

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 6533 / January 24, 2024

ADMINISTRATIVE PROCEEDING
File No. 3-21835

In the Matter of

MARC J. FRANKEL,

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 Marc J. Frankel (“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 him 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 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 Marc J. Frankel, age 61 and resident of Tarzana, California, was an investment adviser under Section 202(a)(11) of the Advisers Act and the owner of MJF Advisors, LLC, a financial advisory firm that had an office located in Encino, California. Frankel previously held Series 7 (registered representative), 63 (state) and 66 (investment adviser) licenses.

2. On January 9, 2023, a judgment was entered by consent against Respondent, permanently enjoining him from future violations of Sections 206(1) and 206(2) of the Advisers Act, in the civil action entitled Securities and Exchange Commission v. Marc J. Frankel, Civil Action Number 2:22-cv-06500-SB-MRW, in the United States District Court for the Central District of California. (Dkt. No. 15.)

3. Commission's complaint alleged, in substance, that Frankel's schemed to defraud his investment advisory clients by stealing and misappropriating their assets to pay his personal expenses and for other unauthorized purposes. In doing so, Frankel breached the fiduciary duty of care and duty of loyalty that he owed his advisory clients and violated the antifraud provisions of the federal securities laws.

4. On March 2, 2023, Respondent 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 Central District of California, in *United States v. Marc Jay Frankel*, Crim. No. CR-22-00599-GW (C.D. Cal.).

5. As part of his guilty plea, Respondent admitted as the factual basis of his plea agreement that he ("Defendant") worked as an Investment Advisor Representative ("IAR") for an investment-advisory firm (the "Investment Firm") whose principal place of business was Santa Barbara, California. The Investment Firm was a registered investment advisor with the Securities and Exchange Commission and as an IAR affiliated with the Investment Firm, defendant owed fiduciary duties to the Investment Firm's clients, including the duties of loyalty and good faith. Pursuant to the agreements signed by Investment Firm clients, defendant made investment decisions for those clients, and bought and sold securities on their behalf. As part of those written agreements and in the course of dealing with his clients, defendant represented to Investment Firm clients that he was a loyal IAR and fiduciary who would act in his clients' best interests and not put his own interests above theirs. These representations were important because, for his Investment Firm clients with discretionary accounts, including Advisory Client 1 and Advisory Client 2, defendant was able to execute transactions without the need to seek prior, transaction-specific approval. And defendant knew that his clients trusted and relied upon his loyalty. For example, Advisory Client 1 was a professional athlete, and advised defendant that he relied upon defendant to manage his wealth so that he, Advisory Client 1, could focus exclusively on his professional sports career. Beginning in or around December 2017 and continuing through in or around June 2020, defendant, without authorization and in violation of the fiduciary duties he owed and representations he had made, began to convert funds within Advisory Client 1's checking account

for his own unauthorized personal use and benefit. Specifically, defendant charged jewelry, Lakers tickets, electronics, and his children's college tuition on an American Express credit card in the name of his deceased mother, and then paid the resulting debts by initiating interstate wire transfers through the Automated Clearing House network ("ACH payments") from Advisory Client 1's checking account to American Express. As one example of defendant's use of the interstate wires to execute his fraudulent scheme, on January 9, 2020, defendant initiated an ACH transaction from Advisory Client 1's account to American Express in the amount of \$3,034.92. This electronic funds transaction, which travelled in interstate commerce, was typical of defendant's method of structuring unauthorized transactions from Advisory Client 1's account into ACH payments ranging between approximately \$2,000 and \$4,000 in order to avoid the scrutiny that larger payment amounts might draw. When defendant learned, in or around May 2020, that representatives from Advisory Client 1's sports agency were investigating potential irregularities involving Advisory Client 1's accounts, defendant misrepresented to that agency that he had reviewed Advisory Client 1's accounts and found no irregularities. In or around June 2020, when representatives from Advisory Client 1's sports agency confronted defendant with evidence of the improper ACH payments, defendant falsely blamed Advisory Client 1's personal assistant. After the apparent discovery of his fraud against Advisory Client 1, and to further conceal and continue his scheme, in or around June 2020, defendant ceased initiating ACH payments from Advisory Client 1's account and, instead, initiated two additional unauthorized ACH payments from Advisory Client 2's checking account to satisfy approximately \$4,765.58 in additional debts defendant had incurred through the use of his deceased mother's American Express credit card. Through his scheme to defraud, defendant caused losses totaling approximately \$743,817.58.

IV.

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

Accordingly, it is hereby ORDERED pursuant to Section 203(f) of the Advisers Act, that Respondent Frankel 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.

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