

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 79020 / September 30, 2016

INVESTMENT ADVISERS ACT OF 1940
Release No. 4544 / September 30, 2016

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3812 / September 30, 2016

ADMINISTRATIVE PROCEEDING
File No. 3-17612

In the Matter of

DENNIS DUBAN, CPA

Respondent.

**ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 203(f) OF THE
INVESTMENT ADVISERS ACT OF 1940
AND RULE 102(e)(2) OF THE
COMMISSION'S RULES OF PRACTICE,
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 Dennis Duban (“Respondent” or “Duban”). The Commission also deems it appropriate to issue an order of forthwith suspension of Respondent pursuant to Rule 102(e)(2) of the Commission’s Rules of Practice [17 C.F.R. § 201.102(e)(2)].¹

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

¹ Rule 102(e)(2) provides in pertinent part: “Any... person who has been convicted of a felony or a misdemeanor involving moral turpitude shall be forthwith suspended from appearing or practicing before the Commission.”

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 Section III.5. below, and consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 203(f) of the Investment Adviser Act of 1940 and Rule 102(e)(2) of the Commission's Rules of Practice, 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 became licensed as a Certified Public Accountant ("CPA") in California in 1976, in Washington in 1993, in Hawaii in 1999, and in New York in 2001.
2. From October 2006 through March 2012, Respondent operated Dennis L. Duban, CPA, a state-registered advisory firm, as a sole proprietor.
3. On September 15, 2010, Duban was charged with two counts of conspiracy to defraud in violation of Title 18 United States Code, Section 371 and three counts of violating Title 26 United States Code, Section 7206(2) in a criminal action entitled *United States v. Dennis Lawrence Duban*, 10-CR-631 (LEK) before the United States District Court for the District of Hawaii.
4. On February 7, 2011, and May 26, 2011, Respondent, as Chief Compliance Officer for Dennis L. Duban, CPA, falsely certified that neither Dennis L. Duban, CPA, nor its advisory affiliates had been charged with any felony in the past ten years in its Form ADVs. An "advisory affiliate" includes an investment adviser's non-clerical employees, its officers, partners, and directors, and persons controlling or controlled by the adviser.
5. On October 1, 2012, Respondent pleaded guilty in *U.S. v. Duban* to one count of conspiracy to defraud the Internal Revenue Service in violation of Title 18 United States Code, Section 371, and one count of willfully aiding and assisting in the preparation of a false personal income tax return in violation of Title 26, United States Code, Section 7206(2). On June 3, 2014, the court entered judgment against Duban, sentencing him to a prison term of two years followed by three years of supervised release. He was also fined \$30,000 and ordered to pay a \$200 special assessment.
6. In his plea agreement, Duban admitted *inter alia*, that he provided accounting and tax planning services to Individual A, Individual B, and Company C; that he did not report as income on Individual A's individual tax return certain payments for personal expenses made on Individual A's behalf by Company C; and that he underreported the gain on sale of property on Individual B's personal tax return. Duban admitted that these tax returns were materially false and his actions in preparing them were willful and knowing.
7. Duban's Washington CPA license lapsed in 2013. He surrendered or forfeited his Hawaii CPA license in 2013 due to disciplinary action. In December 2014, Duban's application to

surrender his New York CPA license was granted. Duban surrendered his California CPA license via stipulated settlement effective January 1, 2015.

IV.

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

Accordingly, it is hereby ORDERED pursuant to Section 203(f) of the Advisers Act, that Duban be, and hereby is barred from association with any broker, dealer, investment adviser, municipal securities dealer, or transfer agent;

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.

In view of the foregoing, the Commission finds that Duban has been convicted of a felony within the meaning of Rule 102(e)(2) of the Commission's Rules of Practice.

Accordingly, it is hereby ORDERED, that Dennis Duban is forthwith suspended from appearing or practicing before the Commission pursuant to Rule 102(e)(2) of the Commission's Rules of Practice.

By the Commission.

Brent J. Fields
Secretary