UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 9807 / June 16, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16594

In the Matter of

EQUITY TRUST COMPANY,

Respondent.

ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 8A OF THE SECURITIES ACT OF 1933 AND NOTICE OF HEARING

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 ("Securities Act") against Equity Trust Company ("Respondent" or "Equity Trust").

II.

After investigation, the Division of Enforcement alleges that:

Summary

1. These proceedings arise out of the role of Equity Trust, a custodian of self-directed individual retirement accounts ("IRAs"), for engaging in active marketing and other acts and omissions that were a cause of large-scale offering frauds perpetrated by Ephren Taylor ("Taylor") and Randy Poulson ("Poulson"). The offering frauds orchestrated by Taylor and Poulson involved retirement funds invested through self-directed IRAs custodied by Equity Trust. At least 100 investors transferred their retirement savings from traditional IRAs to self-directed IRAs at Equity Trust and then, with Equity Trust's assistance, used those funds to purchase fraudulent notes issued by entities controlled by Taylor and Poulson. The face value of these notes totaled over $5 million. Most, if not all, of these retirement savings have been lost. In connection with their frauds, Taylor has pled guilty to criminal charges in federal district court, and a judgment was entered against him in an action brought by the Commission. Poulson has been indicted in federal district court.

2. A self-directed IRA allows a person to hold non-traditional investments such as promissory notes or real estate while receiving the favorable tax treatment of an IRA. The self-directed IRA must be held at an account trustee or custodian, such as Equity Trust.

3. Despite the fact that Equity Trust promoted itself as a passive custodian that administered and custodied investments in self-directed IRAs at the request of its customers, Equity Trust took an active role in marketing the Taylor and Poulson offerings. For example, Equity Trust appeared at events hosted by Taylor and Poulson where Taylor and Poulson solicited potential investors and where Equity Trust encouraged individuals to open self-directed IRAs. An Equity Trust salesperson also regularly spoke to individuals referred by Taylor and vouched for Taylor. And Equity Trust sponsored Poulson's dinner events with prospective investors.

4. In addition, Equity Trust ignored numerous red flags concerning Taylor, Poulson, and the securities issued by entities controlled by them. In violation of Equity Trust's policies, many of the investments with Taylor and most of the investments with Poulson lacked proper documentation. Equity Trust's failure to obtain and hold documents reflecting the investments also was contrary to its statements to customers. Further, Equity Trust knew that there were a number of mature and unpaid notes associated with Taylor and Poulson investments. Finally, in the case of Taylor, Equity Trust knew that Taylor made false statements about Equity Trust to an audience of thousands. Despite all of this information, Equity Trust continued to process and service its customers' investments with Taylor and Poulson.

5. As a result of Equity Trust's actions and omissions, Equity Trust caused Poulson's and Taylor's violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act of 1933.

Respondent

6. **Equity Trust** is a custodian of self-directed IRAs. Since 2001, Equity Trust has operated as a trust company under authority granted by the State of South Dakota, which conducts biennial examinations of Equity Trust. Equity Trust's principal place of business is in Ohio. According to Equity Trust, it currently has over 130,000 clients and approximately $12 billion of retirement plan assets under administration.

Other Relevant Persons and Entities

7. **Taylor**, age 32, was a resident of Overland Park, Kansas. Taylor was the majority owner and chief executive officer of City Capital Corporation. Taylor's investment scheme involved the issuance of bogus promissory notes through various entities including City Capital Corporation. As part of the scheme, Taylor encouraged investors to open self-directed IRAs with Equity Trust and then invest their retirement savings in his promissory note scheme. On April 12, 2012, the Commission charged Taylor and City Capital Corporation with violations of, inter alia, Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 thereunder and Section 17(a) of the Securities Act, and on August 8, 2012, the court entered a partial judgment as to Taylor, which enjoined Taylor from future violations of these provisions, and also barred Taylor from acting as an officer or director of a public company. See SEC v. City

Capital Corp., 12 Civ. 1249 (N.D. Ga.). On October 8, 2014, Taylor pled guilty in federal court to one count of conspiracy in connection with the same fraud. See United States v. Taylor, 14 Cr. 217 (N.D. Ga.). On March 17, 2015, Taylor was sentenced to 235 months of imprisonment.

