

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 81758 / September 28, 2017

INVESTMENT ADVISERS ACT OF 1940
Release No. 4782 / September 28, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-18237

In the Matter of

**JEFFREY TIMOTHY
KLUGE,**

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 Jeffrey Timothy Kluge (“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.1 and 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 and Section 203(f)

of the Investment 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. Kluge is 47 years old and is a resident of Lake Elmo, Minnesota. Until recently, Kluge was a Senior Vice President and Wealth Management Representative at Merrill Lynch, Pierce, Fenner & Smith, Inc. (“Merrill Lynch”). Kluge was a Registered Representative with Merrill Lynch from June 22, 2000 through December 8, 2016. At all relevant times, Merrill Lynch was registered with the Commission as a broker-dealer and investment adviser.

2. On March 29, 2017, Kluge pleaded guilty to two counts of bank fraud in violation of Title 18 United States Code, Section 1344 before the United States District Court for the District of Minnesota, in United States v. Jeffrey Timothy Kluge, Crim. Information No. 17-CR-61 (DWF). On 8-11-2017, a judgment in the criminal case was entered against Kluge. He was sentenced to a prison term of 50 months followed by 3 years of supervised release and ordered to make restitution in the amount of \$8,680,489.50.

3. In his written plea agreement, Kluge admitted (and where he lacked direct knowledge, acknowledged that the government has sufficient evidence to prove beyond a reasonable doubt) that:

- a) In 2001, Kluge obtained a line of credit for \$150,000 from Alliance Bank. In connection with his application for that line of credit, Kluge falsely represented to Alliance Bank that he held shares in municipal bond funds sufficient to serve as collateral for the line of credit. Kluge provided a falsified account statement to substantiate his purported municipal bond fund holdings and he pledged the purported holdings as collateral for the line of credit.
- b) Between 2001 and November of 2016, Kluge obtained periodic increases to his line of credit with Alliance Bank such that he had an outstanding balance on the line of more than \$5.989 million in November 2016. With each renewal and increase to the line of credit, Kluge made misrepresentations to Alliance Bank with respect to property he pledged as collateral. Specifically, Kluge represented to Alliance Bank that he held assets in brokerage accounts at Merrill Lynch and he further represented that those assets could be pledged as collateral for his line of credit with Alliance Bank.
- c) In reality, Kluge had already pledged the assets in the brokerage accounts as collateral for loans he had obtained from Merrill Lynch and Merrill Lynch held a security interest in the assets in the brokerage accounts. Kluge concealed this information from Alliance Bank. In addition, Kluge provided falsified brokerage account statements to Alliance Bank,

which made it appear that the assets in the brokerage accounts were pledged to Alliance Bank.

- d) In or about May 2007, Kluge obtained a line of credit for \$1 million from Platinum Bank. In connection with his application for that line of credit, Kluge falsely represented to Platinum Bank that he held assets in a Merrill Lynch brokerage account and further falsely represented that these assets could be pledged as collateral for the line of credit with Platinum Bank.
- e) In reality, the assets in the brokerage account had already been pledged as collateral for loans Kluge had obtained from Merrill Lynch, a fact which Kluge concealed from Platinum Bank. In addition, Kluge had already pledged the same assets as collateral for the line of credit he obtained from Alliance bank described above.
- f) Between 2007 and November of 2016, Kluge obtained periodic increases in his line of credit with Platinum Bank such that he had an outstanding balance on the line of credit of more than \$2.684 million in November 2016. With each renewal and increase in the line of credit, Kluge made misrepresentations to Platinum Bank with respect to the assets in the brokerage account that he had pledged as collateral.

IV.

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