

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 83130 / April 30, 2018

ADMINISTRATIVE PROCEEDING
File No. 3-18460

<p>In the Matter of</p> <p style="text-align:center">DAVID ALCORN,</p> <p>Respondent.</p>
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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 David Alcorn (“Respondent”).

II.

After an investigation, the Division of Enforcement alleges that:

1. Respondent, age 73, is a resident of Scottsdale, Arizona. Respondent is the founder and managing director of Janus Spectrum LLC (“Janus Spectrum”). Respondent is also the president of David Alcorn Professional Corporation, which became the sole owner of Janus Spectrum as of January 2014. Prior to January 2014, David Alcorn Professional Corporation held a 55% ownership interest in Janus Spectrum, with the remaining 45% interest held by Kent Maerki (“Maerki”).

2. On February 9, 2018, a final judgment was entered against Respondent, permanently enjoining him from future violations of Sections 5 and 17(a) of the Securities Act of 1933 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. Janus Spectrum, LLC, et al.*, Civil Action Number 2:15-cv-00609-SMM, in the United States District Court for the District of Arizona.

3. The Commission’s complaint alleged that from May 2012 through October 2014 Respondent engaged in securities fraud, acted as an unregistered broker or dealer, and offered and sold securities in unregistered transactions, in connection with a \$12.5 million securities offering fraud orchestrated by Respondent and Maerki, through Janus Spectrum. The complaint alleged that Janus Spectrum held itself out as a company that prepares applications for Federal Communications Commission (“FCC”) cellular spectrum licenses on behalf of third

party clients, which included various fundraising entities owned and managed by codefendants Daryl Bank, Bobby Jones, Terry Johnson and Raymon Chadwick, who offered and sold securities purporting to raise funds to apply for FCC licenses through Janus Spectrum. The complaint alleged that Respondent and Maerki organized and controlled those securities offerings. The complaint further alleged that, in connection with these offerings, Respondent and his codefendants misled investors by falsely representing that their investments would yield “double-digit” returns through the sale and lease of the FCC licenses to major wireless carriers, when Respondent and his codefendants knew, or were reckless or negligent in not knowing, that the FCC licenses, if obtained, were in a narrow band of spectrum that could not be sold or leased to any major wireless carriers, thereby greatly diminishing their value. The complaint further alleged that Respondent and his codefendants concealed the actual costs associated with obtaining the FCC licenses, and misappropriated investor funds to their own, undisclosed uses.

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