8. **City Capital Corporation ("City Capital")** was a Nevada corporation with its primary office in Raleigh, North Carolina. At all relevant times, Taylor was the majority owner and Chief Executive Officer of City Capital. Taylor, through City Capital and related entities, issued promissory notes, many of which were purportedly secured by those entities, to investors who had accounts at Equity Trust. City Capital did not have a class of securities registered under Section 12, but was subject to Exchange Act Section 15(d) reporting requirements. On February 9, 2012, City Capital filed with the SEC a certification and notice of suspension of duty to file reports. On April 12, 2012, the Commission charged Taylor and City Capital in connection with his promissory note scheme. See SEC v. City Capital Corp., 12 Civ. 1249 (N.D. Ga.). On March 7, 2013, the court entered a default judgment against City Capital.

9. **Poulson**, age 41, resides in Swedesboro, New Jersey. Poulson owned and operated Equity Capital Investments, LLC. Poulson, through Equity Capital Investments, LLC, issued promissory notes purportedly secured by mortgages to investors who had accounts at Equity Trust.

10. **Equity Capital Investments LLC ("ECI")** is a New Jersey limited-liability company owned and operated by Poulson that has its principal place of business in Swedesboro, New Jersey. Poulson, through ECI, issued promissory notes purportedly secured by mortgages to investors who had accounts at Equity Trust.

Background

11. Section 408 of the Internal Revenue Code permits a self-directed IRA to hold non-traditional investments such as promissory notes, unregistered securities, or real estate while receiving the favorable tax treatment of an IRA. See 26 U.S.C. § 408. The Internal Revenue Code also provides that the self-directed IRA must be held at an account trustee or custodian, such as Equity Trust.

12. Fraud promoters who engage in Ponzi schemes or other fraudulent conduct often exploit self-directed IRAs, in part because such accounts allow them to access retirement funds that would otherwise not be available, and to exploit the tax-deferred characteristics of an IRA. Because IRAs carry a financial penalty for premature withdrawal, IRA investors are induced to keep funds in a fraudulent scheme for long periods of time. In addition, self-directed IRA custodians have been used to lend an air of credibility to otherwise fraudulent investments. In recent years, federal and state securities regulators have issued a number of investor alerts warning investors of the risks associated with self-directed IRAs. Equity Trust has been a custodian for numerous investments that turned out to be Ponzi schemes or offering frauds, and Poulson and Taylor were just two examples.

Equity Trust's Role as a Custodian of Self-Directed IRAs

13. During the relevant period, an individual opened a self-directed IRA at Equity Trust and became an Equity Trust customer by filling out an application and signing a custodial agreement. That agreement provided that Equity Trust was "acting solely as a passive custodian to hold IRA assets," meaning that it was not "a fiduciary [] with respect to your IRA account," and that it acted only as the customer's "agent." It also stated that Equity Trust did not "endorse any investment, investment product or investment strategy, [] investment advisor, representative, broker, or other party selected by [the customer]," which was consistent with industry practice. After the account was opened, the customer funded the self-directed IRA by, for example, rolling over funds from a traditional retirement account such as a Roth IRA or 401(k) plan.

14. The Equity Trust customer could then invest funds held in the self-directed IRA in various investments, including promissory notes or real estate. The investment was made through the submission of a written Direction of Investment ("DOI") to Equity Trust by or on behalf of the customer. The DOI directed Equity Trust to transfer funds for a particular investment as described in the DOI, which typically included information such as any applicable interest rate and maturity date, and whether and how the investment was secured. Equity Trust's DOI stated that certain documents evidencing the investment "must" be submitted along with the DOI. For example, the DOI specified that an investment in a promissory note secured by real property required a signed promissory note and a proposed deed of trust or mortgage, and an investment in a promissory note secured by other collateral (such as a company) required a copy of the "original note clearly stating the associated collateral." Attached to the DOI was a statement that included many of the same disclosures in the custodial agreement, including that Equity Trust was a passive custodian and did not endorse any investment or issuer.

15. Equity Trust's marketing material sent to investors also provided that "[a]ll records pertaining to the investment (such as real estate deeds, original notes, operating agreements for LLCs) are retained by Equity Trust for safekeeping." Other marketing material explained the step by step process of investing in promissory notes, which reflected that Equity Trust needed to receive the "promissory note and security documentation" for "safekeeping" prior to funds being sent to the borrower.

