

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 86820 / August 29, 2019

Admin. Proc. File No. 3-19006

In the Matter of
ERNEST J. ROMER, III

ORDER TO SHOW CAUSE

On February 22, 2019, the Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) against Ernest J. Romer, III, pursuant to Section 15(b) of the Securities Exchange Act of 1934.¹ On July 8, 2019, the Division of Enforcement filed a status report, in which it stated that a copy of the OIP addressed to Romer was signed for at Kinross Correctional Facility by March 9, 2019, and that Romer was imprisoned at Kinross from February 12 until March 12, 2019, when he was transferred to Newberry Correctional Facility. The Division further stated that it “has met its service obligations under Rule 141(a)(2)(i)” of the Commission’s Rules of Practice.²

As stated in the OIP, Romer’s answer was required to be filed within 20 days of service of the OIP.³ As of the date of this order, Romer has not filed an answer. The prehearing conference and the hearing are thus continued indefinitely.

Accordingly, Romer is ORDERED to SHOW CAUSE by October 14, 2019, why he should not be deemed to be in default and why this proceeding should not be determined against him due to his failure to file an answer and to otherwise defend this proceeding. When a party

¹ *Ernest J. Romer, III*, Exchange Act Release No. 85177, 2019 WL 857541; *see* 15 U.S.C. § 78o(b).

² 17 C.F.R. § 201.141(a)(2)(i). According to the Division’s status report, Romer may have been transferred away from Kinross soon after a copy of the OIP was received there. We have included as Exhibit 1 to this order a copy of the OIP, which may also be found online at <https://www.sec.gov/litigation/admin/2019/34-85177.pdf>.

³ *Romer*, 2019 WL 857541, at *2; 17 C.F.R. §§ 201.151(a), 201.160(b), 201.220(b).

defaults, the allegations in the OIP will be deemed to be true and the Commission may determine the proceeding against that party upon consideration of the record without holding a public hearing.⁴ The OIP informed Romer that a failure to file an answer could result in him being deemed in default and the proceedings determined against him.⁵

If Romer files a response to this order to show cause, the Division may file a reply within 28 days after its service. If Romer does not file a response, the Division shall file a motion for default and other relief by October 28, 2019. The motion for default and other relief may be accompanied by additional evidence pertinent to the Commission's individualized assessment of whether the requested relief is appropriate and in the public interest.⁶ The parties may file opposition and reply briefs within the deadlines provided by the Rules of Practice.⁷ The failure to timely oppose a dispositive motion is itself a basis for a finding of default⁸; it may result in the determination of particular claims, or the proceeding as a whole, adversely to the non-moving party and may be deemed a forfeiture of arguments that could have been raised at that time.⁹

While the Commission's Rules of Practice require that a hard copy of any filing be delivered to the Commission's Office of the Secretary,¹⁰ the parties are reminded that to the extent possible we request that an electronic courtesy copy of each filing also be emailed to APFilings@sec.gov in PDF text-searchable format.

⁴ 17 C.F.R. §§ 201.155, 201.180.

⁵ *Romer*, 2019 WL 857541, at *2.

⁶ See generally *Rapoport v. SEC*, 682 F.3d 98, 108 (D.C. Cir. 2012) (requiring “meaningful explanation for imposing sanctions”); *McCarthy v. SEC*, 406 F.3d 179, 190 (D.C. Cir. 2005) (“each case must be considered on its own facts”); *Gary McDuff*, Exchange Act Release No. 74803, 2015 WL 1873119, at *1 (Apr. 23, 2015); *Ross Mandell*, Exchange Act Release No. 71668, 2014 WL 907416, at *2 (Mar. 7, 2014), *vacated in part on other grounds*, Exchange Act Release No. 77935, 2016 WL 3030883 (May 26, 2016); *Don Warner Reinhard*, Exchange Act Release No. 61506, 2010 WL 421305, at *3-4 (Feb. 4, 2010), *appeal after remand*, Exchange Act Release No. 63720, 2011 WL 121451, at *5-8 (Jan. 14, 2011).

⁷ See 17 C.F.R. §§ 201.154, 201.160.

⁸ See 17 C.F.R. § 201.155(a)(2), 201.180(c); see, e.g., *Benham Halali*, Exchange Act Release No. 79722, 2017 WL 24498, at *3 n.12 (Jan. 3, 2017).

⁹ See, e.g., *McBarron Capital LLC*, Exchange Act Release No. 81789, 2017 WL 4350655, at *3-5 (Sep. 29, 2017); *Bennett Group Fin. Servs., LLC*, Exchange Act Release No. 80347, 2017 WL 1176053, at *2-3 (Mar. 30, 2017); *Apollo Publ'n Corp.*, Securities Act Release No. 8678, 2006 WL 985307, at *1 n.6 (Apr. 13, 2006).

¹⁰ See 17 C.F.R. § 201.151.

Upon review of the filings in response to this order, the Commission will either direct further proceedings by subsequent order or issue a final opinion and order resolving the matter.

For the Commission, by the Office of the General Counsel, pursuant to delegated authority.

Vanessa A. Countryman
Secretary

EXHIBIT 1

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 85177 / February 22, 2019

ADMINISTRATIVE PROCEEDING
File No. 3-19006

In the Matter of

ERNEST J. ROMER, III

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 Ernest J. Romer, III (“Respondent” or “Romer”).

