

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 4115 / June 15, 2015**

**INVESTMENT COMPANY ACT OF 1940**  
**Release No. 31668 / June 15, 2015**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-16590**

**In the Matter of**

**BRIAN J. OURAND,**  
  
**Respondent.**

**ORDER INSTITUTING  
ADMINISTRATIVE AND CEASE-AND-  
DESIST PROCEEDINGS PURSUANT  
TO SECTIONS 203(f) AND 203(k) OF  
THE INVESTMENT ADVISERS ACT  
OF 1940 AND SECTION 9(b) OF THE  
INVESTMENT COMPANY ACT OF  
1940**

**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 203(f) and (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 Brian J. Ourand (“Respondent” or “Ourand”).

**II.**

After an investigation, the Division of Enforcement alleges that:

**Respondent**

1. **Brian J. Ourand**, age 53, is a resident of Miami, Florida. Ourand was SFX Financial Advisory Management Enterprises, Inc.’s (“SFX”) Vice President from 2003 to 2007 and President until August 2011, when he was terminated. Ourand holds a Series 65 license.

**Related Entity**

2. **SFX Financial Advisory Management Enterprises, Inc.** is a Delaware corporation headquartered in Washington, District of Columbia. SFX became registered

with the Commission as an investment adviser on September 21, 1992, but withdrew its registration on September 12, 2012. SFX is currently registered in the District of Columbia. In its most-recent Form ADV filing in March 2014, SFX disclosed that it managed \$15 million on a discretionary basis.

### **Background**

3. SFX provides advisory and financial management services to high net-worth individuals, primarily current and former professional athletes. SFX offers a range of services including investment portfolio management, bill payment, financial planning, and tax consultation and support.

4. Several of SFX's clients had bank and brokerage accounts over which SFX had the power to withdraw and deposit assets.

5. Ourand was a relationship manager for several clients. Ourand provided bill-paying services for these clients, and had authority over client bank accounts to pay bills, transfer money, and deposit checks. Ourand also had unauthorized access to some client credit card accounts.

6. Ourand was given discretionary authority to trade in client brokerage accounts and gave clients advice with respect to investing in securities.

7. In July 2011, an SFX employee learned that Ourand had misappropriated assets when a client complained that he could not use one of his credit cards. SFX and the employee promptly conducted an internal investigation. Ultimately, SFX terminated Ourand and reported his conduct to the criminal authorities.

8. From 2006 to 2011, Ourand misappropriated at least \$670,000 from clients. During this time, Ourand wrote unauthorized checks from client bank accounts payable to cash or himself and wired unauthorized amounts to himself for his own personal use. He also wired money using client credit cards for unauthorized amounts to others for their personal use. In addition, Ourand forged a client's name and engaged in other deceptive conduct.

### **Violations**

9. As a result of the conduct described above, Ourand willfully violated, or, in the alternative, willfully aided and abetted and caused violations of Sections 206(1) and (2) of the Advisers Act, which make it unlawful for an adviser to employ any device, scheme, or artifice to defraud any client or prospective client; or to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client.

## **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 and 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. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 203(f) of the Advisers Act including, but not limited to, disgorgement and civil penalties pursuant to Section 203 of the Advisers Act;

C. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 9(b) of the Investment Company Act including, but not limited to, disgorgement and civil penalties pursuant to Section 9 of the Investment Company Act; and

D. Whether, pursuant to Section 203(k) of the Advisers Act, Respondent should be ordered to cease and desist from committing or causing violations of and any future violations of Sections 206(1) and (2) of the Advisers Act, whether Respondent should be ordered to pay a civil penalty pursuant to Section 203(i) of the Advisers Act and Section 9(d) of the Investment Company Act, and whether Respondent should be ordered to pay disgorgement pursuant to Section 203 of the Advisers Act and Section 9 of the Investment Company 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.

This Order shall be served upon Respondent as provided for in Rule 141(a)(2)(iv) of the Commission's Rules of Practice, 17 C.F.R § 201.141(a)(2)(iv), by any method specified in paragraph (a)(2) of that rule, or by any other method reasonably calculated to give notice, provided that the method of service used is not prohibited by the law of the foreign country where Respondents may be found.

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