Equity Trust's Policies and Procedures

16. Consistent with its standard of care, Equity Trust conducted "primary" and "secondary" reviews of its accounts. Equity Trust's Compliance Department, prior to allowing the transfer of customer funds to an investment, conducted a "primary review," which included a review of the DOI to ensure that the required information was provided and a review of the draft documents reflecting the asset to ensure that they were consistent with the investment described on the DOI. If there were document deficiencies, the documents would be sent to an account support group to resolve before being re-submitted to Compliance. Equity Trust's policies and procedures and statements to investors stated that Equity Trust would retain the final documentation reflecting the investment held in its customer's account.

17. Equity Trust also conducted "secondary reviews" of investments when certain thresholds were met, such as the number of investments with one issuer or total amount invested. The stated purpose of these reviews was to (i) determine whether the investments were "administratively feasible" for Equity Trust, and (ii) assess Equity Trust's "litigation risk due to such investments."

18. As part of a secondary review, Equity Trust's Compliance Department confirmed whether Equity Trust was holding all of the required documents, those documents had been properly executed, and income was being generated as expected. After the secondary review was complete, Compliance would make a recommendation to Equity Trust's Governance Risk Committee ("GRC"), which was made up of senior officers of Equity Trust, including the CEO, and the President and CFO. Compliance would then recommend to the GRC that the investment continue; be placed on the "hold" list; or be placed on the "do not process" list. The policy provided that investments were to be placed on the "hold" list when Equity Trust required additional documentation regarding the investment. The investment could be placed on the "do not process" list for any number of reasons, including when the government has charged the issuer with wrongdoing, or when Equity Trust was unable to obtain account documentation. If placed on "hold" or "do not process," Equity Trust's policies provided that it not process directions to transfer funds to those investments. The GRC met regularly to discuss the results from the secondary reviews and Compliance's recommendations.

19. Equity Trust's "Trust Company Policy" stated that "[o]ur officers and employees should refrain from making any comments regarding the quality of investment decisions made by our customers or their investment advisor, representative, broker or other party." It also stated that "[a] custodian has a duty to avoid conflicts of interest" and that "[Equity Trust] will administer accounts solely in the best interests of beneficiaries."

20. Equity Trust also had policies and procedures relating to Equity Trust attending events hosted by issuers, or events hosted by Equity Trust. Before attending or hosting an event for a third-party speaker, Equity Trust conducted a review of the speaker involved, including a review of presentation material – but not of the investments associated with the speaker. Equity Trust's policies did not preclude it from attending the event of an issuer, or having an issuer attend its event.

<u>Equity Trust's Privacy Disclosures</u>

21. Equity Trust sent its customers a privacy disclosure statement that explained how Equity Trust protected their personal and account information. The statement provided that Equity Trust would only provide account information to third parties under limited, enumerated circumstances (e.g., to a successor custodian). In addition, Equity Trust stated that it would share customers' personal information only in limited circumstances as permitted by law, including requests from law enforcement agencies, the IRS, or organizations that protect the customer's privacy. Nothing in Equity Trust's privacy disclosure statement permitted it to share personal or account information with issuers.

Equity Trust's Fees and Sales Staff

22. Equity Trust charged fees to its customers in connection with its custodial accounts, including account opening fees and annual fees, usually in the hundreds of dollars per account per year. Equity Trust salespeople received commissions, which were a significant part of their compensation, in connection with opening accounts, typically about $50 per account.

23. Equity Trust salespeople were given a monthly account opening goal, which would be part of their employee review. These goals created significant pressure on salespeople to open accounts. Developing relationships with referral sources, such as issuers, was important in meeting those goals.

Taylor's Offering Fraud

24. Taylor publicized himself as a highly successful businessman focused on small, community-oriented businesses. He marketed himself and his investments through a series of traveling seminars and other events that he referred to as a "Wealth Builder Tour" or "Wealth Builder Network."

25. Beginning in at least 2008, Taylor, through City Capital and other entities he owned and operated, raised funds from investors through the issuance of secured and unsecured promissory notes that paid interest rates from approximately 7% to 20% for terms of 1 year to 3 years (the "Taylor Notes"). Taylor and City Capital represented to investors that the funds raised would be used to purchase and support small, local businesses, such as laundries and juice bars, and real estate investments in low-income housing. These representations were false. Instead of using the funds for the stated purposes, Taylor and City Capital misappropriated most of the investor funds for Taylor's personal use, City Capital operating expenses, and repayment of earlier investors, none of which was disclosed. In addition, Taylor and City Capital represented to investors that many of the notes were secured by City Capital or other entities owned by Taylor. Contrary to these representations, almost all of the Taylor Notes were unsecured.

