

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

**SECURITIES ACT OF 1933**  
**Release No. 9579 / April 28, 2014**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 72034 / April 28, 2014**

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 3825 / April 28, 2014**

**INVESTMENT COMPANY ACT OF 1940**  
**Release No. 31031 / April 28, 2014**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-15858**

**In the Matter of**

**STANLEY JONATHAN  
FORTENBERRY (A/K/A S.J.  
FORTENBERRY, JOHN  
FORTENBERRY, AND  
JOHNNY FORTENBERRY),**

**Respondent.**

**ORDER INSTITUTING  
ADMINISTRATIVE AND CEASE-AND-  
DESIST PROCEEDINGS PURSUANT TO  
SECTION 8A OF THE SECURITIES  
ACT OF 1933, SECTION 21C OF THE  
SECURITIES EXCHANGE ACT OF 1934,  
SECTIONS 203(f) AND 203(k) OF THE  
INVESTMENT ADVISERS ACT OF 1940,  
AND SECTION 9(b) OF THE  
INVESTMENT COMPANY 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 and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”), Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), Sections 203(f) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”), and Section 9(b) of the Investment Company Act of 1940 (“Investment Company Act”) against Stanley Jonathan Fortenberry (a/k/a S.J. Fortenberry, John Fortenberry, and Johnny Fortenberry) (“Respondent” or “Fortenberry”).

**II.**

After an investigation, the Division of Enforcement alleges that:

**A. SUMMARY**

1. Respondent Fortenberry is a recidivist securities laws violator. Notwithstanding cease-and-desist orders issued by the Pennsylvania Securities Commission and the Texas State Securities Board, starting in 2010, Fortenberry solicited investors for his Premier Investment Fund L.P. (“Premier”), which he marketed as a vehicle to invest in various country music-themed social media and entertainment ventures.

2. Fortenberry, orally and in the Premier offering materials that he drafted and distributed, guaranteed to investors returns of at least 12% per annum, and he provided at least one investor with monthly account statements showing falsely that the fund was meeting its projections and that its investments were turning a profit.

3. Based on his representations, the Premier offering materials, and account statements, Fortenberry raised hundreds of thousands of dollars for Premier, and he actively worked to raise millions more.

4. In reality, however, Fortenberry looted the fund. Unbeknownst to his investors and those he solicited, Fortenberry withdrew approximately half of the money entrusted to him. Despite the fact that Premier had no profits—indeed, no income whatsoever—Fortenberry wrote checks to himself for tens of thousands of dollars in “management fees,” and he also spent the fund’s assets on his living expenses, mortgage, utilities, credit card bills, personal travel, and purchases at various gas stations and liquor stores.

5. To facilitate his fraud and to impede the scrutiny of the investors in the fund, Fortenberry also kept almost no business records for Premier—despite explicit representations that the fund would maintain a “capital account” for each investor and that Fortenberry would “use generally accepted accounting principles . . . [to] keep[ Premier’s] books and records.”

6. While Fortenberry did invest a portion of Premier’s assets, Premier’s investments never turned a profit, and all of Premier’s assets are now, for all intents and purposes, gone.

**B. RESPONDENT**

7. Stanley Jonathan Fortenberry (also known as “S.J. Fortenberry,” “John Fortenberry,” and “Johnny Fortenberry”), age 48, is the General Partner of Premier Investment Fund L.P. (“Premier”), a Tennessee limited partnership and pooled investment vehicle. As the General Partner of Premier, Fortenberry held exclusive responsibility for soliciting investments, communicating with investors, and making investment decisions on behalf of Premier. Fortenberry resides in San Angelo, Texas.

8. As the General Partner of Premier and as an investment adviser, Fortenberry owed to Premier fiduciary duties, including the duty to act at all times in the best interest of the fund.

9. Fortenberry has twice previously been subjected to cease-and-desist orders in connection with securities fraud. In 2004, both the Pennsylvania Securities Commission and the Texas State Securities Board ordered Fortenberry to cease and desist from selling unregistered securities.

