

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 81564 / September 11, 2017

INVESTMENT ADVISERS ACT OF 1940
Release No. 4765 / September 11, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-18165

In the Matter of

GARY YIN,

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
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”) and Section 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against Gary Yin (“Respondent” or “Yin”).

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENT

1. Respondent, a 57 year old resident of San Diego, California, is a former senior vice president, International Wealth Management Advisor, at the San Diego branch office of Merrill Lynch, Pierce, Fenner & Smith Incorporated (“Merrill Lynch”). From July 1994 through April 15, 2013, Respondent was a registered representative with Merrill Lynch, a broker-dealer registered with the Commission. From approximately December 2008 to April 2013, Yin was

associated with Merrill Lynch, an investment adviser registered with the Commission. From 2005 until 2013, Yin was the Merrill Lynch Advisor for Jing Wang, a senior vice president at Qualcomm, Inc. during that period.

B. RESPONDENT'S CRIMINAL CONVICTION

2. On September 24, 2013, Yin pleaded guilty to one count of conspiracy to commit offenses (obstruction of official proceeding, and conducting transactions with proceeds of specified unlawful activity) in violation of Title 18, United States Code, Section 371 before the United States District Court for the Southern District of California, in United States v. Gary Yin, Crim. Information No. 13 CR 3488 WQH. On August 26, 2015, a judgment in the criminal case was entered against Yin. He was sentenced to a term of time served followed by three years supervised release and ordered to make restitution in the amount of \$1,428,287.00.

3. The count of the criminal information to which Yin pleaded guilty alleged, among other things, that beginning in 2011 and continuing through February 2013, Yin knowingly and willfully agreed with Jing Wang and his brother, Bing Wang, to conceal Jing Wang's insider trading and control of the proceeds of insider trading by corruptly obstructing a Commission investigation of Qualcomm and its executives, including Jing Wang, and by knowingly conducting unlawful transactions with proceeds of Jing Wang's insider trading.

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. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 203(f) of the Advisers Act.

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