26. On April 12, 2012, the Commission charged Taylor and City Capital with, inter alia, violations of Sections 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder in connection with the Taylor Notes. See SEC v. City Capital Corp., 12 Civ. 1249 (N.D. Ga.). On August 8, 2012, the court entered a partial judgment as to Taylor, which enjoined Taylor from future violations of these provisions, and also barred Taylor from acting as an officer or director of a public company. On March 7, 2013, the court entered a default judgment against City Capital.

27. On June 10, 2014, Taylor was indicted by a federal grand jury on charges of, inter alia, conspiracy, mail fraud, and wire fraud in connection with offerings of these same promissory notes. See United States v. Taylor, 14 Cr. 217 (N.D. Ga.). Taylor pled guilty to one count of conspiracy on October 8, 2014. On March 17, 2015, Taylor was sentenced to 235 months.

28. On October 29, 2014, the Commission, pursuant to Section 15(b)(6) of the Exchange Act, barred Taylor 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 any offering of a penny stock. Ephren W. Taylor II, Exchange Act Release No. 73466 (Oct. 29, 2014).

29. For purposes of this action and as further described herein, Taylor and City Capital violated Sections 17(a)(2) and 17(a)(3) of the Securities Act, acting at least negligently, in connection with the offering of Taylor Notes, including by using investor funds in ways contrary to what was represented to investors; representing to investors, including on the DOI, that Taylor Notes were secured when they were not in fact secured; and Taylor making false statements about Equity Trust's relationship with Taylor and City Capital.

Equity Trust's Role As Custodian of Accounts Invested with Taylor

30. Beginning in at least 2008, Equity Trust opened self-directed IRAs for customers who used their retirement funds to invest in Taylor Notes. Approximately 80 Equity Trust customers invested approximately $4.3 million in Taylor Notes, almost all of which has been lost as a result of Taylor's fraud. Equity Trust received fees in connection with accounts invested in Taylor Notes.

Equity Trust Endorsed Taylor and City Capital and Assisted Them in Numerous Ways

31. Equity Trust developed a sales and marketing relationship with Taylor, who then referred investors to Equity Trust. In early 2008, an Equity Trust salesperson ("Salesperson A") was assigned to service accounts associated with Taylor, which included cultivating Taylor as a referral source.

32. Once assigned, Salesperson A communicated regularly with Taylor. Salesperson A emailed Taylor asking for additional referrals of individuals who might open accounts at Equity Trust, and Taylor sent numerous referrals to Salesperson A. In particular, Taylor referred individuals who were hesitant to invest their retirement funds with him. Salesperson A would then communicate with these individuals either by email or telephone. Salesperson A would vouch for Taylor, and the individuals would then invest in Taylor Notes through accounts at Equity Trust. In this way, Salesperson A would "close" referrals for Taylor.

33. For example, in an email dated January 14, 2009, Salesperson A wrote to Taylor that he learned that the broker of an Equity Trust customer recommended to the customer that she not invest in Taylor Notes. Salesperson A then told the customer, "'how can you comment on something you know nothing about….how can this broker comment on real estate when he has never done it.'" The customer responded, "'great point' let's do it." Salesperson A concluded his email to Taylor stating: "I am on it…I will close it." The customer then invested more than $500,000 in Taylor Notes.

34. In addition, Salesperson A provided City Capital and Taylor with status updates on referrals, including whether the referral had opened an account at Equity Trust, the timing of any transfer of funds into the account, and the completion of any such transfer. This information, which was not authorized by customers and was contrary to representations made to customers,

allowed Taylor to know when customer funds would be transferred to City Capital. Salesperson A reached out to Taylor every four to six weeks "[j]ust like a vendor calling a customer to make sure that they are okay and they are happy with the service."

35. In April 2009, Salesperson A emailed Taylor, with a blind carbon copy to Salesperson A's supervisor and another senior Equity Trust employee. "I am here to make it happen for you guys…I still remember the thing you said to me way back in Jan of 2008//……. 'let's make money together'….I look at the phrase everyday."

36. In June 2009, Equity Trust authorized and paid for Salesperson A to visit City Capital's headquarters in Raleigh, North Carolina for two days. While there, Salesperson A trained approximately twelve City Capital salespeople on the benefits of self-directed IRAs, and how to assist Taylor's investors in opening self-directed IRAs at Equity Trust. City Capital personnel then solicited individuals to open accounts at Equity Trust so that they could invest their retirement funds in Taylor Notes. Equity Trust encouraged its staff to attend such training events.

