

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 86045 / June 6, 2019

INVESTMENT ADVISERS ACT OF 1940
Release No. 5250 / June 6, 2019

ADMINISTRATIVE PROCEEDING
File No. 3-19193

In the Matter of

KIMBERLY PINE KITTS,

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,
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 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 Kimberly Pine Kitts (“Respondent”).

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 her and the subject matter of these proceedings, and the findings contained in paragraphs III.2 and III.4 below, and consents to the entry of this 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, Making Findings, and Imposing Remedial Sanctions (“Order”), as set forth below.

III.

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

1. Respondent, age 51, is a resident of Orleans, Massachusetts. Beginning in April 2004 she was employed as an investment adviser representative at a dually-registered broker-dealer and investment adviser firm ("Firm"). Respondent worked at the Firm's branch offices in Massachusetts doing business as ("d/b/a") Marquis Consulting, LLC ("Marquis"), an entity she created and wholly controlled.

2. On June 3, 2019, a final judgment was entered by consent against Respondent, permanently enjoining her from future violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and Sections 206(1) and 206(2) of the Advisers Act, in the civil action entitled Securities and Exchange Commission v. Kimberly Pine Kitts, Civil Action Number 1:18-CV-11507, in the United States District Court for the District of Massachusetts.

3. The Commission's complaint alleged that Respondent engaged in various schemes to defraud her clients from 2013 through 2018. These schemes included: (1) forging withdrawal requests and misappropriating clients' variable annuity funds; (2) forging wire and check requests and misappropriating clients' brokerage account funds; and (3) misleading a client to withdraw funds from a retirement account and secretly directing those funds to the Respondent's bank account.

4. On November 19, 2018, Respondent pleaded guilty to one count of investment adviser fraud in violation of Title 15 United States Code, Section 80b-6, four counts of wire fraud in violation of Title 18 United States Code, Section 1343, and one count of aggravated identity theft in violation of Title 18 United States Code, Section 1028A before the United States District Court for the District of Massachusetts, in United States v. Kimberly Kitts, No. 1:18-CR-10325.

5. The counts of the criminal information to which Respondent pleaded guilty alleged, inter alia, that Respondent was in the business of providing investment advice to, and managing the funds of, individual investors. While serving as an investment adviser representative, Respondent:

- (a) by use of the mails and instrumentalities of interstate commerce, willfully defrauded her clients;
- (b) devised a scheme to defraud her clients to obtain money through materially false and fraudulent pretenses, and by means of four wire communications in interstate commerce, transferred \$337,500 of client funds to her personal bank account;
- (c) knowingly and without lawful authority used the identification of the names and brokerage account numbers of a client in relation to the crime of wire fraud.

IV.

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

Vanessa A. Countryman
Acting Secretary