10. Specifically, the Texas regulator found in its order, and Fortenberry consented, that Fortenberry had “intentionally failed” to disclose the following material facts:

- (A) Information regarding the assets, liabilities, profits, losses, cash flow, and operating history of the issuer sufficient to enable a prospective investor to make an informed decision regarding the risks associated with the offering.
- (B) The specific risks associated with [the] investment . . ., including the risk that a working interest owner may be liable for costs or claims in excess of the amount of his or her investment.
- (C) Respondent Fortenberry was convicted of theft in cause [sic] number 309,091 in the County Court at Law No. 7, Travis County, Texas on February 2, 1990.
- (D) Respondent Fortenberry filed for Chapter 13 bankruptcy in the United States Bankruptcy Court, Northern District of Texas, Lubbock Division, on August 3, 1992, in case number 92-50525, and said bankruptcy was dismissed on March 21, 1994 by motion of the Trustee.
- (E) Respondent Fortenberry filed for Chapter 13 bankruptcy in the United States Bankruptcy Court, Northern District of Texas, Lubbock Division, on December 16, 1993, in case number 93-50785, and said bankruptcy was dismissed on September 30, 1994 by motion of the Trustee.

11. The Texas State Securities Board then issued the following Order against Fortenberry as a result of his conduct:

- 1. It is therefore ORDERED that [Fortenberry] CEASE AND DESIST from offering for sale any security in Texas until the security is registered with the Securities Commissioner or is offered for sale pursuant to an exemption from registration under the Texas Securities Act.

2. It is further ORDERED that [Fortenberry] immediately CEASE AND DESIST from acting as [a] securities dealer[] or agent[] in Texas until [Fortenberry is] registered with the Securities Commissioner or [is] acting pursuant to an exemption from registration under the Texas Securities Act.
3. It is further ORDERED that [Fortenberry] CEASE AND DESIST from engaging in any fraud in connection with the offer for sale of any security in Texas.

12. In participating in the conduct set forth below, Fortenberry engaged in conduct that is nearly identical to that which formed the basis of the Texas cease-and-desist order.

13. In 2010 and 2011, Fortenberry intentionally used the name “John”—a misspelling of his middle name—when soliciting investors and drafting Premier’s partnership agreement.

14. On information and belief, Fortenberry used the name “John” so that prospective investors would be less likely to connect him to the Texas and Pennsylvania cease-and-desist orders, which are readily available on the Internet, or to learn of his prior felony conviction and multiple bankruptcy filings.

### C. **OTHER RELEVANT PERSONS AND ENTITIES**

#### 1. *Premier Investment Fund L.P.*

15. Premier Investment Fund L.P. (“Premier”) is a Tennessee limited partnership formed by Fortenberry in 2010. Premier is a pooled investment vehicle. Premier’s principal place of business is in San Angelo, Texas. Premier is not registered with the Commission.

16. Fortenberry is the General Partner of Premier. Premier also has two limited partners by virtue of their investment in Premier.

17. Currently, Premier has no cash or other assets, except for a small equity stake in a start-up, entertainment and social media company. The value, if any, of Premier’s equity stake is unknown.

#### 2. *Victim 1*

18. Victim 1 is a resident of Kings Park, New York. On September 13, 2010 and November 16, 2010, Victim 1 invested a total of \$200,000 in Premier, in two lump sums of \$100,000.

19. By virtue of his investments, Victim 1 is a limited partner of Premier.

### 3. *Victim 2*

20. Victim 2 is a resident of San Angelo, Texas. Between August 3, 2010 and March 8, 2011, Victim 2 invested \$100,000 in Premier, in what were, largely, monthly installments. During the period of his investment in Premier, Victim 2 suffered from the effects of a stroke and chronic Lyme disease, which severely impaired his memory, cognition, and decision-making abilities.

21. By virtue of his investments, Victim 2 is a limited partner of Premier.

#### **D. FORTENBERRY MADE MATERIAL FALSE STATEMENTS**

22. The instant fraud began in March 2010 when Fortenberry contacted a prominent manager of country music talent (the “Manager”) and offered to raise money for the Manager’s new entertainment and social media company (“Company A”), which was to fund, among other things, a country music-themed social media website (“Country Music Website”).

