

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 4105 / June 8, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16578

In the Matter of

LAWRENCE J. HERZING,
CPA

Respondent.

ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 203(f) OF THE
INVESTMENT ADVISERS ACT OF 1940
AND RULE 102(e)(2) OF THE
COMMISSION'S RULES OF PRACTICE,
MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS

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 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against Lawrence J. Herzing, CPA (“Respondent” or “Herzing”). The Commission also deems it appropriate to issue an order of forthwith suspension of Respondent pursuant to Rule 102(e)(2) of the Commission’s Rules of Practice [17 C.F.R. § 201.102(e)(2)].¹

II.

In anticipation of the institution of these proceedings, 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, Respondent admits the Commission’s jurisdiction over him and the subject matter of these proceedings, and the findings contained in Section III.2. below, and consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 203(f) of the Investment Advisers Act of 1940 and Rule 102(e)(2) of the Commission’s Rules of Practice, Making Findings, and Imposing Remedial Sanctions (“Order”), as set forth below.

¹ Rule 102(e)(2) provides in relevant part, “any . . . person who has been convicted of a felony or a misdemeanor involving moral turpitude shall be forthwith suspended from appearing or practicing before the Commission.”

III.

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

1. From at least in or about August 2004 through in or about August 2013, Respondent was associated with Contrarian Capital Management, L.L.C. ("Contrarian") as controller. Contrarian, a limited liability company formed in Delaware on June 5, 1995 with its principal place of business in Greenwich, Connecticut, is an investment adviser that has been registered with the Commission since December 15, 1995. Respondent became licensed as a Certified Public Accountant ("CPA") in New York on April 17, 1998.

2. On January 29, 2015, Respondent pled guilty in the United States District Court for the District of Connecticut to one count of violating 18 U.S.C. § 1343 (wire fraud) in a criminal action entitled *United States v. Lawrence J. Herzing*, Case No. 3:15-cr-00009-JAM.

3. In connection with his guilty plea, Respondent admitted, *inter alia*, that on at least thirty-two separate occasions beginning in or about August 2004 through in or about August 2013, he prepared false and fraudulent wire transfer instructions which purported to instruct J.P. Morgan Securities ("JPMS") to transfer money from the prime brokerage account of Contrarian Funds, L.L.C. (the "C Fund"), a special purpose entity that is a conduit for investments into and by various other entities managed by Contrarian, to recipients for legitimate business purposes, but in fact instructed JPMS to transfer money from the C Fund's account to accounts controlled by Herzing. Herzing admitted that, as part of his fraudulent scheme, he used false and fraudulent means to obtain necessary authorizing signatures from Contrarian's senior employees for the wire transfer instructions. Herzing admitted that he faxed the fraudulent wire transfer instructions by interstate wire to JPMS, with the effect of causing JPMS to electronically transfer money from the C Fund's account to accounts controlled by Herzing. Herzing admitted that, as a result of his fraudulent scheme, he caused the C Fund to sustain losses of approximately \$9,202,417.54.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent Herzing's Offer.

Accordingly, it is hereby ORDERED pursuant to Section 203(f) of the Advisers Act that Respondent Herzing 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.

Any reapplication for association by the 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.

In view of the foregoing, the Commission also finds that Respondent has been convicted of a felony within the meaning of Rule 102(e)(2) of the Commission's Rules of Practice.

Accordingly, it is hereby ORDERED that Respondent Herzing is forthwith suspended from appearing or practicing before the Commission pursuant to Rule 102(e)(2) of the Commission's Rules of Practice.

By the Commission.

Brent J. Fields
Secretary