

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 74207 / February 4, 2015

INVESTMENT ADVISERS ACT OF 1940
Release No. 4020 / February 4, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16374

In the Matter of

DAVID R. WULF,

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
PROCEEDINGS PURSUANT TO SECTION
15(b) OF THE SECURITIES EXCHANGE
ACT OF 1934, 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 David R. Wulf (“Respondent” or “Wulf”).

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENT

1. Wulf is 62 years old. From September 1999 through August 2013, Wulf was a registered representative with Moloney Securities Company, Inc. (“Moloney”), a broker-dealer and an investment adviser registered with the Commission. From February 1986 through August 2013, Wulf was also the Chief Executive Officer and an advisory representative of Wulf Bates & Murphy, Inc. (“Wulf Bates”), which was an investment adviser formerly registered with the Commission and the state of Missouri. Between June 1988 and August 1999, Wulf was a registered representative with Birchtree Financial Services, Inc., which was a broker-dealer previously registered with the Commission. Between February 1986 through June 1988, Wulf was a registered representative with American Capital Equities, Inc., which was a broker-dealer previously registered with the Commission. From December 1982 through February 1986, Wulf was a registered representative with Shearson Lehman Brothers Inc., which was a broker-dealer and investment adviser registered with the Commission. From April 1979 through December 1982, Wulf was a registered representative with Merrill Lynch, Pierce, Fenner & Smith Incorporated, which was a broker-dealer and investment adviser registered with the Commission. Finally, from January 1978 through November 1978, Wulf was a registered representative with Cigna Securities Inc., which was a broker-dealer registered with the Commission.

Thus, Wulf was associated with broker-dealers from June 1978 through August 2013. Likewise, Wulf was associated with investment advisers from February 1986 through August 2013. During the relevant time period, Wulf was a Missouri resident. On February 4, 2014, Wulf was committed to the custody of the US Bureau of Prisons in Terre Haute, Indiana.

B. RESPONDENT’S CRIMINAL CONVICTION

1. On August 22, 2013, a federal jury found Wulf guilty of eighteen counts of mail fraud, wire fraud, conspiracy to commit mail fraud affecting a financial institution, and conspiracy to commit wire fraud affecting a financial institution in violation of 18 U.S.C. §§ 1343, 1344, and 1349 before the United States District Court for the Eastern District of Missouri in U.S. v. Sutton et al., Case No. 4:09-cr-00509-JCH-6.

2. Wulf’s conviction arose from his role as an investment adviser for National Prearranged Services, Inc. (“National Prearranged”) through Wulf Bates. National Prearranged was in the business of selling contracts for prearranged funeral services. As National Prearranged’s designated investment adviser, Wulf established trusts for these prearranged funeral services and maintained certain authority over the assets maintained in these trusts. The trustees were financial institutions and/or insurance companies.

3. The indictment against Wulf alleged, *inter alia*, that from approximately some time before 1992 and continuing until on or about May 14, 2008, Wulf conspired with his co-defendants and others regarding a scheme to defraud purchasers and trustees of National Prearranged’s contracts and trusts. Moreover, Wulf was Chief Executive Officer of a registered investment adviser and associated with a dually registered broker-dealer and investment adviser

during the period of his misconduct. The underlying conduct that gave rise to Wulf's conviction includes, but is not limited to: (i) Wulf's failure to serve as an independent investment adviser for National Prearranged as mandated under state law and a binding consent decree; and (ii) Wulf enabling National Prearranged, and related entities and individuals, to assume the full power to administer, manage, control, remove, and/or use the assets in the preneed funeral trusts established by National Prearranged for their own benefit. Consequently, Wulf knowingly allowed nearly \$600,000,000 of the money invested by purchasers to be misdirected for the use by National Prearranged, and related entities and individuals, for their own benefit. The indictment further alleged that Wulf and his co-defendants committed various federal offenses incidental to the misconduct described above including, but not limited to, conspiracy, mail fraud and wire fraud.

4. On November 18, 2013, the Court entered the judgment against Wulf based on the jury verdict. The Court sentenced Wulf to a prison term of 120 months followed by five years of supervised release. The Court further ordered Wulf to make restitution in the amount of \$435,515,234.

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; and
- D. Whether, pursuant to Section 15(b) of the Exchange Act, it is appropriate and in the public interest to bar Wulf from participating in any offering of 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.

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.

Brent J. Fields
Secretary