

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 78775 / September 7, 2016

INVESTMENT ADVISERS ACT OF 1940
Release No. 4523 / September 7, 2016

ADMINISTRATIVE PROCEEDING
File No. 3-17528

In the Matter of

AARON NASH KAZINEC,

Respondent.

ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 15(b) OF THE
SECURITIES EXCHANGE ACT OF 1934
AND SECTION 203(f) OF THE
INVESTMENT ADVISERS ACT OF 1940
AND NOTICE OF HEARING

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 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”) and Section 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against Aaron Nash Kazinec (“Respondent” or “Kazinec”).

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENT

1. From March 2007 through November 2012, Respondent was a registered representative associated with a broker-dealer and investment adviser dually registered with the Commission. Respondent, age 56, is currently incarcerated in Miami, Florida.

B. ENTRY OF RESPONDENT’S CRIMINAL CONVICTION

2. On July 15, 2014, Kazinec pled guilty to one count of wire fraud in violation of Title 18 United States Code, Section 1343 before the United States District Court for the Southern District of Florida, in United States v. Aaron Nash Kazinec, Crim. No. 14-60126-CR-Hurley. On November 17, 2014, a judgment in the criminal case was entered against Kazinec. He was sentenced to a prison term of 55 months followed by three years of supervised release, and on January 5, 2015, the judgment was amended to order Kazinec to make restitution in the amount of \$1,391,250.00.

3. In connection with that plea, Kazinec admitted that:

- (a) From approximately March 2009 through December 2012, he implemented a scheme by which he informed certain customers that he could reinvest their annuities and other investments in certain purported alternative investments, and by doing so, obtain a higher rate of return;
- (b) He gave the customers specific instructions on how to make their assets available for reinvestment. This included making elective cash withdrawals from their annuities, wiring the proceeds to their checking accounts, and providing blank checks (or those written payable to “cash”) to Kazinec;
- (c) In addition, he convinced one investor to liquidate certain investments and provide him with a check made payable to “cash,” which Kazinec promised would be applied toward a universal life insurance policy; and
- (d) Instead of investing the funds, he deposited the checks into his personal account and used most of the funds in connection with gambling activities at various casinos.

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 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 15(b) of the Exchange Act;

C. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 203(f) of the Advisers Act; and

D. Whether, pursuant to Section 15(b) of the Exchange Act, it is appropriate and in the public interest to bar Respondent from participating in any offering of 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.

IV.

NOTICE TO RESPONDENT:

On July 13, 2016, the Commission voted to amend certain of its Rules of Practice related to administrative proceedings. The amended rules will become effective on September 27, 2016 and shall apply to proceedings initiated on or after that date. Some of the amendments will apply to proceedings initiated before that date, depending on the circumstances, as detailed in Exchange Act Release No. 34-78319, *Amendments to the Commission's Rules of Practice*, at 75-76 [81 FR 50212, at 50229-30 (July 29, 2016)]. Additionally, for proceedings instituted on or after July 13, 2016 but before September 27, 2016, the parties may elect to have the amended rules (except for the amendments to Rule 141, regarding service of orders instituting proceedings) apply to such proceedings if, within 14 days of service of the Order Instituting Proceedings (OIP), every party to the proceeding, including the Division of Enforcement, submits a request in writing to the Office of the Secretary of the Commission that the proceedings be conducted under the amended rules. Moreover, various other of the amended rules will apply in cases in which the initial prehearing conference pursuant to Rule 221 has not been held as of September 27, 2016 or where the proceedings have been stayed as of September 27, 2016 (except for proceedings stayed pursuant to Rule 161(c)(2)(i)), *See* Exchange Act Release No. 34-78319, *Amendments to the Commission's Rules of Practice*, at 73-74, [81 FR 50212, at 50228-29].

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 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.

Initial Decision of Hearing Officer

IT IS ORDERED that the Administrative Law Judge shall issue an initial decision no later than 210 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the

Commission's Rules of Practice, in effect as of the date of this Order; *unless* one of the following conditions has been met:

a) If the parties have elected, pursuant to the procedures outlined in the above Notice, to have the amended Rules of Practice¹ apply to these proceedings, then IT IS ORDERED that this matter will proceed on a 120-day timeline under amended Rule 360(a)(2) and the timing of the initial decision is determined by that Rule;

b) If the initial prehearing conference pursuant to Rule 221 has not been held as of September 27, 2016, then IT IS ORDERED that this matter will proceed on a 75-day timeline under amended Rule 360(a)(2) and the timing of the initial decision is determined by that Rule; or

c) If the proceedings have been stayed as of September 27, 2016 (except for proceedings stayed pursuant to Rule 161(c)(2)(i)), then IT IS ORDERED that this matter will proceed on a 120-day timeline under amended Rule 360(a)(2) and the timing of the initial decision is determined by that Rule.

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

¹ For purposes of this Order, amended rule(s) means the Rules of Practice in effect as of September 27, 2016. See Exchange Act Release No. 34-78319, *Amendments to the Commission's Rules of Practice*, [81 FR 50212 (July 29, 2016)]