

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

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In the Matter of :  
: INITIAL DECISION  
RONALD GENE ANGLIN : June 27, 2014

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APPEARANCES: Victoria A. Levin and Marisa G. Westervelt for the  
Division of Enforcement, Securities and Exchange Commission

Respondent Ronald Gene Anglin, pro se

BEFORE: Carol Fox Foelak, Administrative Law Judge

### SUMMARY

This Initial Decision bars Ronald Gene Anglin (Anglin) from the securities industry. He was previously convicted of mail fraud.

### I. INTRODUCTION

#### A. Procedural Background

The Securities and Exchange Commission (Commission) instituted this proceeding with an Order Instituting Proceedings (OIP) on December 17, 2013, pursuant to Section 15(b) of the Securities Exchange Act of 1934 (Exchange Act) and Section 203(f) of the Investment Advisers Act of 1940 (Advisers Act). The proceeding is a follow-on proceeding based on United States v. Anglin, No. 2:12-cr-232 (C.D. Cal. Mar. 25, 2013). Pursuant to leave granted at the January 22, 2014, prehearing conference, the Division of Enforcement (Division) filed a motion for summary disposition, following the filing of Anglin's Answer to the OIP; the parties timely filed their reply pleadings. Ronald Gene Anglin, Admin. Proc. Rulings Release No. 1187, 2014 SEC LEXIS 238 (A.L.J. Jan. 22, 2014).<sup>1</sup>

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<sup>1</sup> The filing dates for Anglin's Answer to the OIP, the Division's motion for summary disposition, Anglin's opposition, and the Division's reply were postponed and set as March 5, March 6, March 27, and April 3, respectively. Ronald Gene Anglin, Admin. Proc. Rulings Release No. 1236, 2014 SEC LEXIS 518 (A.L.J. Feb. 11, 2014).

This Initial Decision is based on the pleadings and Anglin's Answer to the OIP. There is no genuine issue with regard to any fact that is material to this proceeding. All material facts that concern the activities for which Anglin was convicted were decided against him in the criminal case on which this proceeding is based. Any other facts in his pleadings have been taken as true, pursuant to 17 C.F.R. § 201.250(a). All arguments and proposed findings and conclusions that are inconsistent with this decision were considered and rejected.

## **B. Allegations and Arguments of the Parties**

The OIP alleges that Anglin was convicted of mail fraud, in violation of 18 U.S.C. § 1341, in United States v. Anglin. The Division urges that he be barred from the securities industry. Anglin argues that he should not be sanctioned further and requests that the proceeding be dismissed.

## **C. Procedural Issues**

### **1. Official Notice**

Official notice pursuant to 17 C.F.R. § 201.323 is taken of the docket report and the court's orders in United States v. Anglin, of the Commission's public official records, and of Financial Industry Regulatory Authority, Inc. (FINRA), records, as well. See Joseph S. Amundsen, Exchange Act Release No. 69406, 2013 SEC LEXIS 1148, at \*2 n.1 (Apr. 18, 2013).

### **2. Exhibits Admitted into Evidence**

The following items included in support of the Division's Motion for Summary Disposition, at Exhibits 1, 2, 3, 4, 8, 9, 11, and 12, are admitted as Division Exhibits 1, 2, 3, 4, 8, 9, 11, and 12:

FINRA "Composite Information" concerning Anglin (Div. Ex. 1);

FINRA "Registrations Summary" concerning Anglin (Div. Ex. 2);

FINRA "BrokerCheck Report" concerning Anglin (Div. Ex. 3);

FINRA "Investment Adviser Representative Report Summary" concerning Anglin (Div. Ex. 4);

August 23, 2012, Plea Agreement in United States v. Anglin (Div. Ex. 8);

October 4, 2012, Criminal Minutes in United States v. Anglin (Div. Ex. 9);

March 25, 2013, Criminal Minutes in United States v. Anglin (Div. Ex. 11); and

March 25, 2013, Judgment and Probation/Commitment Order in United States v. Anglin (Div. Ex. 12).

