

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 87326 / October 17, 2019

ADMINISTRATIVE PROCEEDING
File No. 3-19585

In the Matter of

DONALD TOOMER,
JR.,

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 Donald Toomer, Jr. (“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 paragraph III.2., III.4, and III.6 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 of 1940, 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. Toomer, age 46, resides in Las Vegas, Nevada. Toomer was an independent contractor with Wells Fargo Advisors Financial Network, LLC. He was licensed as both an Investment Adviser Representative and a Registered Representative. He held securities licenses Series 7, 9, 31, 63 and 65. On October 5, 2016, FINRA permanently barred Toomer from acting in all capacities based upon Toomer's refusal to provide documents and information, as requested by FINRA.

2. On March 18, 2019, Toomer pleaded guilty to one count of fraud and false statements in violation of 26 United States Code, Section 7206(1), in United States v. Toomer, 19 Cr. 00138(JLL) (D.N.J.).

3. On September 17, 2019, a final judgment was entered by consent against Toomer, permanently enjoining him from future violations of Section 17(a) of the Securities Act, and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, in the civil action entitled SEC v. DelPresto, et al., No. 15 Civ. 8656 (JLL) in the United States District Court for the District of New Jersey.

4. The Commission's First Amended Complaint alleged, among other things, that Toomer participated in a fraudulent scheme to manipulate the securities of three issuers, NXT Nutritionals Holdings, Inc.; Mesa Energy Holdings, Inc.; and ClearLite Holdings, Inc. (the "Issuers"). The complaint further alleged that, Toomer agreed to buy the stock of the Issuers in his clients' portfolios in exchange for receiving kickbacks of up to 10% of the total shares he had his clients buy. Toomer's purchases in his clients' accounts in the open market contributed to the Issuers' rising stock price and gave the false appearance of market demand for the securities.

5. The counts of the criminal information to which Toomer pled guilty alleged, inter alia, that Toomer signed and filed a U.S. Individual Income Tax Return for the calendar year 2010, which he did not believe to be true and correct as to every material matter in that the return failed to report certain income that Toomer received in 2010.

IV.

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

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.

Vanessa A. Countryman
Secretary