37. Equity Trust, on its own initiative, created and hosted a public "landing page" on its website for potential investors of City Capital, which was visited by customers as early as August 2009. This page displayed the Equity Trust logo at the top and, in bold font, the text "City Capital Corporation – Wealth Builder Network." It then stated, "Welcome to the personalized Equity Trust Company page for members of the Wealth Builder Network. We're pleased to provide you with the support to grow your business and, in turn, help you grow your wealth." The web page included links to Equity Trust's self-directed IRA opening application and DOI, and included the picture of and contact information for Salesperson A. By hosting this public landing page, Equity Trust further legitimized and promoted Taylor.

38. In October 2009, Equity Trust authorized Salesperson A to attend an event sponsored by Taylor at a large church in Atlanta, Georgia. By then Salesperson A knew that Taylor had referred numerous individuals to Equity Trust, that those individuals had opened accounts at Equity Trust and then invested in Taylor Notes, and that Taylor would likely use the event to solicit additional investors. Equity Trust had no prohibition on attending the events of issuers.

39. At the Atlanta event, City Capital personnel distributed Equity Trust marketing materials to attendees (materials that Equity Trust had provided for that purpose). Taylor spoke for over an hour before a large audience about the purported problems with traditional investments in mutual funds and the benefits of alternative socially conscious investments. At the start of his speech, Taylor used Salesperson A's presence to lend an air of legitimacy to himself and City Capital. Taylor introduced Salesperson A as "my banker" and said that "if you have any questions specifically about what I do, I figured, why not just bring the expert [Salesperson A] with me?" Taylor also said that "you know it's something when the bank flies out your banker to hang out with you." At another point in his speech, Taylor referred to Salesperson A as his "qualified, educated, and informed financial professional" who helped him make investment decisions.

40. Salesperson A knew that those statements Taylor made about Salesperson A and Equity Trust were false. Equity Trust and Salesperson A were not Taylor's "banker" and Salesperson A was not providing investment advice to Taylor. Salesperson A purportedly told his supervisor about Taylor's statements at the Atlanta event, but no further action was taken. Equity Trust did not correct Taylor's statements about its role in connection with Taylor. Instead, Equity Trust opened numerous accounts for individuals who had attended the church event and who then invested in Taylor Notes.

Equity Trust Processed Taylor Notes with Significant Documentation Issues and Ignored Other Red Flags

41. Many of Equity Trust's customers' investments in Taylor Notes were not documented in accordance with Equity Trust's policies and procedures. When Taylor investors opened accounts at Equity Trust, their account opening documentation and the DOIs were frequently filled out by a City Capital employee, who then emailed the documents to Equity Trust. At least 30 of the DOIs stated that the promissory notes were secured by City Capital or other Taylor entities, which, according to the DOI, required the submission of an "original note clearly stating the associated collateral." However, the notes City Capital submitted to Equity Trust made no mention of associated collateral and, in fact, were unsecured, which Equity Trust should have identified during its "primary review." Despite this discrepancy and contrary to its policies, Equity Trust processed these investments and continued to process new customer investments in Taylor Notes. In addition, Equity Trust sent its customers account statements that falsely reflected that these notes were secured.

42. In September 2009, Equity Trust initiated a "secondary review" of the Taylor Notes associated with City Capital (but not all of the Taylor entities). During this review, Equity Trust's Director of Compliance expressed concern that numerous Taylor Notes had been mislabeled as secured by Taylor and City Capital personnel on the DOI because the Taylor Notes did not reference any security and no security agreement was included. Despite the Compliance Department's awareness of this issue with the security of the Taylor Notes, Equity Trust continued to process its customers' new investments in Taylor Notes.

43. According to the "secondary review" form for City Capital, by December 23, 2009 at least 17 Taylor Notes were mature and unpaid. As of that date, Equity Trust put City Capital on "hold" status until it could have a further discussion with City Capital regarding the mature and unpaid notes.

44. By January 2010, Equity Trust put City Capital on the "do not process" list because of "poor financial information and high concentration of unsecured notes," and because of City Capital's SEC filings that questioned City Capital's ability to continue as a going concern and identified a lack of operational controls. At no point did Equity Trust inform its customers that it had placed Taylor or City Capital on "hold" or on the "do not process" list or that it was no longer doing business with Taylor based on the aforementioned concerns.

