

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 80006 / February 10, 2017

INVESTMENT ADVISERS ACT OF 1940
Release No. 4648 / February 10, 2017

INVESTMENT COMPANY ACT OF 1940
Release No. 32475 / February 10, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-17839

In the Matter of

SYLVESTER KING JR.

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS
AND NOTICE OF HEARING PURSUANT TO
SECTIONS 15(b) AND 21C OF THE
SECURITIES EXCHANGE ACT OF 1934,
SECTIONS 203(f) AND 203(k) OF THE
INVESTMENT ADVISERS ACT OF 1940,
AND SECTION 9(b) OF THE INVESTMENT
COMPANY ACT OF 1940, MAKING
FINDINGS, AND IMPOSING REMEDIAL
SANCTIONS AND A CEASE-AND-DESIST
ORDER AND NOTICE OF HEARING**

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 15(b) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”), Sections 203(f) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”), and Section 9(b) of the Investment Company Act of 1940 (“Investment Company Act”) against Sylvester King Jr. (“King” or “Respondent”).

II.

In anticipation of the institution of these proceedings, King 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, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over him and the subject matter of these proceedings, which are admitted, and except as provided herein in Section VI, King consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Sections 15(b) and 21C

of the Exchange Act, Sections 203(f) and 203(k) of the Advisers Act, and Section 9(b) of the Investment Company Act, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order and Notice of Hearing (“Order”), as set forth below.

III.

On the basis of this Order and King’s Offer, the Commission finds¹ that:

Summary

Beginning in 2009 and continuing into 2012, King participated in selling more than \$5 million of unregistered, illiquid securities to certain of his professional athlete brokerage customers and investment advisory clients in an internet branding company known as Global Village Concerns, Inc. (“GVC”). King was issued GVC stock options and warrants provided by GVC. King’s conduct with respect to the sale of GVC securities occurred outside and independent of his employment with registered broker-dealers. King misrepresented and omitted material information about the GVC investments to his investment advisory clients, some of which was based on information provided to King by GVC. King presented this information to his advisory clients without conducting any due diligence to verify any of the information he provided to his advisory clients. King also used his personal communication devices and emails to communicate with his brokerage customers and others about firm business without causing copies of those communications to be sent to or preserved on the broker-dealers’ respective email servers or preserved in paper form.

Respondent

1. King is 44 years old and resides in Miramar, Florida. From June 2009 to October 2011 and from October 2011 to the end of April 2015 King was a registered representative and investment adviser representative of Morgan Stanley Smith Barney (“MSSB”) and Wells Fargo Advisors, LLC (“WFA”), respectively. During this time, MSSB and WFA were dually registered with the Commission as broker-dealers and investment advisers. From 2008 until approximately October 2014, King was a National Football League Players Association Registered Financial Advisor (“NFLPA Advisor”). On April 27, 2015, FINRA accepted King’s Letter of Acceptance, Waiver, and Consent whereby King was suspended from association with any FINRA member in any and all capacities for a period of 18 months and assessed a \$35,000 fine. On July 28, 2015, FINRA revoked King’s registration for failure to pay fines and/or costs.

Other Relevant Entities

2. GVC was a Delaware corporation incorporated in 2009 with its principal place of business in San Diego, CA. GVC was a branding and marketing company created to help high

¹ The findings herein are made pursuant to King's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

schools and non-profit organizations earn money by selling customized school or organizational memorabilia and products. GVC conducted Series A and Series B Preferred Stock Offerings (hereinafter “Series A ” or “Series B”) from 2009 to 2012 through which it collectively raised \$4,159,846, and Convertible Note offerings which raised at least \$2,545,000 during 2012. GVC is no longer operating.

Background

3. From 2009 through 2013, King had approximately 40 active or retired professional athletes as brokerage customers and/or investment advisory clients, most of whom are members of the National Football League Players Association (“NFLPA”). During that time, King was a NFLPA Advisor and subject to the Regulations and Code of Conduct Governing Registered Player Financial Advisors (“NFLPA Code”) promulgated by the NFLPA.

4. Some King customers were brokerage customers, while others were fee-based investment advisory clients that paid advisory fees for which King recommended and managed their investments.