23. Following this initial contact, Fortenberry created and included in Premier’s offering materials what he purported was a business plan for Country Music Website. Fortenberry used this business plan to inform prospective limited partners of one of the ways that they would make money on investments in Premier. He then began contacting potential investors, including Victim 1, and encouraged them to invest in Premier, Fortenberry’s fund which would eventually invest in Country Music Website via Company A. Fortenberry touted his ability to invest in the entertainment and country music industries, and he frequently arranged for potential investors to meet the Manager.

24. The Manager never authorized the Country Music Website business plan’s inclusion in the Premier offering documents. Fortenberry prepared these documents without the Manager’s knowledge. Upon learning of the materials, the Manager objected and instructed Fortenberry to stop using the materials.

25. The business plan and other offering documents contain numerous materially false and misleading statements, specifically regarding the risks associated with the enterprise and its likely return for Premier investors. For example, the business plan that Fortenberry created and distributed to Premier’s potential investors states as follows:

[Country Music Website] will average thirty dollars per month per member. We are confident that we will achieve one million members by August 15, 2012. Consequently, [Country Music Website] will be grossing thirty million dollars per month. We expect our cost, at that point, to remain under two million dollars monthly, leaving a profit of twenty eight million dollars monthly.

If you invest now, we will pay you twelve percent (12%) per annum. Repayment of principal and interest will be paid back in three years, along with you keeping your equity

stake in the holdings. Most importantly, our investors will receive twelve and one half percent of twenty eight million dollars, which is three and one half million dollars divided by our one hundred investors. Thus, each investor will be paid thirty five thousand dollars per month for the rest of his or her life.

26. Fortenberry knew or was reckless in not knowing that his written and oral representations regarding Premier's actual and projected performance were false and misleading.

27. In the limited partnership agreement he created, Fortenberry also misrepresented to Premier's investors and prospective investors that the fund did and would keep accurate and appropriate books and records:

C. . . . Each partner shall have a capital account that includes invested capital plus that partner's allocations of net income, minus that partner's allocation of net loss and share of distributions. . . .

F. The Company shall use generally accepted accounting principles, as amended from time to time, in keeping its books and records, and its fiscal year shall be a calendar year. The general partner shall make any tax election necessary for completion of the partnership tax return.

28. A full set of financial statements prepared in accordance with generally accepted accounting principles ("GAAP") consist of a balance sheet, income statement, statement of comprehensive income, statement of cash flows, and accompanying footnotes to the financial statements. GAAP financial statements and footnotes also require certain treatment, presentation, and disclosure relating to various transactions and account balances.

29. In reality, Fortenberry made no attempt to comply with the recordkeeping requirements of the partnership agreement. He never kept capital accounts, balance sheets, income statements, statements of comprehensive income, statements of cash flows, or accompanying footnotes for Premier. Premier also never filed a tax return or prepared the papers necessary for Premier or its investors to prepare their returns. And, the account statements Fortenberry sent to one investor were materially false and misleading.

30. Fortenberry also "lost," destroyed, and otherwise failed to maintain documentation relating to Premier and his activities as general partner. His failure to maintain the financial and business records of Premier was not conducive to accurate, complete, and reliable financial reporting under GAAP.

31. Again, Fortenberry knew or was reckless in not knowing that his representations regarding Premier's recordkeeping were false and misleading.

32. Fortenberry provided these materially false and misleading Premier offering materials to Victim 1 and Victim 2.

33. Fortenberry also made numerous oral misrepresentations to Victim 1. For example, Fortenberry told Victim 1 that his entire capital investment in Premier would be used by Premier to invest in Company A, and that Fortenberry's compensation would be limited to an equity stake in Premier. Fortenberry led Victim 1 to believe that Premier would have almost no expenses of its own. Fortenberry never revealed that he intended to and did divert a substantial portion of Victim 1's investment for his own benefit.

34. As a result of Fortenberry's materially false and misleading statements, Victim 1 invested a total of \$200,000 in Premier through two investments of \$100,000 each.

35. Fortenberry also preyed on those most vulnerable to fraud: the sick and elderly.

36. Fortenberry met Victim 2, a retiree, through a 12-step program in which both participated. Victim 2 suffered from numerous physical and mental ailments, including the effects of a stroke and chronic Lyme disease, which severely impaired his memory, cognition, and decision-making abilities.

