

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 78976 / September 29, 2016**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-17594**

**In the Matter of**

**Kenneth S. Whitehead,**

**Respondent.**

**ORDER INSTITUTING**  
**ADMINISTRATIVE PROCEEDINGS**  
**PURSUANT TO SECTION 15(b) OF THE**  
**SECURITIES EXCHANGE ACT OF 1934,**  
**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”) against Kenneth S. Whitehead (“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 paragraphs III.2. below, and consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934, 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. On numerous occasions between January 31, 2012 and December 5, 2013, in Salt Lake County, Utah, Whitehead knowingly and willfully solicited money from at least one investor by telephone and other means. Specifically, Whitehead asked the investor to invest a total amount of \$490,000, which Whitehead promised to use to purchase and sell residential real estate and pay the investor profits from the investments. In reality, Whitehead never purchased or sold any real estate, no money was ever invested on behalf of the investor, no profits were ever paid to the investor, and no money was ever returned to the investor. Instead, Whitehead spent the investor's funds on personal expenses. Whitehead agreed that his actions and conduct satisfy the elements of Count 1 of the Information filed against him, 15 U.S.C. § 78j(b) and that he engaged in a fraudulent sale of unregistered securities.

2. During the same time period, Whitehead knowingly and willfully solicited money from at least fourteen additional investors, including family, friends, and business associates of the original investor as well as individuals not associated with the original investor. Whitehead made the same promises to these investors that he would use invested funds to purchase and sell residential real estate and pay the investors profits from the investments. Whitehead collected approximately \$250,000 from these additional investors. Of that amount, he returned a total of approximately \$69,000 to some of the investors. The purported returns were paid from other investor funds or borrowed monies.

3. On June 21, 2016, a judgment was entered against Whitehead for the Fraudulent Sale of Unregistered Securities under 15 U.S.C. § 78j(b); 17 C.F.R. § 240.10b-5; and 15 U.S.C. § 78ff in the criminal action entitled *U.S. v. Whitehead*, Case No. 2:15-CR-00692-DAK, in the United States District Court for the District of Utah, Central Division.

4. By soliciting transactions in securities and handling customer funds, Whitehead acted as an unregistered broker.

### IV.

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

Accordingly, it is hereby ORDERED pursuant to Section 15(b)(6) of the Exchange Act, that Respondent Whitehead 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 Whitehead 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