

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 80198 / March 10, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-17875

In the Matter of

VICTOR ALFAYA,

Respondent.

ORDER INSTITUTING ADMINISTRATIVE PROCEEDINGS PURSUANT TO SECTION 15(b) OF THE SECURITIES EXCHANGE ACT OF 1934 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”) against Victor Alfaya (“Respondent” or “Alfaya”).

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENT

1. Between approximately June 2012 and January 2014, Alfaya defrauded investors in Lustris Inc. (“Lustris”), an issuer with common stock registered pursuant to Section 12(g) of the Exchange Act that was subject to Exchange Act reporting obligations pursuant to Section 13(a). Among other things, Alfaya received transaction-based compensation in the form of undisclosed commissions to solicit investments in Lustris’s securities without being registered with the Commission as a broker or dealer. Alfaya participated in an offering of Lustris stock, which was a penny stock. Alfaya, 39 years old, is a resident of Port Washington, New York.

B. ENTRY OF THE INJUNCTION/RESPONDENT'S CRIMINAL CONVICTION

2. On February 7, 2017, a final judgment was entered against Alfaya, permanently enjoining him from future violations of Section 17(a) of the Securities Act of 1933 ("Securities Act") and Sections 10(b) and 15(a) of the Exchange Act and Rule 10b-5 thereunder, in the civil action entitled Securities and Exchange Commission v. Jason Cope et al., Civil Action Number 1:14-cv-07575, in the United States District Court for the Southern District of New York.

3. The Commission's Amended Complaint alleged that Respondent defrauded investors by, inter alia, accepting undisclosed commissions to solicit investors to buy Lustros securities. The Amended Complaint also alleged that Respondent solicited investors to purchase Lustros securities without being registered with the Commission as a broker or dealer.

4. On April 28, 2016, Respondent pleaded guilty to one count of conspiracy to commit securities fraud, 18 U.S.C. § 1348, and wire fraud, 18 U.S.C. § 1343, in violation of 18 U.S.C. § 1349 before the United States District Court for the Northern District of Ohio, in United States v. William Scholander et al., Crim. Indictment No. 1:15-cr-335. On January 25, 2017, Alfaya was sentenced to a prison term of 21 months followed by five years of supervised release and ordered to make restitution in the amount of \$3,629,516.19.

5. The Indictment in the parallel criminal case alleged largely the same misconduct alleged by the Commission in the Amended Complaint. Among other things, the Indictment alleged that Alfaya defrauded investors and obtained money and property by means of materially false and misleading statements in connection with his solicitation of investors' purchases of Lustros stock as described in Paragraph 3 above.

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. Whether, pursuant to Section 15(b) of the Exchange Act, it is appropriate and in the public interest to suspend or bar Respondent 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 as provided for in the Commission's Rules of Practice.

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 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.

For the Commission, by its Secretary, pursuant to delegated authority.

Brent J. Fields
Secretary