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENT

1. From 2005 through July 2012, Romer was a registered representative associated with Leonard & Company, a broker-dealer registered with the Commission. From July 2012 through September 2012, Romer was a registered representative associated with L.M. Kohn & Company, a broker-dealer registered with the Commission. From October 2012 until his termination in January 2017, Romer was a registered representative associated with CoreCap Investments, Inc., a broker-dealer registered with the Commission since 1996. Respondent, 57 years old, is a former resident of Shelby Township, Michigan.

B. RESPONDENT'S CRIMINAL CONVICTION

2. Between July 30, 2018 and October 9, 2018, Romer pled "no contest" to 13 counts of embezzlement in violation of Michigan Compiled Laws 750.174, a felony, before the Macomb County Circuit Court in People v. Ernest Julius Romer III.¹ On December 5, 2018, Romer was convicted on the 13 counts of embezzlement and sentenced to 85 to 240 months in prison and ordered to pay \$2,650,000 in restitution.

3. The embezzlement counts of the criminal complaints to which Romer pled no contest and to which he was convicted alleged, among other things, that as an agent, servant, or employee of certain named persons and/or being a trustee, bailee, or custodian of the property of such named persons, did convert to his own use or take or secrete with intent to convert to his own use, without consent of his principal, money or personal property of his principal having a value ranging from between \$20,000 to \$50,000 and/or \$100,000 or more, that came into his possession or under his charge or control by virtue of his relationship with the principal.

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; and

C. 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 before the Commission 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 by further order of the Commission, pursuant to Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

¹ The State of Michigan charged each case separately by victim. The criminal cases are: *People of the State of Michigan v. Ernest Julius Romer, III*, 2017-004385-FH (Nov. 30, 2017), 2017-004386-FH (Nov. 30, 2017), 2018-000798-FH (March 8, 2018), 2018-000799-FH (March 8, 2018), 2018-000800-FH (March 8, 2018), 2018-001614-FH (May 17, 2018), 2018-001615-FH (May 17, 2018), 2018-001618-FH (May 17, 2018), 2018-001622-FH (May 21, 2018), 2018-002858-FH (Aug. 20, 2018), 2018-002859-FH (Aug. 20, 2018), 2018-002860-FH (Aug. 20, 2018), and 2018-003258-FH (Sep. 20, 2018).

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(b) of the Commission's Rules of Practice, 17 C.F.R. § 201.220(b).

IT IS FURTHER ORDERED that the Division of Enforcement and Respondent shall conduct a prehearing conference pursuant to Rule 221 of the Commission's Rules of Practice, 17 C.F.R. § 201.221, within fourteen (14) days of service of the Answer. The parties may meet in person or participate by telephone or other remote means; following the conference, they shall file a statement with the Office of the Secretary advising the Commission of any agreements reached at said conference. If a prehearing conference was not held, a statement shall be filed with the Office of the Secretary advising the Commission of that fact and of the efforts made to meet and confer.

If Respondent fails to file the directed Answer, or fails to appear at a hearing or conference after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against her 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 by any means permitted by the Commission's Rules of Practice.

Attention is called to Rule 151(b) and (c) of the Commission's Rules of Practice, 17 C.F.R. § 201.151(b) and (c), providing that when, as here, a proceeding is set before the Commission, all papers (including those listed in the following paragraph) shall be filed with the Office of the Secretary and all motions, objections, or applications will be decided by the Commission. The Commission requests that an electronic courtesy copy of each filing should be emailed to APFilings@sec.gov in PDF text-searchable format. Any exhibits should be sent as separate attachments, not a combined PDF.

The Commission finds that it would serve the interests of justice and not result in prejudice to any party to provide, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), that notwithstanding any contrary reference in the Rules of Practice to filing with or disposition by a hearing officer, all filings, including those under Rules 210, 221, 222, 230, 231, 232, 233, and 250 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.210, 221, 222, 230, 231, 232, 233, and 250, shall be directed to and, as appropriate, decided by the Commission, and that any motion for summary disposition shall be filed under Rule 250(a) or (b).

The Commission finds that it would serve the interests of justice and not result in prejudice to any party to provide, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), that the Commission shall issue a decision on the basis of the record in this proceeding, which shall consist of the items listed at Rule 350(a) of the Commission's Rules of Practice, 17 C.F.R. § 201.350(a), and any other document or item filed with the Office of the Secretary and accepted into the record by the Commission. The provisions of Rule 351 of the Commission's Rules of Practice, 17 C.F.R. § 201.351, relating to preparation and certification of a record index by the Office of the Secretary or the hearing officer are not applicable to this proceeding.

The Commission will issue a final order resolving the proceeding after one of the following: (A) The completion of post-hearing briefing in a proceeding where the public hearing has been completed; (B) The completion of briefing on a motion for a ruling on the pleadings or a motion for summary disposition pursuant to Rule 250 of the Commission's Rules of Practice, 17 C.F.R. § 201.250, where the Commission has determined that no public hearing is necessary; or (C) The determination 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 public 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.

For the Commission, by its Secretary, pursuant to delegated authority.

✓ Brent J. Fields
Secretary