5. In May or June 2009, the GVC CEO, an existing brokerage customer of King, turned to King to help GVC raise capital and find investors. King solicited investments in GVC by presenting information provided to him by GVC’s CEO to brokerage customers and advisory clients, and beginning in the summer of 2009, certain of King’s brokerage customers and advisory clients began investing in GVC. King’s brokerage customers and advisory clients served as the primary source of capital raised by GVC, representing approximately 75% of the approximate \$4.2 million in capital raised by the Series A and B offerings, and 100% of the \$2.5 million in capital raised by the GVC Convertible Note offerings. GVC issued stock options and warrants to benefit King in exchange for introducing his brokerage customers and advisory clients to GVC and assisting with raising capital for GVC. King had the stock options and warrants issued in the name of a company he owned and/or controlled.

6. King also facilitated his brokerage customers’ and advisory clients’ investments in GVC by handling the paperwork and money associated with closing the investments, including obtaining the necessary signatures from his brokerage customers and advisory clients and returning the paperwork to GVC, as well as transferring the capital for the investments from accounts at MSSB and WFA to GVC’s account. King also presented GVC offering materials to potential and current investors. Some of these materials included investment options that King presented to certain prospective investors in order to select the best option for the investor. GVC’s CEO communicated GVC’s financial needs to King so that he would know what GVC business objectives required further capital.

7. King never told MSSB or WFA of any of the GVC offerings, and neither MSSB nor WFA ever approved or sponsored these offerings.

8. King misrepresented and omitted material information with respect to GVC during his introductions and solicitations to his advisory clients, and when providing them GVC

investment updates. For example, a written report that was prepared for one of his advisory clients and was from King and his business partner quantified the expected return on the GVC investment at 20%. After King transitioned to WFA, a similar written report from King and his business partner to the same advisory client listed the value of that client's \$200,000 GVC investment at \$500,000. Another written report from King and his business partner to a different advisory client valued the client's \$250,000 investment in GVC at \$350,000 as of August 2012, which was a forty percent increase in value in just six months. The estimated returns and valuations contained in the above written reports were not based on any due diligence of GVC or the GVC investments, and there was no reasonable basis to quantify the reported expected return or the valuation of a GVC investment when those written representations were made to the advisory clients.

9. In addition to presenting information on potential returns on investment and current valuations without conducting any due diligence, King also never disclosed to his advisory clients that GVC had or would issue GVC stock options and warrants to a company he owned and/or controlled in exchange for introducing them to GVC. King did not exercise the stock options and warrants he received from GVC. These options and warrants have since expired.

10. King actively marketed his status as a registered NFLPA Advisor when recruiting new NFL player advisory clients and serving current ones. King's business cards, email signature block, and marketing materials all highlighted his NFLPA Financial Advisor registration. The marketing materials contained internet addresses/links to the NFLPA website and invited prospective and current clients to verify his credentials. The NFLPA website contained, among other things, the NFLPA Code. The NFLPA Code provides that "[b]y joining the NFLPA Financial Advisor Registration Program, all financial advisors agree to abide by rules which are designed to both protect and inform players" and "[a] Registered Player Financial Advisor shall have the duty to act in the best interest of his/her Player-clients." The NFLPA Code places importance on the special relationship between an NFLPA Advisor and a player by recognizing the advisor as a fiduciary to the player.

11. King did not disclose his lack of adherence to the NFLPA Code of Conduct flowing from his conflict regarding GVC. The NFLPA Code lists a number of requirements and prohibitions, some of which are designed to prevent actual or potential conflicts of interest with the effective representation of a NFL player. For example, the NFLPA Code prohibits "[c]onvincing a Player to purchase stock or property, or to invest in any manner, or loan money or extend credit from, any enterprise or entity in which the Registered Player Financial Advisor fails to disclose, in advance and in writing, his/her own financial or ownership interest, or that of an affiliate or a family member, to the Player." Despite these prohibitions, King solicited his NFL player advisory clients to invest in GVC without disclosing that the company he owned and/or controlled had or would receive GVC stock options and warrants.

