

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 87122 / September 26, 2019

ADMINISTRATIVE PROCEEDING
File No. 3-19525

In the Matter of

MATTHEW LEAVERTON,

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 Matthew Leaverton (“Leaverton or “Respondent”).

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENT

1. Leaverton, 42, was formerly a resident of Garland, Texas. He served as Senior Director of Texas Energy Mutual, LLC (“TEM”), an oil and gas company headquartered in Grapevine, Texas, that, from at least 2013 through August 2016, offered and sold securities to investors in the form of units in oil-and-gas drilling programs—known as “Thunderhead” and the “Mineral Interest Leasing Program” (“MILP”)—and in promissory notes purportedly backed by oil

and gas assets. Leaverton previously held Series 22 and Series 63 licenses, but those licenses were terminated by 2005.

B. ENTRY OF THE INJUNCTION

2. On May 13, 2019, a final judgment was entered by consent against Leaverton, permanently enjoining him from, among other things, future violations of Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933 (“Securities Act”) and Sections 10(b) and 15(a)(1) of the Exchange Act and Rule 10b-5 thereunder, in the civil action titled *Securities and Exchange Commission v. James VanBlaricum, et al.*, Civil Action Number 4:18-CV-518-O, in the United States District Court for the Northern District of Texas.

3. The Commission’s Complaint alleged that, despite not being registered as a broker, Leaverton offered and sold unregistered securities to investors by cold-calling them, assisting other salespeople with calls, providing investors with sales materials and advice, closing sales, and receiving transaction-based compensation for those sales. Further, the Complaint alleged that the Defendants, including Leaverton, knew the offering materials and website contained materially false and misleading information, including that (1) the securities had a guaranteed return of 10% per year; (2) the drilling programs were productive and profitable, when many of the wells were dry holes; and (3) investor funds would be used for a variety of legitimate oil-and-gas related activities when, in fact, they were being used to pay, among other things, Ponzi payments to other investors, significant personal expenses of VanBlaricum and others, and large undisclosed sales commissions. The Complaint also alleged that Leaverton knew that VanBlaricum controlled TEM, but concealed his involvement and used an alias when dealing with investors to hide his past history as a securities fraud recidivist.

C. RESPONDENT’S CRIMINAL CONVICTION

4. On September 20, 2017, Leaverton pled guilty to one count of conspiracy to commit mail fraud in violation of 18 U.S.C. § 371 (18 U.S.C. § 1341) before the United States District Court for the Northern District of Texas, in *United States v. Matthew Leaverton*, Case No. 4:16-CR-00283-Y(4). On April 6, 2018, a judgment in the criminal case was entered against Leaverton, sentencing him to 60 months in prison, followed by three years of supervised release. He was also ordered to make restitution, jointly and severally with his criminal co-defendants, in the amount of \$13,547,407.09.

5. In connection with that plea, Respondent admitted, among other things, that he:
- a. and his criminal co-defendants knowingly and willfully conspired to commit mail fraud to enrich themselves by receiving compensation under false pretenses;

- b. was listed in the marketing materials as Senior Director of TEM and acted as a sales agent—or “closer”—who was responsible for convincing investors to invest large sums of money with TEM;
- c. was TEM’s leading sales agent during the course of the conspiracy;
- d. knowingly assisted VanBlaricum in carrying out the scheme to defraud;
- e. would, and did, with others, falsely represent that: (1) the investments would earn an “assured” annual rate of return of 10% and investors would receive a full refund of their initial investment amount after a defined period of time; (2) TEM would spend investors’ money to purchase mineral leases and oil and gas wells, when, in fact, he knew that TEM intended to spend a substantially smaller percentage of the money on mineral leases and oil and gas well projects, while using a substantial part of the investors’ money for purposes that the investors did not authorize or even know about, namely undisclosed sales commissions; and (3) TEM’s oil and gas well projects were productive and profitable, when, in fact, most were “dry holes,” produced oil for a short period of time, or had not been drilled; and
- f. knew that VanBlaricum identified himself to investors using a false name.

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 before the Commission 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 by further order of the Commission, pursuant to 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(b) of the Commission's Rules of Practice, 17 C.F.R. § 201.220(b).

IT IS FURTHER ORDERED that the Division of Enforcement and Respondent shall conduct a prehearing conference pursuant to Rule 221 of the Commission's Rules of Practice, 17 C.F.R. § 201.221, within fourteen (14) days of service of the Answer. The parties may meet in person or participate by telephone or other remote means; following the conference, they shall file a statement with the Office of the Secretary advising the Commission of any agreements reached at said conference. If a prehearing conference was not held, a statement shall be filed with the Office of the Secretary advising the Commission of that fact and of the efforts made to meet and confer.

If Respondent fails to file the directed Answer, or fails to appear at a hearing or conference 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 Matthew Leaverton by any means permitted by the Commission's Rules of Practice.

Attention is called to Rule 151(b) and (c) of the Commission's Rules of Practice, 17 C.F.R. § 201.151(b) and (c), providing that when, as here, a proceeding is set before the Commission, all papers (including those listed in the following paragraph) shall be filed with the Office of the Secretary and all motions, objections, or applications will be decided by the Commission. The Commission requests that an electronic courtesy copy of each filing should be emailed to APFilings@sec.gov in PDF text-searchable format. Any exhibits should be sent as separate attachments, not a combined PDF.

The Commission finds that it would serve the interests of justice and not result in prejudice to any party to provide, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), that notwithstanding any contrary reference in the Rules of Practice to filing with or disposition by a hearing officer, all filings, including those under Rules 210, 221, 222, 230, 231, 232, 233, and 250 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.210, 221, 222, 230, 231, 232, 233, and 250, shall be directed to and, as appropriate, decided by the Commission. This proceeding shall be deemed to be one under the 75-day timeframe specified in Rule of Practice

360(a)(2)(i), 17 C.F.R. § 201.360(a)(2)(i), for the purposes of applying Rules of Practice 233 and 250, 17 C.F.R. §§ 201.233 and 250.

The Commission finds that it would serve the interests of justice and not result in prejudice to any party to provide, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), that the Commission shall issue a decision on the basis of the record in this proceeding, which shall consist of the items listed at Rule 350(a) of the Commission's Rules of Practice, 17 C.F.R. § 201.350(a), and any other document or item filed with the Office of the Secretary and accepted into the record by the Commission. The provisions of Rule 351 of the Commission's Rules of Practice, 17 C.F.R. § 201.351, relating to preparation and certification of a record index by the Office of the Secretary or the hearing officer are not applicable to this proceeding.

The Commission will issue a final order resolving the proceeding after one of the following: (A) The completion of post-hearing briefing in a proceeding where the public hearing has been completed; (B) The completion of briefing on a motion for a ruling on the pleadings or a motion for summary disposition pursuant to Rule 250 of the Commission's Rules of Practice, 17 C.F.R. § 201.250, where the Commission has determined that no public hearing is necessary; or (C) The determination 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 public 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.

Vanessa A. Countryman
Secretary