

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 6059 / June 27, 2022

ADMINISTRATIVE PROCEEDING
File No. 3-20909

In the Matter of

David Lee Bonuccelli,

Respondent.

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 public administrative proceedings be, and hereby are, instituted pursuant to Section 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against David Lee Bonuccelli (“Respondent” or “Bonuccelli”).

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 paragraph 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, 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. David Lee Bonuccelli, age 68, resides in Sacramento, California. Beginning in May 1996 and continuing through March 2021, Bonuccelli served as the President, Chief Executive Officer, Director and Chief Compliance Officer of David L. Bonuccelli & Associates, Inc. ("Bonuccelli & Associates"), an investment adviser registered with the Commission. On March 31, 2021, Bonuccelli & Associates withdrew its registration with the Commission. Bonuccelli is not currently an associated person of an investment adviser.

2. On August 1, 2019, Bonuccelli pleaded guilty to one felony count of theft from an employee benefit plan in violation of Title 18 United States Code Section 664 before the United States District Court for the Eastern District of California in *United States v. David L. Bonuccelli, et al.*, Case No. 2:17-cr-00153-TLN (E.D. Cal.). On December 10, 2021, a judgment in the criminal case was entered against Bonuccelli. He was sentenced to time served, 16 months of supervised release, and ordered to pay an assessment of \$100 and restitution in the amount of \$10,922.

3. In his signed plea agreement, dated July 26, 2019, Bonuccelli admitted that his firm, Bonuccelli & Associates, sponsored a number of retirement benefit plans for its employees under ERISA, including a traditional pension plan over which Bonuccelli was the sole trustee. Bonuccelli admitted that beginning in 2011 and continuing through 2014, he made unauthorized transfers totaling \$1,243,154 from the pension plan that was intended to benefit the firm's employees to a personal bank account in his name and to his own retirement plan. Bonuccelli further admitted that he signed the operating agreements for the pension plan, which explicitly prohibited loans, diversion of funds and self-dealing, as well as the use of pension plan funds for any purposes other than for the exclusive benefit of the beneficiaries and participants. Bonuccelli also admitted that he filed inaccurate annual reports with the U.S. Department of Labor regarding the end-of-year balances of the pension plan and, on the same forms, indicated that the plan had not been subject to any "nonexempt transactions with any party-in-interest," when Bonuccelli had in fact initiated such transactions.

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 203(f) of the Advisers Act, that Respondent Bonuccelli be, and hereby is barred from association with any investment adviser, broker, dealer, 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, compliance with the Commission's Order and payment of any or all of the following: (a) any disgorgement or civil penalties ordered by a Court against the Respondent in any action brought by the Commission; (b) any disgorgement amounts ordered against the Respondent 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 A. Countryman
Secretary