12. King also routinely used his personal email account and text messaging systems to communicate with his brokerage customers and others. Some of those communications pertained to MSSB and WFA brokerage business, and King did not cause copies of those communications to be sent to or preserved on the broker-dealers' respective email servers or preserved in paper form. The purpose of such emails was to provide, among other things, his customers with information

about their investment holdings; information about his brokerage business and firm; documentation to facilitate outside investments that would be funded from the customer's brokerage account; and financial information about a customer that would be relevant when considering investments. King received copies of MSSB's and WFA's respective policies and procedures, as well as warnings and instructions not to use personal email for business, but nevertheless ignored the policies, procedures, and warnings.

Violations

13. As a result of the conduct described above, King willfully violated Sections 206(1) and 206(2) of the Advisers Act, which prohibit fraudulent conduct by an investment adviser.

14. As a result of the conduct described above, King willfully violated Section 15(a) of the Exchange Act, which prohibits any broker or dealer from using the mails or any means or instrumentality of interstate commerce to effect any transactions in, or induce or attempt to induce the purchase or sale of, any security unless the broker or dealer is registered with the Commission.

15. As a result of the conduct described above, King willfully aided and abetted and caused MSSB's and WFA's respective violations of Section 17(a)(1) of the Exchange Act and Rule 17a-4(b)(4) thereunder, which requires broker-dealers to preserve for at least three years originals of all communications received, and copies of all communications sent by the member, broker or dealer, relating to the broker-dealer's business as such.

IV.

Pursuant to this Order, Respondent agrees to additional proceedings in this proceeding to determine what, if any, civil penalties pursuant to Section 21B of the Exchange Act, Section 203(i) of the Advisers Act, and Section 9(d) of the Investment Company Act against Respondent and what other relief, if any, pursuant to Section 15(b) of the Exchange Act, Section 203(f) of the Advisers Act, and Section 9(b) of the Investment Company Act are appropriate and in the public interest. In connection with such additional proceedings, Respondent agrees: (a) he will be precluded from arguing that he did not violate the federal securities laws described in the Order; (b) he may not challenge the validity of the Order; (c) solely for the purposes of such additional proceedings, the allegations of the Order shall be accepted and deemed true by the hearing officer; and (d) the hearing officer may determine the issues raised in the additional proceedings on the basis of affidavits, declarations, excerpts of sworn deposition, investigative, hearing or trial testimony, and documentary evidence.

Respondent further agrees to withdraw any pending objection in his bankruptcy case (*In re King*, Ch. 11 Case No. 16-14225-BKC-JKO (Bankr. S.D. Fla.)) to any claim filed by the Commission and shall not thereafter object on any grounds to any claim filed by the Commission in his bankruptcy case. Respondent consents that the amount, if any, of any civil penalty and other monetary relief imposed in the additional proceedings described and agreed to herein shall be the amount of the Commission's allowed claim in his bankruptcy case.

V.

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

Accordingly, pursuant to Section 21C of the Exchange Act and Section 203(k) of the Advisers Act, it is hereby ORDERED that:

King cease and desist from committing or causing any violations and any future violations of Sections 206(1) and 206(2) of the Advisers Act, and Sections 15(a) and 17(a)(1) of the Exchange Act and Rule 17-a-4(b)(4) promulgated thereunder.

IT IS FURTHER ORDERED, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), in the interest of justice and without prejudice to any party to the proceeding, that a public hearing for the purpose of taking evidence on the questions set forth in Section IV hereof shall be convened at a time and place to be fixed by and before an administrative law judge to be designed by future order.

If Respondent fails to appear at a hearing after being duly notified, Respondent may be deemed in default and the proceedings may be determined against Respondent upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rule 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 via email to Respondent's counsel.

IT IS FURTHER ORDERED, that pursuant to Rule 360(a)(2) of the Commission's Rules of Practice, 17 C.F.R. § 201.360(a)(2), the Administrative Law Judge shall issue an initial decision no later than 75 days from the occurrence of one of the following events: (A) The completion of post-hearing briefing in a proceeding where the hearing has been completed; (B) Where the hearing officer has determined that no hearing is necessary, upon completion of briefing on a motion pursuant to Rule 250 of the Commission's Rules of Practice, 17 C.F.R. § 201.250; or (C) The determination by the hearing officer that a party is deemed to be in default under Rule 155 of the Commission's Rules of Practice, 17 C.F.R. § 201.155 and no hearing is necessary.

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 resulting from the above ordered additional proceedings in this matter, except as witness or counsel in the 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.

VI.

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 Respondent, 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 King 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