

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 76878 / January 12, 2016

INVESTMENT ADVISERS ACT OF 1940
Release No. 4310 / January 12, 2016

ADMINISTRATIVE PROCEEDING
File No. 3-17046

In the Matter of

Richard M. Higgins,

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,
MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS**

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 Richard M. Higgins (“Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has 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, Respondent admits the Commission’s jurisdiction over him and the subject matter of these proceedings, and the findings contained in Sections III.2 and III.4 below, and consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 15(b) of the Exchange Act and Section 203(f) of the Advisers Act, Making Findings, and Imposing Remedial Sanctions (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds that:

1. Higgins, 55 years old, is a resident of Stratham, New Hampshire. He was employed as a licensed registered representative for two different registered broker-dealers from September 2001 through June 2007, but he has not been associated with a broker dealer since June 2007. Higgins created and registered with the State of New Hampshire Higgins Equity Partners LLP ("HEP") and Higgins Capital Management ("HCM") in 2007; HEP was dissolved in 2009 and HCM is currently inactive, each for failure to pay annual fees. Higgins offered and sold partnership interests in HEP in 2007 but instead deposited investor money in HCM, which was registered by Higgins in his personal capacity. Neither HEP nor HCM have been registered with the Commission in any capacity. Through HCM and individually, Higgins provided investment advice regarding securities to clients for compensation and traded stock on behalf of different brokerage firms' customers for transaction-based compensation. During the relevant period, Higgins acted as an unregistered broker-dealer and unregistered investment adviser.

2. On June 29, 2015, Higgins pled guilty to Sale of Securities Fraud in violation of New Hampshire Revised Statutes Annotated ("NHRSA") 421-B:3 and Investment Advisor Fraud in violation of NHRSA 421-B:4 before the Superior Court of the State of New Hampshire, in State of New Hampshire v. Richard M. Higgins, No. 217-2015-CR-00484. On August 10, 2015, a judgment in the criminal case was entered against Higgins. He was sentenced to a minimum prison term of seven years with a maximum term of fourteen years, with a two-year suspension of the minimum sentence conditioned upon good behavior. Higgins was ordered to make restitution in the amount of \$624,771.00 plus a 17% statutory administrative fee.

3. The counts of the criminal information to which Higgins pled guilty alleged, inter alia, that between 2007 and 2014 Higgins defrauded investors and advisory clients by advising such persons as to the value of securities or their purchase or sale through the issuance of analyses or reports and otherwise; by knowingly employing devices, schemes, and artifices to defraud such investors; and by engaging in acts, practices, and courses of business that operated as a fraud on such persons. In connection with that plea, Higgins admitted that he sent investors quarterly statements that falsely overstated the current value of their investment and that they were investing in HEP, even though HEP no longer existed and even though Higgins had in fact deposited and was investing in his personal name using HCM.

4. On August 10, 2015, the State of New Hampshire Bureau of Securities Regulation ("BSR") entered a Consent Order against Higgins in an administrative action entitled Richard M. Higgins (CRD #4450943), No. I-2014-000016. The Consent Order required Higgins (i) permanently to cease and desist from further violations of the New Hampshire Uniform Securities Act, (ii) be permanently barred from any securities licensure in any capacity in the State of New Hampshire, (iii) pay restitution to investors totaling \$996,443.42 (which was inclusive of and to be offset by any restitution made in the criminal case), and (iv) pay a fine of \$100,000 and costs of \$25,000 to BSR.

5. In the Consent Order, Higgins admitted that:
- a) He invested other people's money in securities for a fee and employed unsuitably risky strategies with their funds, all without disclosing that he was not registered or licensed as a securities professional in any capacity in any jurisdiction;
 - b) He offered and sold limited partnership interests in HEP, through which investors believed Higgins was investing their money from 2007 through 2014, when in reality Higgins had deposited their funds in bank and brokerage accounts in the name of HCM, for which he was the sole proprietor; and
 - c) The HEP Limited Liability Partnership Agreement indicated what Higgins's fee would be, but HEP was abandoned in 2007 and Higgins subsequently never notified any of the investors when fees were taken or how much fees would be. And from December 2009 through March 2014, while Higgins was suffering significant investment losses and still taking fees for himself, Higgins sent fraudulent quarterly statements to investors that showed inflated gains in their investments despite the fact that he was suffering significant losses.

IV.

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

Accordingly, it is hereby ORDERED pursuant to Section 15(b)(6) of the Exchange Act, and Section 203(f) of the Advisers Act, that Respondent Higgins be, and hereby is barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; and

Pursuant to Section 15(b)(6) of the Exchange Act Respondent Higgins be, and hereby is barred from participating in any offering of a 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.

Any reapplication for association by the Respondent will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order;

and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

By the Commission.

Brent J. Fields
Secretary