45. By March 2010, Equity Trust knew that two customers with mature and unpaid Taylor Notes (with a total principal amount of $180,000) were having difficulty collecting on the

notes and that the customers' attorney was involved. Despite all of the above red flags, in a number of instances in 2010 (including in April and May 2010), Equity Trust replaced other customers' Taylor Notes with new Taylor Notes. As part of this process, the original notes were deemed satisfied and replaced with new notes (often pursuant to new DOIs), and Equity Trust did not inform these customers of any issues it was aware of concerning the Taylor Notes prior to replacing them.

46. Equity Trust also continued to service the accounts of its customers invested in Taylor Notes, which meant it was charging customers annual fees, including some as recently as 2015, years after Taylor had been charged with fraud.

47. Based on the above conduct, Equity Trust personnel acted negligently and unreasonably, and Equity Trust acted negligently, unreasonably, and violated the standard of care in connection with Taylor, City Capital, and Taylor Notes, by, for example, developing a sales and marketing relationship with Taylor, having ineffective or inadequate policies and procedures, failing to properly train its personnel, and having insufficient staffing.

Poulson's Offering Fraud

48. Like Taylor, Poulson promoted himself as an investor in residential real estate, and he conducted seminars on how to invest in real estate. Beginning in at least 2007, Poulson, through ECI, offered to investors secured promissory notes that paid interest rates from approximately 12% to 20% for terms ranging from six months to several years (collectively, the "Poulson Notes"). These notes were purportedly secured by mortgages of real property. In fact, some were not secured and others were secured by multiple mortgages on the same property. In addition, in many instances, Poulson failed to sign the promissory notes and mortgages. And, in almost every instance, Poulson failed to record the mortgages securing the Poulson Notes, which helped conceal the fraud from investors.

49. In addition, Poulson represented to investors that the funds invested in Poulson Notes would be used to purchase, maintain, and improve the respective properties, including making payments on the existing mortgages. Instead, he misappropriated a significant amount of the funds for his personal use, such as for his own vacations.

50. On May 13, 2014, the United States Attorney's Office for the District of New Jersey filed a criminal complaint against Poulson in connection with the Poulson Notes. On June 5, 2014, a federal grand jury returned an indictment charging Poulson with mail fraud and wire fraud. Poulson entered a plea of not guilty. See United States v. Poulson, 14 Cr. 309 (D.N.J.).

51. For purposes of this action and as further described herein, Poulson and ECI violated Sections 17(a)(2) and 17(a)(3) of the Securities Act in connection with the offering of Poulson Notes, acting at least negligently, including by using investor funds in ways contrary to what was represented to investors, failing to ensure the Poulson Notes were sufficiently secured by mortgages of real property, and failing to record the mortgages.

Equity Trust's Role As Custodian of Accounts Invested with Poulson

52. Beginning in approximately 2007 through late 2011, Equity Trust opened self-directed IRAs for customers who then used their retirement funds to invest in Poulson Notes. Twenty-six Equity Trust customers invested approximately $800,000 with Poulson, almost all of which was lost as a result of Poulson's fraud. Equity Trust received fees in connection with accounts invested in Poulson Notes.

Equity Trust Endorsed Poulson and Assisted Him in Numerous Ways

53. Poulson referred potential investors in the Poulson Notes to Equity Trust. In early 2008, Equity Trust assigned a salesperson ("Salesperson B") to service accounts associated with Poulson, which included cultivating Poulson as a referral source. In December 2008, Salesperson B referred Poulson to Equity Trust's marketing department and stated that they would "work to identify ways Equity Trust can support you from a marketing perspective."

54. In February 2009, Equity Trust's marketing department emailed Salesperson B stating that it was "working" with Poulson "to see if he can be approved as a partner." Equity Trust's marketing department emailed Compliance and the CEO, noting that Poulson was looking for "an exclusive arrangement with Equity Trust." As part of that process, Equity Trust conducted a "guest speaker" review of Poulson, but did not review its customers' investments with Poulson. If it had reviewed investments with Poulson at that time, it would have found that all eight of its customers' investments with Poulson failed to include complete paperwork, most notably the recorded mortgage that secured the note.