37. Fortenberry knew of Victim 2's ailments, as Victim 2 spoke openly about them at various meetings of the 12-step program attended by Fortenberry.

38. Fortenberry convinced Victim 2 to invest in Premier through materially false and misleading information. For example, Fortenberry told Victim 2 that Victim 2's entire investment would be used to invest in the entertainment industry, and Fortenberry never revealed that he intended to and did divert a substantial portion of Victim 2's investment for his own benefit.

39. On August 3, 2010, Victim 2 provided Fortenberry with a check, written from Victim 2's retirement funds, with the understanding that the funds would be invested. Unbeknownst to Victim 2, however, Fortenberry immediately deposited Victim 2's check into Fortenberry's personal bank account and never transferred the proceeds to Premier.

40. To entice Victim 2 to invest additional capital on a monthly basis, Fortenberry sent Victim 2 materially false and misleading monthly account statements, and provided other false updates concerning Premier's investments and supposed profitability. For example, within a month of Victim 2's initial investment, Fortenberry represented to Victim 2 that Premier had invested in a movie production company when, in fact, Premier never made any such investment.

41. Fortenberry also created and sent to Victim 2 monthly account statements that gave the appearance that the fund's investments were generating a profit and that Victim 2's investment in Premier was, in turn, profitable. The fund, however, never generated a profit—it has never received a single dollar of return on its investment.

42. As intended, these false statements about Premier’s investments and profits induced Victim 2 to continue to make monthly investments in Premier. Over the course of several months, Victim 2 invested approximately \$100,000 in Premier.

43. Tellingly, Fortenberry did not send these false and misleading monthly account statements to Victim 1, who purchased a full limited partnership interest at the time of each of his investments and who requested, but never received, complete financial statements from Fortenberry.

44. As with Fortenberry’s prior state securities laws violation, Fortenberry misrepresented and failed to provide to Premier’s investors (a) “information regarding the assets, liabilities, profits, losses, cash flow, and operating history of the issuer sufficient to enable a prospective investor to make an informed decision regarding the risks associated with the offering,” (b) that Fortenberry had been convicted of theft, and (c) that Fortenberry had twice filed for bankruptcy. Fortenberry also failed to disclose to Premier’s investors that he was subject to two cease-and-desist orders resulting from prior state securities laws violations.

45. Based on Fortenberry’s written and oral misrepresentations, two investors invested a total of \$300,000 in Premier.

46. Fortenberry was the sole investment adviser for Premier, and after obtaining these investment proceeds, enjoyed unfettered control over Premier and its bank account. When managing Premier and its assets, Fortenberry completely ignored corporate formalities, routinely commingling Premier’s funds with his own.

#### **E. FORTENBERRY LOOTED THE FUND**

47. In addition to his misrepresentations regarding the fund’s prospects and recordkeeping, Fortenberry also falsely told investors and prospective investors in Premier that his compensation for his work managing Premier’s investments would be solely in the form of an equity stake in Premier and a concomitant share in Premier’s profits.

48. Fortenberry repeated this misrepresentation to Premier’s investors and prospective investors in Premier’s partnership agreement, which purported to give Fortenberry 100 partnership units out of a possible 199 units and 50% of Premier’s net income:

- A. The undersigned acknowledges that in consideration for his pre-formation and formation activities for the benefit of the Company John Fortenberry received hereby at the time of the Company’s formation 100 Units of the Company, and was hereby appointed general partner of the Company. . . .
- D. After tax net income, net loss, and voting power of the Company shall be allocated as follows:



1. 50 percent to the general partner.
2. 50 percent to the limited partners, allocated according to their percentage of the total limited partnership capital accounts.

49. While the partnership agreement authorized Fortenberry to incur, on behalf of Premier, “reasonable administrative expenses,” which could include “salaries,” nothing in the partnership agreement permitted Fortenberry to use Premier’s assets for his unfettered personal use and benefit. And, in any event, Fortenberry never disclosed to his investors the payment of any “salary” or “reasonable administrative expenses” to him.

50. Moreover, irrespective of any specific provision of the partnership agreement, as the General Partner of Premier and as an investment adviser, Fortenberry owed to Premier fiduciary duties, including the duty to act at all times in the best interest of the fund.