### **3. Collateral Estoppel and Double Jeopardy**

Anglin states that he pleaded guilty to the charges against him to avoid the chance of adverse impact on the serious medical condition for which he was being treated. Further, he states that new counsel is seeking a new trial in which he will assert defenses that will result in his being found not guilty. Answer at 1. However, it is well established that the Commission does not permit criminal convictions to be collaterally attacked in its administrative proceedings. See Ira William Scott, 53 S.E.C. 862, 866 (1998); William F. Lincoln, 53 S.E.C. 452, 455-56 (1998).<sup>2</sup> If Anglin is successful in overturning his conviction, he can request the Commission to vacate any sanctions ordered in this proceeding (or to dismiss the proceeding, if it is still pending).<sup>3</sup>

Anglin also argues that adding additional sanctions in this proceeding to the sanctions imposed in United States v. Anglin would be double jeopardy. However, Section 15(b) of the Exchange Act and Section 203(f) of the Advisers Act specifically authorize an administrative proceeding such as this one based on a respondent's conviction. The Commission has "held that a bar imposed in an administrative proceeding is not a criminal punishment within the meaning of the Double Jeopardy Clause." Tzemach David Netzer Korem, Exchange Act Release No. 70044, 2013 SEC LEXIS 2155, at \*40 (July 26, 2013); see Hudson v. United States, 522 U.S. 93, 98-99, 103-05 (1997).

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<sup>2</sup> Similarly, the Commission does not permit a respondent to relitigate issues that were addressed in a previous civil proceeding against the respondent, whether resolved by consent, by summary judgment, or after a trial. See Jeffrey L. Gibson, Exchange Act Release No. 57266, 92 SEC Docket 2104, 2108 (Feb. 4, 2008) (injunction entered by consent); John Francis D'Acquisto, 53 S.E.C. 440, 441 n.1, 444 (1998) (injunction entered by summary judgment); James E. Franklin, Exchange Act Release No. 56649, 91 SEC Docket 2708, 2713 (Oct. 12, 2007) (injunction entered after trial); Demitrios Julius Shiva, 52 S.E.C. 1247, 1249 & nn.6-7 (1997). See also Marshall E. Melton, 56 S.E.C. 695, 697-700, 709-13 (2003).

<sup>3</sup> See Jilaine H. Bauer, Esq., Securities Act of 1933 Release No. 9464, 2013 SEC LEXIS 3132 (Oct. 8, 2013) (dismissing follow-on administrative proceeding after court of appeals, while petition for review was pending before Commission, reversed and remanded district court's judgment that was basis for OIP); Richard L. Goble, Exchange Act Release No. 68651, 2013 SEC LEXIS 129 (Jan. 14, 2013) (dismissing follow-on administrative proceeding after court of appeals, while petition for review was pending before Commission, vacated injunction that was basis for OIP); Evelyn Litwok, Investment Advisers Act of 1940 Release No. 3438, 2012 SEC LEXIS 2328 (July 25, 2012) (dismissing follow-on proceeding after court of appeals, while petition for review was pending before Commission, reversed certain convictions and vacated and remanded other convictions, all of which were basis for OIP), Kenneth E. Mahaffy, Jr., Exchange Act Release No. 68462, 2012 SEC LEXIS 4020 (Dec. 18, 2012) (vacating bar issued in follow-on administrative proceeding where court of appeals vacated criminal conviction that was basis for proceeding after Commission had issued bar order).