55. In April 2009, Salesperson B and an Equity Trust spokesperson attended one of Poulson's purportedly educational seminars at which Salesperson B and the spokesperson each gave a presentation on the benefits of self-directed IRAs, and the spokesperson sold Equity Trust's purportedly educational CD sets that promoted the benefits of self-directed IRAs. Equity Trust split the proceeds of these CD sales with Poulson, which was not disclosed to attendees. In addition, Equity Trust opened self-directed IRAs for seminar attendees who then used the funds in their Equity Trust accounts to invest in Poulson Notes.

56. Several months later, in summer 2009, Poulson asked Equity Trust to sponsor his monthly dinner events at which Poulson would distribute Equity Trust's materials, talk about Equity Trust, and make referrals to Equity Trust. Equity Trust agreed to sponsor Poulson's monthly dinner events for a period of one year, in part because the "relationship [with Poulson] has been bringing us accounts." Around the same time, Poulson agreed to sponsor a session at an Equity Trust conference at a reduced cost. Equity Trust informed Poulson that sponsoring the session meant that he would receive "signage" and "mentions."

57. In May 2010, another Equity Trust salesperson replaced Salesperson B as Poulson's Equity Trust contact and began providing Poulson with status updates on investors, including whether the investor had opened an account, the timing of any transfer of funds into the account, and the completion of any such transfer. Providing this information without customer approval was contrary to Equity Trust's privacy disclosure statement.

Equity Trust Processed Poulson Notes with Significant Documentation Issues and Ignored Other Red Flags

58. Many of the Equity Trust customers' investments in Poulson Notes were not documented in accordance with Equity Trust's policies and procedures. For Poulson Notes that were secured, the DOI required, along with the DOI, the submission of a signed promissory note and proposed deed of trust or mortgage. In many instances, Equity Trust transferred customer funds to Poulson without receiving the required documentation.

59. During Equity Trust's "secondary review" of Poulson Notes in June 2010, it determined that account documentation was missing for all customers who had invested in Poulson Notes – i.e., 25 out of 25 investments in Poulson Notes.[1] Equity Trust attempted to collect the documentation from Poulson, but Poulson failed to provide it. During this same review, Equity Trust noted that four Poulson Notes had matured and were unpaid. In light of these document issues, according to Equity Trust's policies and procedures, Equity Trust should have placed investments in Poulson Notes on "hold" status by at least the time of the "secondary review." However, Equity Trust continued to process new customer investments in Poulson Notes. At no point did Equity Trust seek the missing documentation from customers or notify them of any problems with the Poulson Notes. Equity Trust's failure to require these documents from him allowed him to continue his fraud undetected.

60. Over a year later, in July 2011, Equity Trust conducted another review of Poulson Notes and identified missing account documentation for 25 of 33 of its customers' investments in Poulson Notes and found that 13 Poulson Notes were mature and unpaid. At that point, Equity Trust stopped processing new customer investments in Poulson Notes, although it did not inform its customers that it had taken this step, and it still permitted modifications to be made to Poulson Notes.

61. Based on the above conduct, Equity Trust personnel acted unreasonably, and Equity Trust acted unreasonably and violated the standard of care in connection with Poulson, ECI, and the Poulson Notes, by, for example, developing a sales and marketing relationship with Poulson, having ineffective or inadequate policies and procedures, failing to properly train its personnel, and having insufficient staffing.

Violation

62. Section 8A of the Securities Act provides that the Commission may issue a cease-and-desist order against a person who is a cause of another person's violation, due to an act or omission the person knew or should have known would contribute to such violation. Equity Trust was a cause of Taylor's and Poulson's violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act, which make it unlawful for any person in the offer or sale of securities, directly or indirectly, to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances

[1] Specifically, 10 promissory notes were not signed, 9 mortgages were signed but not recorded, and 16 mortgages were not signed and not recorded.

under which they were made, not misleading; and to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchasers. A violation of these provisions may be established by a showing of negligence.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that cease-and-desist 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. Whether, pursuant to Section 8A of the Securities Act, Respondent should be ordered to cease and desist from committing or causing violations of and any future violations of Section 17(a) of the Securities Act, whether Respondent should be ordered to pay a civil penalty pursuant to Section 8A(g) of the Securities Act, whether Respondent should be ordered to pay disgorgement and provide an accounting pursuant to Section 8A(e) of the Securities Act; and whether any remedial relief should be ordered pursuant to Section 8A(a) of the Securities 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 not earlier than 30 days and not later than 60 days from service of this Order 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 as provided for in the Commission’s Rules of Practice.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 300 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.

Brent J. Fields
Secretary