

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 73754 / December 5, 2014**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-15045**

**In the Matter of**  
  
**DAVID MURA,**  
  
**Respondent.**

**ORDER MAKING FINDINGS AND  
IMPOSING REMEDIAL SANCTIONS  
AND A CEASE-AND-DESIST ORDER  
PURSUANT TO SECTIONS 15(b) AND  
21C OF THE SECURITIES  
EXCHANGE ACT OF 1934 AND  
ORDERING CONTINUATION OF  
PROCEEDINGS**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest to enter this Order Making Findings and Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) and Ordering Continuation of Proceedings against David Mura (“Respondent”).<sup>1</sup>

**II.**

Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over him and

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<sup>1</sup> On September 24, 2012, the Commission instituted public administrative and cease-and-desist proceedings pursuant to Sections 15(b) and 21C of the Exchange Act against Respondent.

the subject matter of these proceedings, which are admitted, and except as provided herein in Section VI, Respondent consents to the entry of this Order Making Findings and Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934 and Ordering Continuation of Proceedings (“Order”), as set forth below.

### **III.**

On the basis of this Order and Respondent’s Offer, the Commission finds that:

#### **Summary**

1. Mura violated Section 15(a) of the Exchange Act by acting as an unregistered broker-dealer in connection with his solicitation of investors in promissory notes (the “LLC Promissory Notes”) issued by several small, related New York Limited Liability Companies (the “LLCs”) located in Pittsford, New York.

2. While Mura engaged in these solicitation efforts, he was a registered representative and branch office manager of J.P. Turner & Company, LLC (“J.P. Turner”), a broker-dealer registered with the Commission. Despite his association with J.P. Turner, Mura conducted the offering of the LLC Promissory Notes outside the scope of his employment with J.P. Turner, in violation of Section 15(a) of the Exchange Act.

3. Mura also directed Edward Tackaberry (“Tackaberry”), who worked for the LLCs under Mura’s supervision, and an investor in an LLC Promissory Note (“Investor 1”) to solicit potential investors and to otherwise participate in the offering of the LLC Promissory Notes. Tackaberry and Investor 1 both followed Mura’s instruction, and several individuals who were solicited by Tackaberry and/or Investor 1 eventually invested in the LLC Promissory Notes. Through these actions, Tackaberry and Investor 1 violated Section 15(a) of the Exchange Act, and Mura aided and abetted and caused Tackaberry’s and Investor 1’s violations of Section 15(a) of the Exchange Act.

#### **Respondent**

4. Mura is 65 years old and a resident of Pittsford, New York. From September 2002 through April 2011, Mura was a registered representative and branch office manager of J.P. Turner, a registered broker-dealer headquartered in Atlanta, Georgia. From in or around mid-2007 through in or around 2012, Mura led a team of individuals that managed the LLCs, and directed, and participated in, an effort to solicit investors in the LLC Promissory Notes. During this time, no offerings of securities issued by the LLCs were registered with the Commission in any capacity.

### **Other Relevant Entities**

5. Rising Storm Technologies LLC (“Rising Storm”), a predecessor to the LLCs, was formed in 2006 to pursue various business ideas. Mura invested in Rising Storm and, in or around 2008, caused the LLCs to take over some or all of Rising Storm’s business ideas. The LLCs consist of, inter alia, Charge-On Demand LLC, Innovations Group Enterprises LLC, and Stucco LLC, all of which were registered with the New York Secretary of State in 2008. The LLCs were formed to pursue several supposedly entrepreneurial business ideas. The LLCs, which were all managed by the same small management team led by Mura, issued the LLC Promissory Notes to a number of investors from in or around January 2008 through in or around September 2009.

6. Edward Tackaberry, now deceased, was a resident of Fairport, New York. From 1981 through 2006, Tackaberry was a registered representative of various broker-dealers. In September 2007, Tackaberry was barred from association with any broker or dealer based on permanent injunctions imposed by a federal district court upon finding, in a case brought by the Commission, that he committed securities fraud in a scheme that did not involve the LLCs. (In the Matter of Mark Palazzo and Edward Tackaberry, Admin. Proc. File No. 3-12844, Exchange Act Release No. 56550A (September 27, 2007); SEC v. Pittsford Capital Income Partners, L.L.C., 06 Civ. 6353 T(P) (W.D.N.Y. Aug. 30, 2007)). Tackaberry began working for Rising Storm in 2006 as a product salesman, and at Mura’s direction, thereafter became involved in the solicitation of investors and otherwise participated in the offering of the LLC Promissory Notes.

### **Mura’s Violations of Registration Provisions under the Exchange Act**

7. From September 2002 through April 2011, Mura was a registered representative and branch office manager of J.P. Turner. In or around 2006, Mura became familiar with Rising Storm when he leased to Rising Storm vacant office space that was adjacent to Mura’s J.P. Turner office. Mura and two or more of his retail broker-dealer customers at J.P. Turner invested in Rising Storm.

8. In 2008, Mura formed, or caused to be formed, the LLCs, for the purpose of commercializing several of Rising Storm’s most promising business ideas and to pursue various, purportedly entrepreneurial, business ideas of their own. Shortly thereafter, Mura ousted the founder of Rising Storm, who also participated in the management of the LLCs, and installed his own management team to help run the LLCs. Mura accomplished this ouster through coercion. Mura oversaw all important decisions and exercised ultimate managerial control over the LLCs from approximately 2008 through 2012.

