

INITIAL DECISION RELEASE NO. 515-A  
ADMINISTRATIVE PROCEEDING  
FILE NO. 3-15513

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

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In the Matter of : CORRECTED<sup>1</sup> INITIAL DECISION MAKING FINDINGS  
: AND IMPOSING SANCTIONS BY DEFAULT<sup>2</sup>  
JAMES R. LANIER : November 19, 2013

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**SUMMARY**

This Corrected Initial Decision bars James R. Lanier (Lanier) from the securities industry.

**I. BACKGROUND**

The Securities and Exchange Commission (Commission) instituted this proceeding with an Order Instituting Proceedings (OIP) on September 23, 2013, pursuant to Sections 15(b) of the Securities Exchange Act of 1934 (Exchange Act) and 203(f) of the Investment Advisers Act of 1940 (Advisers Act). The OIP alleges that Lanier was convicted of wire fraud, mail fraud, money laundering, and aggravated identity theft. Lanier was served with the OIP in accordance with 17 C.F.R. § 201.141(a)(2)(i) on September 27, 2013, and his Answer to the OIP was due within twenty days of service of the OIP on him. See OIP at 2; 17 C.F.R. § 201.220(b). He has not filed an Answer to date. Accordingly, he has failed to answer or otherwise to defend the proceeding within the

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<sup>1</sup> This Corrected Initial Decision supplements the Initial Decision issued on November 5, 2013, by adding the required language from 17 C.F.R. § 201.360. There are no other changes except adding the word “Corrected” in the caption and Summary paragraph, changing the release number and date, adding this footnote, and renumbering existing footnotes.

<sup>2</sup> This action is issued as an initial decision, pursuant to 17 C.F.R. § 201.360, rather than as a default order pursuant to 17 C.F.R. § 201.155. See Alchemy Ventures, Inc., Exchange Act Release No. 70708 (Oct. 17, 2013) at 6 (“find[ing] that issuing initial decisions in cases of default is the proper approach going forward”). See also AcuNetx, Inc., Initial Decision Release No. 510 (A.L.J. Oct. 23, 2013) at 1 n.1; Am. Energy Prod., Inc., Initial Decision Release No. 509 (A.L.J. Oct. 23, 2013) at 1 n.1 The same reasoning applies in “follow-on” proceedings, like the instant proceeding, based on a previous conviction or injunction as in the cited cases authorized pursuant to Section 12(j) of the Securities Exchange Act of 1934 to revoke the registration of a corporation’s registered securities.

meaning of 17 C.F.R. § 201.155(a)(2). Therefore, Lanier is in default, and the undersigned finds that the allegations in the OIP are true as to him.<sup>3</sup> See OIP at 2; 17 C.F.R. §§ 201.155(a), .220(f).

## II. FINDINGS OF FACT

Lanier was convicted of wire fraud, mail fraud, money laundering, and aggravated identify theft. United States v. Lanier, No. 4:12-cr-51 (N.D. Fla. Mar. 8, 2013). He was sentenced to 106 months of incarceration and a five-year term of post-release supervision and ordered to pay \$887,931 in restitution. Lanier had been employed from August 2007 to April 2010 as a registered representative and investment adviser representative of Merrill Lynch, Pierce, Fenner & Smith Incorporated (Merrill Lynch), a dually registered broker-dealer and investment adviser. In the wrongdoing underlying his conviction, between September 2008 and March 2010, Lanier misappropriated \$887,931 from the advisory and/or brokerage accounts of Merrill Lynch clients and customers. Lanier forged letters purportedly authorizing the transfer of customer and/or client funds to bank accounts controlled by Lanier. Among other things, Lanier used customer and/or client funds to purchase a condominium, vehicles, and an interest in a cellular telecommunications business. To conceal his fraud, Lanier transferred a portion of the misappropriated funds to bank accounts of customers and/or clients who requested liquidation of their Merrill Lynch accounts.

## III. CONCLUSIONS OF LAW

Lanier has been convicted within ten years of the commencement of this proceeding of a felony that “arises out of the conduct of the business of a broker, dealer, . . . [or] investment adviser” and “involves the violation of section[s] . . . 1341 [and] 1343 . . . of title 18, United States Code” within the meaning of Sections 15(b)(4)(B)(ii), (iv) and 15(b)(6) of the Exchange Act and Sections 203(e)(2)(B), (D) and 203(f) of the Advisers Act.

## IV. SANCTION

Lanier will be barred from the securities industry. This sanction will serve the public interest and the protection of investors, pursuant to Section 15(b)(6) of the Exchange Act and 203(f) of the Advisers Act, and accord with Commission precedent and the sanction considerations set forth in Steadman v. SEC, 603 F.2d 1126, 1140 (5th Cir. 1979). Lanier’s unlawful conduct was recurring and egregious. Extending over a period of several years, it involved hundreds of thousands of dollars.

## V. ORDER

IT IS ORDERED that, pursuant to Section 15(b) of the Securities Exchange Act of 1934, 15 U.S.C. § 78o(b), and Section 203(f) of the Investment Advisers Act of 1940, 15 U.S.C. § 80b-3(f), JAMES R. LANIER IS BARRED from associating with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization and from participating in an offering of penny stock.<sup>4</sup>

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<sup>3</sup> Lanier was advised that if he failed to file an Answer within the time provided, he would be deemed to be in default, and the undersigned would enter an order barring him from the securities industry. See James R. Lanier, Admin. Proc. Rulings Release No. 970 (A.L.J. Oct. 18, 2013).

<sup>4</sup> Thus, he will be barred from acting as a promoter, finder, consultant, or agent; or otherwise engaging in activities with a broker, dealer, or issuer for purposes of the issuance or trading in any

This Initial Decision shall become effective in accordance with and subject to the provisions of Rule 360 of the Commission's Rules of Practice, 17 C.F.R. § 201.360. Pursuant to that Rule, a party may file a petition for review of this Initial Decision within twenty-one days after service of the Initial Decision. A party may also file a motion to correct a manifest error of fact within ten days of the Initial Decision, pursuant to Rule 111 of the Commission's Rules of Practice, 17 C.F.R. § 201.111. If a motion to correct a manifest error of fact is filed by a party, then that party shall have twenty-one days to file a petition for review from the date of the undersigned's order resolving such motion to correct a manifest error of fact. The Initial Decision will not become final until the Commission enters an order of finality. The Commission will enter an order of finality unless a party files a petition for review or a motion to correct a manifest error of fact or the Commission determines on its own initiative to review the Initial Decision as to a party. If any of these events occur, the Initial Decision shall not become final as to that party.<sup>5</sup>

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Carol Fox Foelak  
Administrative Law Judge

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penny stock, or inducing or attempting to induce the purchase or sale of any penny stock, pursuant to Exchange Act Section 15(b)(6)(A), (C).

<sup>5</sup> A respondent may also file a motion to set aside a default pursuant to 17 C.F.R. § 201.155(b). See Alchemy Ventures, Inc., Exchange Act Release No. 70708, 2013 SEC Lexis 3459, at \*5-6 (Oct. 17, 2013) at 5-6.