## II. FINDINGS OF FACT

Anglin was convicted on his plea of guilty of mail fraud in violation of 18 U.S.C. § 1341. Div. Ex. 12 at 1. He was sentenced to three years of probation including twenty-seven months of home detention and ordered to pay \$73,000 in restitution. Id. at 1-2. Age 39, Anglin resides in California. Div. Ex. 1. At the time of his wrongdoing, Anglin was associated with Merrill Lynch, Pierce, Fenner & Smith (Merrill Lynch), a dually registered broker-dealer and investment adviser, where he worked as a registered representative and investment adviser representative from approximately September 2008 to May 2011. Div. Ex. 2 at 1, Div. Ex. 4 at 1.<sup>4</sup> He has worked as a registered representative, with various employers in the financial industry, since 1999. Div. Ex. 2.

Anglin's misconduct underlying his conviction occurred from October 2009 through December 2010. Div. Ex. 8 at 7-9. He forged letters of authorization purportedly from customers to Merrill Lynch that requested the disbursement of the customers' funds to be sent to specified addresses. Id. Pursuant to the forged letters of authorization, the checks were made payable to people or entities that had no connection to the addresses to which he had the checks sent. Id. When the checks arrived at those addresses, Anglin retrieved them and misappropriated the funds for his own use. Id.

## III. CONCLUSIONS OF LAW

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

## IV. SANCTION

As the Division requests, a collateral bar will be ordered.

### A. Sanction Considerations

The Commission determines sanctions pursuant to a public interest standard. See 15 U.S.C. §§ 78o(b)(6), 80b-3(f). The Commission considers factors including:

the egregiousness of the defendant's actions, the isolated or recurrent nature of the infraction, the degree of scienter involved, the sincerity of the defendant's assurances against future violations, the defendant's recognition of the wrongful nature of his conduct, and the likelihood that the defendant's occupation will present opportunities for future violations.

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<sup>4</sup> The citation is to the page number in the lower right hand corner.

Steadman v. SEC, 603 F.2d 1126, 1140 (5th Cir. 1979) (quoting SEC v. Blatt, 583 F.2d 1325, 1334 n.29 (5th Cir. 1978)). The Commission also considers the age of the violation and the degree of harm to investors and the marketplace resulting from the violation. Marshall E. Melton, 56 S.E.C. 695, 698 (2003). Additionally, the Commission considers the extent to which the sanction will have a deterrent effect. See Schild Mgmt. Co., Exchange Act Release No. 53201, 87 SEC Docket 848, 862 & n.46 (Jan. 31, 2006). The Commission considers fraud to be particularly serious. Marshall E. Melton, 56 S.E.C. at 710, 713. The public interest requires a severe sanction when a respondent's past misconduct involves fraud because opportunities for dishonesty recur constantly in the securities business. See Richard C. Spangler, Inc., 46 S.E.C. 238, 252 (1976).

## **B. Sanctions**

Anglin's conduct was egregious and recurrent and involved a high degree of scienter. His recognition of the wrongful nature of his conduct in his plea agreement is somewhat mitigated by his argument that he only pleaded guilty for health reasons. His previous occupation, if he were allowed to continue it in the future, would present opportunities for future violations. Absent a bar, Anglin could re-enter the financial industry. The violations are recent. The degree of direct financial harm to investors is indicated by the \$73,000 in restitution that Anglin has been ordered to pay. Further, as the Commission has often emphasized, the public interest determination extends beyond consideration of the particular investors affected by a respondent's conduct to the public-at-large, the welfare of investors as a class, and standards of conduct in the securities business generally. See Christopher A. Lowry, 55 S.E.C. 1133, 1145 (2002), aff'd, 340 F.3d 501 (8th Cir. 2003); Arthur Lipper Corp., 46 S.E.C. 78, 100 (1975). A bar is also necessary for the purpose of deterrence. Arthur Lipper Corp., 46 S.E.C. at 100. A conviction involving dishonesty requires a bar, and because of the Commission's obligation to ensure honest securities markets, an industry-wide bar is appropriate.

## **V. ORDER**

IT IS ORDERED that, pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Section 203(f) of the Investment Advisers Act of 1940, RONALD GENE ANGLIN 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>5</sup>

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

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<sup>5</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 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).

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.

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Carol Fox Foelak  
Administrative Law Judge