

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 70300 / September 3, 2013

ADMINISTRATIVE PROCEEDING
File No. 3-15448

In the Matter of

GARY A. COLLYARD,

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 Gary A. Collyard (“Respondent” or “Collyard”).

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENT

1. Collyard, age 64, was the sole owner and control person of The Collyard Group, LLC (“Collyard Group”), a limited liability company with its principal place of business in Minnetonka, Minnesota. From at least 2004 to November 2007, Collyard acted as an unregistered broker or dealer in connection with the offer and sale of the securities of Bixby Energy Systems, Inc. (“Bixby”). During the relevant period, Collyard was a resident of Delano, Minnesota. He currently resides at the Duluth Prison Camp in Duluth, Minnesota.

B. ENTRY OF THE RESPONDENT'S CRIMINAL CONVICTION

2. On February 27, 2012, Collyard pled guilty to one count of conspiracy to commit securities fraud in violation of 18 U.S.C. 371 and one count of conspiracy to commit bank fraud in violation of 18 U.S.C. 371, before the United States District Court for the District of Minnesota in United States v. Gary A. Collyard, No.12-cr-58 (SRN). On August 1, 2013, the court entered a judgment against Collyard. He was sentenced to a prison term of 120 months followed by three years of supervised release and ordered to make restitution in the amount of \$5,672,994.44.

3. The counts of the criminal information to which Collyard pled guilty alleged, *inter alia*, that from at least January 2006 through May 2011, Collyard, conspiring with others, and by the use of means and instrumentalities of interstate commerce, used and employed manipulative and deceptive devices and contrivances in connection with the sale of Bixby securities, and made untrue statements of material facts and omitted to state material facts necessary in order to make the statements not misleading in connection with the sale of such securities. The criminal information further alleged that Collyard, conspiring with others, devised a scheme and artifice to defraud multiple federally insured financial institutions and to obtain money, funds, and credits owned by and under the custody and control of those institutions, by means of materially false and fraudulent pretenses, representations, and promises.

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;

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