

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 73077 / September 11, 2014

INVESTMENT ADVISERS ACT OF 1940
Release No. 3915 / September 11, 2014

ADMINISTRATIVE PROCEEDING
File No. 3-16101

In the Matter of

GARY HARRISON LANE,

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 Gary Harrison Lane (“Respondent” or “Lane”).

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENT

1. From July 1999 to October 2009, Lane was a registered representative with Banc of America Investment Services, Inc. (“BAI”) and from October 2009 to March 2011, was a registered representative of Merrill Lynch, Pierce, Fenner & Smith Incorporated (“Merrill Lynch”), after BAI merged into Merrill Lynch. BAI was and Merrill Lynch is a dually registered broker-dealer and investment adviser. Respondent, 61 years old, is currently incarcerated at the Federal Correctional Institution in Sheridan, Oregon.

B. ENTRY OF RESPONDENT'S CRIMINAL CONVICTION

2. On September 3, 2013, Lane pleaded guilty to 12 counts of mail fraud in violation of 18 U.S.C. Section 1341 and five counts of attempt to evade or defeat tax in violation of 26 U.S.C. Section 7201 before the United States District Court for the District of Nevada. *U.S. v. Gary H. Lane*, 3:12-CR-00078-RCJ-VPC. On February 20, 2014, a judgment in the criminal case was entered against Lane. He was sentenced to a prison term of 120 months followed by five years of supervised release and restitution of \$2,103,226.

3. The counts of the criminal indictment to which Lane pleaded guilty alleged, among other things, that Lane with intent to defraud, devised a scheme and artifice to defraud and obtain money by materially false and fraudulent pretenses, representations, and promises. The criminal conduct to which Lane pleaded guilty occurred between May 2002 and March 2011, while he was associated with BAI and subsequently Merrill Lynch.

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