

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 6017 / May 6, 2022

ADMINISTRATIVE PROCEEDING
File No. 3-20846

<p>In the Matter of</p> <p>George Kenneth Witherspoon, Jr.,</p> <p>Respondent</p>
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ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO 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 a public administrative proceeding be, and hereby is, instituted pursuant to Section 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against George Kenneth Witherspoon, Jr. (Respondent Witherspoon”).

II.

In anticipation of the institution of this proceeding, Respondent Witherspoon 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 this proceeding and the findings contained in paragraph III.2 below, which are admitted, Respondent Witherspoon consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 203(f) of the Advisers Act, Making Findings, and Imposing Remedial Sanctions (“Order”), as set forth below.

III.

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

1. George Kenneth Witherspoon, Jr., CRD No. 6354866, age 57, is a resident of North Carolina. He is the sole owner, Chief Executive Officer, Chief Operating Officer, Chief

Compliance Officer and President of Boveda Asset Management, Inc. (“Boveda”), CRD No. 171852, SEC File No. 801-80009. Boveda is currently incorporated in both the State of Florida (since 2014) and the State of North Carolina (since 2018). Boveda has been registered with the Commission as an Internet investment adviser since 2014 pursuant to Rule 203A-2(e) under the Advisers Act.

2. On April 27, 2022, a final judgment was entered by consent against Respondent Witherspoon, permanently enjoining him from future violations of Sections 203A, 204(a), 206(1), 206(2), 206(4), and 207 of the Advisers Act, and Rule 206(4)-2 thereunder, in the civil action entitled U.S. Securities and Exchange Commission v. Boveda Asset Management, Inc, et al., Civil Action Number 1:21-cv-05321-SCJ, in the United States District Court for the Northern District of Georgia.

3. The Commission’s complaint alleged that, between 2014 and 2021, Boveda and Respondent Witherspoon failed to produce books and records to the Commission, improperly registered Boveda with the Commission as an Internet investment adviser, maintained custody of client assets but failed to comply with requirements to safeguard them, and made material misstatements and omissions in Boveda’s Forms ADV, including (1) falsely claiming Respondent Witherspoon was a Certified Financial Planner; (2) overstating Boveda’s regulatory assets under management (“RAUM”); (3) falsely claiming that a related private fund (Boveda Realty Investors, LP) had been audited by a certified public accounting firm; (4) falsely claiming that Boveda did not have custody of client assets; and (5) failing to disclose an adverse April 16, 2021, Court Order resulting from the Commission’s subpoena enforcement action against Boveda.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent Witherspoons’ Offer. Accordingly, it is hereby ORDERED:

Pursuant to Section 203(f) of the Advisers Act, Respondent Witherspoon be and hereby is barred from associating with any investment adviser, broker, dealer, municipal securities dealer, municipal adviser, transfer agent, or nationally recognized statistical rating organization.

Any reapplication for association by Respondent Witherspoon 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, compliance with the Commission’s order and payment of any or all of the following: (a) any disgorgement and civil penalties ordered by a Court against Respondent Witherspoon in any action brought by the Commission; (b) any disgorgement amounts ordered against Respondent Witherspoon for which the Commission waived payment; (c) any arbitration award related to the conduct that served as the basis for the Commission order; (d) 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 (e) 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 Countryman
Secretary