

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 63205/October 28, 2010**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-14102**

**In the Matter of**

**BARRY SCHWARTZ,**

**Respondent.**

**ORDER INSTITUTING**  
**ADMINISTRATIVE PROCEEDINGS**  
**PURSUANT TO SECTION 15(b) OF THE**  
**SECURITIES EXCHANGE ACT OF 1934,**  
**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”) against Barry Schwartz (“Schwartz” or “Respondent”).

**II.**

After an investigation, the Division of Enforcement alleges that:

**A. RESPONDENT**

Between 1993 and 1995, Schwartz was a registered representative with Barrett Day Securities, Inc. (“Barrett Day”), a broker-dealer registered with the Commission. Schwartz, 64 years old, is currently incarcerated at CCM New York.

**B. ENTRY OF RESPONDENT’S CRIMINAL CONVICTION**

1. On December 10, 2003, Schwartz pled guilty to conspiracy to commit securities fraud in violation of Title 18 United States Code, Section 371, and conspiracy to commit money laundering in violation of Title 18, United States Code, Section 1956, before the United

States District Court for the Eastern District of New York, in United States v. Barry Schwartz, et al., Crim. Information No. 03-CR-290. On May 15, 2009, a judgment in the criminal case was entered against Schwartz. He was sentenced to a prison term of 18 months followed by three years of supervised release. Schwartz also forfeited a total of \$1,276,552.

2. The counts of the criminal indictment to which Schwartz pled guilty alleged, inter alia, that Schwartz, while associated with Barrett Day, used nominees to conceal his ownership of National Health and Safety (“National Health”) and Tera West Ventures, Inc. (“Tera West”), whose stocks were traded on the OTC Bulletin Board. The indictment alleged that Schwartz used his controlling interest in National Health and Tera West to arbitrarily set their stock prices and deceived the investing public by making it appear that the sales price was set by a market of multiple, independent shareholders selling their shares of National Health and Tera West.

### 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 hereof 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. Whether, pursuant to Section 15(b) of the Exchange Act, it is appropriate and in the public interest to bar Respondent from participating in any offering of penny stock, including: acting as a promoter, finder, consultant, agent or other person who engages in activities with a broker, dealer or issuer for purposes of the issuance or trading in any penny stock; or inducing or attempting to induce the purchase or sale of any penny stock.

### 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 Respondent shall file an 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 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 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.

For the Commission, by its Secretary, pursuant to delegated authority.

Elizabeth M. Murphy  
Secretary

Service List

Rule 141 of the Commission's Rules of Practice provides that the Secretary, or another duly authorized officer of the Commission, shall serve a copy of the Order Instituting Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934, and Notice of Hearing ("Order"), on the Respondent and his legal agent.

The attached Order has been sent to the following parties and other persons entitled to notice:

Honorable Brenda P. Murray  
Chief Administrative Law Judge  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, DC 20549-2557

Sheldon Mui, Esq.  
New York Regional Office  
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3 World Financial Center  
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Mr. Barry Schwartz  
Register Number 68631-053  
CCM New York  
Community Corrections Office  
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