

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 70980 / December 4, 2013

INVESTMENT ADVISERS ACT OF 1940
Release No. 3731 / December 4, 2013

ADMINISTRATIVE PROCEEDING
File No. 3-15634

In the Matter of

Nicholas J. Polito, Jr.,

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, 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 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 Nicholas J. Polito, Jr. (“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 consents to the Commission’s jurisdiction over him and the subject matter of these proceedings and to the entry of this 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, 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. Polito, age 66, is a resident of Pennsylvania. From 2005 to August 2010, Polito was an employee of PNC Investments LLC, which is a broker-dealer registered with the Commission and an investment adviser registered with the Commission.

2. On October 17, 2012, Polito pleaded guilty to one count of bank fraud in violation of Title 18 United States Code, Section 1344 before the United States District Court for the Middle District of Pennsylvania, in United States v. Nicholas J. Polito, Jr., Crim. Information No. 3-CR-12-261. On May 6, 2013, a judgment in the criminal case was entered against Polito. He was sentenced to a prison term of 42 months followed by three years of supervised release and ordered to make restitution in the amount of \$673,349.44.

3. The count of the criminal information to which Polito pleaded guilty alleged, among other things, that, from 2005 to on or about November 16, 2011, Polito knowingly executed a scheme or artifice to defraud PNC Bank and to fraudulently obtain money from the bank's customer accounts by, among other means, forging investor's names on checks and falsifying investment account statements.

IV.

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

Accordingly, it is hereby ORDERED pursuant to Section 15(b)(6) of the Exchange Act and Section 203(f) of the Advisers Act that Respondent Polito 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; and barred from participating in any offering of a 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.

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.

By the Commission.

Elizabeth M. Murphy
Secretary