

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 5073 / December 12, 2018

ADMINISTRATIVE PROCEEDING
File No. 3-18535

In the Matter of

RICHARD W. KESSLER,

Respondent.

**ORDER MAKING FINDINGS
AND IMPOSING REMEDIAL
SANCTIONS**

I.

On June 7, 2018, the Securities and Exchange Commission (“Commission”) instituted public administrative proceedings pursuant to Section 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against Richard W. Kessler (“Kessler” or “Respondent”).

II.

For the purpose of settling 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, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over him and the subject matter of these proceedings and the findings contained in Section III.2 below, which are admitted, Respondent consents to the entry of this this Order 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. From April 2008 to July 2017, Kessler was associated with an investment adviser. Kessler, age 47, is a resident of Albuquerque, New Mexico.

2. On June 27, 2017, the Acting Director/Deputy Director of the New Mexico Regulation and Licensing Department, Securities Division (“NMSD”), entered a final order In the

Matter of Guardian Group Investments, LLC and Richard W. Kessler, Case No. 15-05-0005, (“Final Order”) against Kessler permanently barring him from transacting securities in New Mexico. The state level bar was entered to resolve claims brought against Kessler by the NMSD.

3. According to Final Order, which incorporated the Proposed Summary Order filed by the NMSD, from approximately March 2015 through August 2016, Kessler, the sole owner of an investment adviser, was a registered investment adviser representative and engaged in a number of prohibited business practices by an investment adviser under New Mexico state law, including taking custody of client funds without proper notice to the NMSD, failing to send account statements to clients, failing to maintain minimum capital and bond requirements, failing to amend his Form U4 that was materially inaccurate and incomplete, and failing to distribute to clients a written disclosure statement and investment advisory contract.

IV.

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

Accordingly, it is hereby ORDERED pursuant to Section 203(f) of the Advisers Act, that Respondent Kessler be, and hereby is barred from association with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; and

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.

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

Brent J. Fields
Secretary