

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 83164 / May 3, 2018

INVESTMENT ADVISERS ACT OF 1940
Release No. 4905 / May 3, 2018

ADMINISTRATIVE PROCEEDING
File No. 3-18165

In the Matter of

GARY YIN,

Respondent.

**ORDER MAKING FINDINGS AND
IMPOSING REMEDIAL
SANCTIONS PURSUANT TO
SECTION 15(b)(6) OF THE
SECURITIES EXCHANGE ACT OF
1934 AND SECTION 203(f) OF THE
INVESTMENT ADVISERS ACT OF
1940**

I.

On September 11, 2017, the Securities and Exchange Commission (“Commission”) instituted public administrative proceedings 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 Respondent Gary Yin (“Respondent”).

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 the subject matter of these proceedings and the findings contained in paragraph III.2, which are admitted, Respondent consents to the entry of this Order Making Findings and Imposing Remedial Sanctions Pursuant to Section 15(b)(6) of the Securities Exchange Act of 1934 and Section 203(f) of the Investment Advisers Act of 1940 (“Order”), as set forth below.

III.

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

1. Respondent is a former senior vice president, International Wealth Management Advisor, at the San Diego branch office of Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch"). From July 1994 through April 15, 2013, Respondent was a registered representative with Merrill Lynch, a broker-dealer registered with the Commission. From approximately December 2008 to April 2013, Yin was associated with Merrill Lynch, an investment adviser registered with the Commission. From 2005 until 2013, Yin was the Merrill Lynch Advisor for Jing Wang, a senior vice president at Qualcomm, Inc. during that period. Respondent, 59 years old, is a resident of San Diego, California.

2. On September 24, 2013, Yin pleaded guilty to one count of conspiracy to commit offenses (obstruction of official proceeding, and conducting transactions with proceeds of specified unlawful activity) in violation of Title 18, United States Code, Section 371, before the United States District Court for the Southern District of California, in *United States v. Gary Yin*, Crim. Information No. 13 CR 3488 WQH. On August 26, 2015, a judgment in the criminal case was entered against Yin. He was sentenced to a term of time served followed by three years supervised release, fined \$5,000.00, and ordered to make restitution in the amount of \$1,428,287.00.

3. The count of the criminal information to which Yin pleaded guilty alleged, among other things, that beginning in 2011 and continuing through February 2013, Yin knowingly and willfully agreed with Jing Wang and his brother, Bing Wang, to conceal Jing Wang's insider trading and control of the proceeds of insider trading by corruptly obstructing a Commission investigation of Qualcomm and its executives, including Jing Wang, and by knowingly conducting unlawful transactions with the proceeds of Jing Wang's insider trading.

IV.

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

Accordingly, it is hereby ORDERED pursuant to Section 15(b)(6) of the Exchange Act and Section 203(f) of the Advisers Act, that Respondent Yin 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

Pursuant to Section 15(b)(6) of the Exchange Act Respondent Yin be, and hereby is 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.

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.

By the Commission.

Brent J. Fields
Secretary