

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 71738 / March 18, 2014

INVESTMENT ADVISERS ACT OF 1940
Release No. 3798 / March 18, 2014

ADMINISTRATIVE PROCEEDING
File No. 3-15799

In the Matter of

MICHAEL D. MONTGOMERY,

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 Michael D. Montgomery (“Respondent” or “Montgomery”).

II.

After an investigation, the Division of Enforcement alleges that:

1. From June 2002 through July 2009, Montgomery was a registered representative of, and person associated with, Wachovia Securities Financial Network, LLC, a broker-dealer and investment adviser registered with the Commission, and Mutual Service Corporation, a broker-dealer and investment adviser registered with the Commission. Montgomery, age 44, is presently incarcerated at the United States Penitentiary Administrative Maximum Facility in Florence, Colorado.

2. In March 2011, Montgomery was indicted on six counts of wire fraud and four counts of filing a false tax return. The indictment charged that from 2003 to 2007, while acting as an elderly client's investment adviser, attorney-in-fact, and trustee of that client's revocable living trust, and after his client was placed in a nursing home, Montgomery stole over \$1 million from the client's banking and investment accounts, routinely liquidated the client's securities and transferred the proceeds to himself, and created false "notes" and "loan papers" to conceal his theft. Montgomery also filed false income tax returns in which he omitted the income he received and took by theft from his client.

3. In June 2012, Montgomery pled guilty to two counts of the ten-count indictment, and on December 27, 2012, Montgomery was convicted of wire fraud in violation of 18 U.S.C. § 1343, and filing a false tax return in violation of 21 U.S.C. § 7206(1) before the United States District Court for the Western District of Washington, in United States v. Michael D. Montgomery, Case No. 3:11CR05156-RJB. He was sentenced to a prison term of 60 months followed by three years of supervised release. On January 25, 2013, the judgment was amended and Montgomery was also ordered to make restitution in the amount of \$995,811.

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. 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 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.

By the Commission.

Jill M. Peterson
Assistant Secretary