be made in one of the following ways:

- (1) Respondents may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondents 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) Respondents 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 Montermoso and Metis as Respondents 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 Stephen L. Cohen, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549-5553.

F. Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, a Fair Fund is created for the disgorgement, interest, and penalties referenced in paragraph E above. Regardless of whether any such Fair Fund distribution is made, 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 Respondents' 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 these proceedings. For

purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondents 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 these proceedings.

G. After receipt of the disgorgement, interest, and penalties referenced in paragraph E above, the Commission shall, within 30 days, make a payment of \$5,885.55 (the disgorgement amount of \$5812.95 plus interest in the amount of \$72.60, calculated at the Federal short-term rate) to Client 1. The Commission staff will seek the appointment of a tax administrator in regard to the payment to Client 1 as it constitutes a payment from a qualified settlement fund ("QSF") under section 468B(g) of the Internal Revenue Code (IRC), 26 U.S.C. § 468B(g), and related regulations, 26 C.F.R. §§ 1.468B-1 through 1.468B-5. Taxes, if any, and related administrative expenses shall be paid from the funds remaining after the payment has been made to Client 1. After the distribution payment and all taxes and administrative expenses are paid, the Commission staff will transfer the remaining funds to the general fund of the United States Treasury subject to Exchange Act Section 21F(g)(3).

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

Brent J. Fields
Secretary