

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
July 15, 2009

ADMINISTRATIVE PROCEEDING
File No. 3-13548

In the Matter of

FREDERICK J. BARTON,

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
AND NOTICE OF HEARING**

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 Frederick J. Barton (“Respondent” or “Barton”).

II.

After an investigation, the Division of Enforcement alleges that:

**A. RESPONDENT, RELATED ENTITIES AND THE PERMANENT
INJUNCTION**

1. Barton, 48, previously of Atlanta, Georgia, is the founder, principal, control person, and through Barton Asset Management, LLC (“Barton Asset Management”), the majority interest holder of TwinSpan Capital Management, LLC (“TwinSpan”). A.G. Edwards & Sons, Inc. (“AGE”) employed Barton from 1988 to 2002 as a registered representative associated with AGE, and who served as the branch manager of AGE’s Atlanta office. During the pertinent period, AGE was registered with the Commission as a broker-dealer and an investment adviser. Barton founded TwinSpan in January 2003.

2. Barton Asset Management, a Georgia limited liability corporation founded by Barton in November 2002, operated as an unregistered investment adviser. Barton Asset

Management was dissolved by the Georgia Secretary of State in May 2008, and the company has no assets. Barton was the firm's owner.

3. TwinSpan was a Georgia limited liability company, which was owned and operated by Barton, and was based in Atlanta, Georgia. TwinSpan was formed in January 2003 and operated as a non-custodial investment adviser with discretion over client accounts. It was registered with the Commission from September 2005 to June 2007, when it filed an ADV-W ending its registration with the Commission. In May 2008, TwinSpan was dissolved by the Georgia Secretary of State. TwinSpan has no assets.

4. On April 27, 2009, a default judgment was entered against Barton permanently enjoining him from future violations of Section 17(a) of the Securities Act of 1933 ("Securities Act"), Section 10(b) of the Exchange Act and Rules 10b-5 and 10b-9 thereunder, and from future violations of Sections 206(1) and 206(2) of the Advisers Act, in the civil action entitled Securities and Exchange Commission v. Frederick J. Barton, et al., Civil Action No. 1:08-cv-1917-RWS, in the United States District Court for the Northern District of Georgia.

5. The Commission's complaint alleged that, between May 1999 and December 2003, Barton, acting individually or through Barton Asset Management, fraudulently misappropriated almost the entire life savings of R.F., a single elderly customer of the broker-dealer employing Barton, who suffered from diminished mental capacity and Alzheimer's disease. Barton individually and through Barton Asset Management misappropriated \$970,000 in this scheme.

6. The Commission's complaint alleged that later, between October 2004 and October 2005, Barton and TwinSpan engaged in a fraudulent private placement, ostensibly to raise funds to finance TwinSpan. Barton and TwinSpan raised \$1.515 million from ten investors, falsely representing to all of them in the private placement memorandum that the funds would only be used upon reaching a minimum offering amount and then would only be used for TwinSpan's general corporate purposes. Despite those representations, the complaint alleged that Barton and TwinSpan diverted funds from the offering for Barton's personal use, and without disclosure to investors used a substantial portion of the offering proceeds in advance of reaching the minimum offering amount in violation of the terms of the private placement.

7. Finally, the Commission's complaint alleged that between October 2006 and January 2007, Barton and TwinSpan misappropriated \$685,000 from an investment advisory client of TwinSpan, J.C. First, acting through TwinSpan, Barton forged J.C.'s signature on four wire-transfer authorizations and used them to transfer \$185,000 of J.C.'s assets under TwinSpan's management into a bank account in the name of Barton Asset Management. Shortly thereafter, Barton borrowed an additional \$500,000 from J.C., ostensibly to fund TwinSpan's business plan, without disclosing to her that he had previously misappropriated \$185,000 of her funds.

B. BARTON'S CRIMINAL CONVICTION

8. On March 25, 2009, Barton 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 Northern District of Georgia, in United States v. Frederick Barton, Case No. 1:08-CR-477-TWT.

9. The count of the indictment to which Barton pled guilty alleged, among other things, that from in or about May 1999 through in or about September 2004, Barton knowingly and willfully devised a scheme and artifice to defraud R.F., an elderly client suffering from Alzheimer's disease, by means of materially false and fraudulent pretenses, representations and promises. R.F.'s funds were deposited into Barton's account and used to fund his personal lifestyle and eventually to fund TwinSpan.

C. THE CEASE-AND-DESIST ORDER ISSUED AGAINST BARTON

10. In May 2007, in connection with a portion of the misconduct outlined above, the Georgia Secretary of State (i) ordered Barton to cease-and-desist all offers for sale and sales of securities in violation of the Georgia Securities Act of 1973, as amended, and (ii) permanently barred Barton from associating with a registered dealer, limited dealer, or investment adviser in Georgia.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative proceedings be instituted to determine:

A. Whether the allegations set forth in Section II are true and, in connection therewith, to afford Respondent an opportunity to establish any defenses to such allegations;

B. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 15(b) of the Exchange Act; and

C. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 203(f) of the Advisers Act.

IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that the Respondent shall file his Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If the Respondent fails to file the directed answer, or fails to appear at a hearing after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against him upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f) and 201.310.

This Order shall be served forthwith upon the Respondent personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 210 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Elizabeth M. Murphy
Secretary