9. From in or around January 2008 through September 2009, Mura solicited a number of individuals to invest in the LLCs. More specifically, Mura led meetings with potential investors in the LLCs during which he made many oral representations regarding the LLCs and their operations, what an investment in the LLCs would involve and how it would be documented, and encouraged potential investors to invest in the LLCs by purchasing the LLC Promissory Notes, which are securities under the federal securities laws. No private placement

memoranda or other comprehensive offering materials were prepared or distributed to potential investors in connection with the offering. Mura told most, or all, of the prospective investors that he worked full-time as a financial professional and was a registered representative of J.P. Turner.

10. Mura also directed others to solicit potential investors in the LLC Promissory Notes. For example, after Investor 1 invested in an LLC Promissory Note, Mura encouraged him to solicit other investors, and Mura agreed that the LLCs would pay Investor 1 a finder's fee of 7.5% of all investments made by Investor 1's friends and family. Several individuals identified by Investor 1 decided to, and did, invest in the LLC Promissory Notes after discussing the potential investment with Investor 1, Mura, and others. Mura also directed Tackaberry to become involved in the solicitation of investors in the LLCs. Tackaberry did so by serving as several prospective investors' first contact at the LLCs, describing the investments and how they would be documented, arranging meetings with Mura and other members of the LLCs' management team to discuss the LLCs and the potential investment, negotiating the terms of investment with some of the investors, and documenting several investment transactions.

11. During the relevant period, in exchange for their investments, investors received LLC Promissory Notes, the offering of which was not registered with the Commission. The LLC Promissory Notes obligated the issuing LLC to repay the principal in twenty-four months plus 8% interest per annum. The LLC Promissory Notes also entitled the investors to "further consideration" consisting of a stated percentage of the issuing LLC's profits. In almost all cases, the LLC Promissory Notes were issued by just one of the LLCs, although the specific LLC issuing a given promissory note changed over time. The LLCs did not make interest payments to the investors, contrary to the terms of the LLC Promissory Notes.

12. In or around 2010, Mura persuaded most investors to exchange their purported interests in the LLCs for an interest in Worldwide Medical LLC ("Worldwide Medical"). Worldwide Medical does not have significant assets or revenues, and the investors' interests in Worldwide Medical are worth far less than the principal they initially invested in the LLC Promissory Notes.

13. In the aggregate, at least seventeen individuals invested over \$850,000 in Rising Storm and the LLCs between July 2007 and September 2009. Mura played an active role in soliciting approximately \$765,000 from approximately twelve of these investors after he took over the LLCs. At least seven of these twelve investors invested all, or a significant portion of, their qualified retirement accounts in the LLCs.

14. Mura caused investor funds to be deposited into the LLCs' bank accounts, over which Mura and his wife had authority, and against which Mura and his wife regularly issued checks. Mura caused the LLCs to pay him more than \$50,000 from June 2008 through December 2009. These payments were made with funds that had been received from investors.

15. Mura conducted the LLC Promissory Note offering outside the scope of his employment with J.P. Turner. Mura did not place the LLC Promissory Notes in J.P. Turner accounts on behalf of the investors, and did not disclose to J.P. Turner his solicitation of these investments or the scope of his managerial role at the LLCs. Nor did Mura separately register as a broker-dealer for purposes of offering and selling the LLC Promissory Notes. Moreover, Mura repeatedly misled J.P. Turner about his outside business activities.

### Violations

16. As a result of the conduct described above, Respondent willfully violated Section 15(a)(1) of the Exchange Act, which makes it unlawful for any broker or dealer which is either a person other than a natural person or a natural person not associated with a broker or dealer which is a person other than a natural person (other than such a broker or dealer whose business is exclusively intrastate and who does not make use of any facility of a national securities exchange) to make use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills) unless such broker or dealer is registered in accordance with Section 15(b) of the Exchange Act.

17. Also as a result of the conduct described above, Respondent willfully aided and abetted and caused Tackaberry's and Investor 1's violations of Section 15(a)(1) of the Exchange Act.

### IV.

Pursuant to this Order, Respondent agrees that additional proceedings are necessary to determine whether Respondent should be ordered to pay disgorgement pursuant to Section 21C(e) of the Exchange Act and penalties pursuant to Section 21B(a)(2) of the Exchange Act, and if so, the amount of such disgorgement and penalties he should be ordered to pay. In connection with such additional proceedings: (a) Respondent agrees that he will be precluded from arguing that he did not violate the federal securities laws described in this Order; (b) Respondent agrees that he may not challenge the validity of this Order; (c) solely for the purposes of such additional proceedings, the findings of this Order shall be accepted as and deemed true by the hearing officer; and (d) the hearing officer may determine the issues raised in the additional proceedings on the basis of affidavits, declarations, excerpts of sworn deposition or investigative testimony, and documentary evidence.

### V.

In view of the foregoing, the Commission deems it appropriate and in the public interest, and for the protection of investors to impose the sanctions agreed to in Respondent's offer and to

continue the proceedings to determine whether Respondent should be ordered to pay disgorgement and penalties and, if so, the amount of such disgorgement and penalties.

Accordingly, pursuant to Sections 15(b) and 21C of the Exchange Act, it is hereby ORDERED that:

A. Respondent cease and desist from committing or causing any violations and any future violations of Section 15(a) of the Exchange Act.

B. Respondent be, and hereby is:

barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; and

barred from participating in any offering of a 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.

C. Any reapplication for association by Respondent will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

IT IS FURTHER ORDERED, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), in the interest of justice and without prejudice to any party to the proceeding, that a public hearing for the purpose of taking evidence on whether Respondent should be ordered to pay disgorgement and penalties and, if so, the amount of such disgorgement and penalties may be convened at a time and place to be fixed by, and before, the Administrative Law Judge assigned to the proceedings instituted against David Mura on September 24, 2012.

If Mura fails to appear at a hearing after being duly notified, Mura 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), 221(f), and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.221(f), and 201.310.

VI.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Brent J. Fields  
Secretary