51. Notwithstanding these representations and duties, upon receiving investments from Victims 1 and 2, Fortenberry proceeded to loot the fund. Against his prior representations, he took over a hundred and forty thousand dollars in “management fees” and in the form of personal expenses that he charged to the fund.

52. Despite representing to investors that his compensation would be solely in the form of an equity stake in Premier and a concomitant share in Premier’s profits, Fortenberry never disclosed to Premier or its investors that he intended to or, in fact, paid himself “management fees,” and the partnership agreement makes no mention whatsoever of such compensation. Nevertheless, between September 2010 and March 2011, Fortenberry wrote “management fee” checks to himself in the amount of approximately \$68,550—over 22% of the total amount with which he was entrusted. Even assuming, counterfactually, that such remuneration was authorized by the partnership agreement, the amount here far exceeded any reasonable or foreseeable management fee.

53. Fortenberry also never disclosed to Premier’s investors that he intended to and, in fact, did use the money invested in Premier for his unfettered personal use and benefit, yet Fortenberry also took approximately \$79,950 of Premier and its investors’ money for what appear to be entirely personal expenses and cash withdrawals. These intentions and acts contradicted his representations that Premier’s assets would be used to make investments in companies, with a focus on the entertainment industry.

54. Fortenberry used Premier’s funds to pay for travel and concert tickets for his family members, personal credit card payments, clothing, jewelry, groceries, cable bills, utilities, insurance, unknown expenditures via PayPal, a Netflix subscription, car repairs and maintenance, gasoline, convenience and liquor store purchases, and trips to various restaurants and coffee shops.

55. Fortenberry’s failure to maintain accurate books and records in accordance with GAAP facilitated the concealment of these expenses from investors and regulators.

Indeed, on information and belief, that was the intended purpose of Fortenberry's conduct in this regard.

56. In all, Fortenberry took at least \$148,500 of investor proceeds in undisclosed management fees, personal expenses, and cash withdrawals, none of which was disclosed to Premier's investors. Indeed, instead of using these assets of Premier for its investment purposes, he acted for his self-interests and misappropriated the assets for his own personal benefit.

57. On information and belief, Fortenberry invested the balance of the Premier money entrusted to him in Company A for, among other things, its Country Music Website, so that he could continue to represent that he was associated with the Manager and the Country Music Website and, as such, continue his fraud.

## **F. VIOLATIONS**

58. As a result of the conduct described above, Fortenberry willfully violated Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in the offer and sale of securities and in connection with the purchase or sale of securities.

59. As a result of the conduct described above, Respondent also willfully violated Sections 206(1) and 206(2) of the Advisers Act, which prohibit fraudulent and deceptive conduct by an investment adviser with respect to any client or prospective client, and Section 206(4) of the Advisers Act and Rule 206(4)-8 thereunder, which prohibit making an untrue statement of a material fact or omitting any material fact to any investor or prospective investor in a pooled investment vehicle and engaging in any act, practice, or course of business that is fraudulent or deceptive with respect to any investor or prospective investor in a pooled investment vehicle.

## **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 and cease-and-desist 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 203(f) of the Advisers Act including, but not limited to, disgorgement and civil penalties pursuant to Sections 203(i) and 203(j) of the Advisers Act;

C. what, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 9(b) of the Investment Company Act; and

D. whether, pursuant to Section 8A of the Securities Act, Section 21C of the Exchange Act, and Section 203(k) of the Advisers Act, Respondent should be ordered to cease and desist from committing or causing violations of and any future violations of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, Sections 206(1), 206(2), and 206(4) of the Advisers Act and Rule 206(4)-8 thereunder, whether Respondent should be ordered to pay a civil penalty pursuant to Section 8A(g) of the Securities Act, Section 21B(a)(2) of the Exchange Act, and Section 203(i) of the Advisers Act, and whether Respondent should be ordered to pay disgorgement pursuant to Section 8A(e) of the Securities Act, Section 21C(e) of the Exchange Act, and Section 203(j) and 203(k)(5) 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 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 300 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.

Jill M. Peterson  
Assistant Secretary