

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 4014 / February 4, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16368

In the Matter of

**Wyoming Investment
Management Services, LLC
and Craig M. Scariot,**

Respondents.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO SECTIONS 203(e), 203(f)
AND 203(k) OF THE INVESTMENT
ADVISERS ACT OF 1940, MAKING
FINDINGS, AND IMPOSING REMEDIAL
SANCTIONS AND A CEASE-AND-DESIST
ORDER**

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 Sections 203(e), 203(f) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”), against Wyoming Investment Management Services, LLC (“WIMS”) and Craig M. Scariot (collectively, “Respondents”).

II.

In anticipation of the institution of these proceedings, Respondents have 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, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over them and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondents consent to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 203(e), 203(f) and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondents’ Offer, the Commission finds that:

Summary

This proceeding arises out of improper registration and material misstatements made in Forms ADV by WIMS, an investment adviser registered with the Commission. Since February 2013, WIMS misrepresented that its principal office and place of business was in Wyoming, a state that does not regulate investment advisers. This was done at the time new rules went into effect restricting such registration to advisers with more assets under management. Scariot, WIMS' president and sole employee, was responsible for all of WIMS' filings, and aided and abetted and caused all of its violations.

Respondents

1. WIMS, a Wyoming Limited Liability Company, filed its initial Form ADV with the Commission in February 2013 and has approximately \$70 million assets under management. From March 1, 2013, the date WIMS became registered as an investment adviser with the Commission, through December 31, 2013 WIMS' principal office and place of business was at the home of WIMS' president in Ft. Collins, Colorado.

2. Scariot, age 37, is currently a resident of Longmont, Colorado and is the president, portfolio manager, chief compliance officer, and sole employee of WIMS.

Background

3. In 2011, the Advisers Act was amended to increase the threshold for an investment adviser's assets under management required for registration with the Commission effective March 2012.¹ Registration with the Commission was still required, however, for advisers not regulated by the states where they maintained their principal offices and places of business. Currently, Wyoming is the only state that does not regulate investment advisers. So any investment adviser with a principal office and place of business in Wyoming, regardless of its assets under management, is required to register with the Commission.

4. Rule 222-1(b) under the Advisers Act states that the principal office and place of business of an investment adviser means the executive office of the investment adviser from which the officers, partners, or managers of the investment adviser direct, control, and coordinate the activities of the investment adviser.

5. In December 2012, Scariot organized WIMS as a Wyoming limited liability company, signed a lease for an office space in Cheyenne, Wyoming, and opened the WIMS' bank

¹ Previously, Section 203A of the Advisers Act prohibited investment advisers from registering with the Commission unless they managed at least \$25 million in assets or met a designated exemption. Effective July 21, 2011, Section 203A increased the minimum amount of assets under management for most advisers to qualify for SEC registration from \$25 million to \$100 million. See Advisers Act Section 203A(a)(2) amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010); *Final Rule; Rules Implementing Amendments to the Investment Advisers Act of 1940*, Investment Advisers Act Release No. 3221 (June 22, 2011).

account there. On February 15, 2013, WIMS made its initial registration filing with the Commission on Form ADV. In Part 1A, Items 1F and 2A of the Form ADV, WIMS stated its principal office and place of business was in Cheyenne, Wyoming, and based its registration with the Commission on its Wyoming location. WIMS made the same representations about its principal office and place of business and basis for registration in its amendment to Form ADV filed on February 22, 2013, and in an annual amendment on Form ADV filed on February 12, 2014.

6. Scariot did not direct, control, or coordinate the activities of WIMS from Cheyenne, Wyoming from March 2013 through December 2013. During this time, Scariot resided in Ft. Collins, Colorado, and he used his residence there as a primary base of operations for WIMS while completing graduate school and undergoing intensive physical therapy. Scariot did not meet with clients in Wyoming and conducted business in the WIMS office space in Wyoming in 2013 on an infrequent basis. As disclosed in its Form ADV filings, WIMS' books and records were maintained in Santa Fe, New Mexico throughout 2013. Because WIMS did not maintain a principal office or place of business in Wyoming and had no other basis for Commission registration, it was prohibited from registering with the Commission as an investment adviser.

7. Scariot was responsible for preparing, signing, and filing WIMS' filings with the Commission.

Violations

8. As a result of the conduct described above, WIMS willfully² violated, and Scariot willfully aided and abetted and caused WIMS' violations of, Section 203A of the Advisers Act by WIMS improperly registering with the Commission based on its misrepresentation that WIMS' principal office and place of business was in Wyoming.

9. As a result of the conduct described above, Respondents willfully violated Section 207 of the Advisers Act which makes it "unlawful for any person willfully to make any untrue statement of a material fact in any registration application or report filed with the Commission . . . or willfully to omit to state in any such application or report any material fact which is required to be stated therein." In the relevant Form ADV filings, WIMS and Scariot misstated WIMS' principal office and place of business.

Undertakings

10. Respondents have undertaken to:

Establish WIMS' principal office and place of business in Wyoming by maintaining in Wyoming the executive office of WIMS from which the officers, partners, or managers of the investment adviser direct, control, and coordinate the activities of the investment adviser.

² A willful violation of the securities laws means merely "that the person charged with the duty knows what he is doing." *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)).

Certify, in writing, compliance with the undertaking set forth above. The certification shall identify the undertaking, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and Respondents agree to provide such evidence. The certification and supporting material shall be submitted to Mary S. Brady, Assistant Regional Director, with a copy to the Office of Chief Counsel of the Enforcement Division, no later than sixty (60) days from the date of the completion of the undertakings.

IV.

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

Accordingly, pursuant to Sections 203(e), 203(f) and 203(k) of the Advisers Act, it is hereby ORDERED that:

- A. Respondents cease and desist from committing or causing any violations and any future violations of Sections 203A and 207 of the Advisers Act.
- B. Respondents are censured.
- C. Respondents shall, within 10 days of the entry of this Order, pay a civil money penalty, jointly and severally, in the amount of \$10,000 to the Securities and Exchange Commission. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. 3717. Payment must be made in one of the following ways:
 - (1) Respondents may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
 - (2) Respondents may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
 - (3) Respondents may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Wyoming Investment Management Services, LLC and Craig Scariot as Respondents in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Thomas J. Krysa, Associate Regional Director, Division of Enforcement, Securities and Exchange Commission, 1961 Stout Street, Suite 1700, Denver, CO 80294-1961.

D. Respondents shall comply with the undertakings enumerated in paragraph 10 above.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Respondents, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondents of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Brent J. Fields
Secretary