

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 5365 / September 24, 2019

ADMINISTRATIVE PROCEEDING
File No. 3-19510

In the Matter of

ALBERT K. HU,

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
PROCEEDINGS PURSUANT TO SECTION
SECTION 203(f) OF THE INVESTMENT
ADVISERS ACT OF 1940
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 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against Albert K. Hu (“Respondent” or “Hu”).

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENT

1. From 2001 until 2009, Respondent was the President of four management companies (the “Asenqua Managers”) that Hu used to organize and manage at least a half-dozen different hedge funds (the “Asenqua Hedge Funds”). The Asenqua Hedge Funds operated as pooled investment vehicles, as defined by Rule 206(4)-8(b) under the Advisers Act, and Respondent acted as their investment adviser. Hu, 57 years old, is residing in the San Francisco Bay Area after being released from federal prison in July 2019.

B. RESPONDENT'S CRIMINAL CONVICTION AND PERMANENT INJUNCTIONS

2. On March 18, 2009, the Commission filed a Complaint against Hu and the Asenqua Managers in the Northern District of California in a civil action entitled *Securities and Exchange Commission v. Albert K. Hu*, Case No. C-09-01177-RMW. The Complaint alleged that Hu raised over \$5 million from eight investors through false representations that prominent international law firms were legal counsel to the Asenqua Hedge Funds and that those Funds were enjoying high annual returns. In reality, those law firms did not represent the Asenqua Hedge Funds and the high annual returns did not exist. Hu was misappropriating Fund assets, rather than investing the money as promised. The Complaint alleged causes of action against Hu and the Asenqua Managers under Section 10(b) and Rule 10b-5 of the Securities Exchange Act of 1934 ("Exchange Act") and Section 17(a) of the Securities Act of 1933. The Complaint also alleged causes of action against Hu under Sections 206(1), 206(2) and 206(4) of the Advisers Act and Rule 206(4)-8 of the Advisers Act.

3. On May 6, 2009, the United States Attorney for the Northern District of California filed an Indictment against Hu in a criminal action entitled *United States of America v. Albert Ke-Jeng Hu, a/k/a Ke-Jeng Hu*, Case No. CR-09-00487-001-RMW. The Indictment alleged that from approximately September 1, 2002 to June 11, 2008, Hu engaged in a scheme to defraud by knowingly making a series of materially false statement by which Hu raised \$2,700,000 from investors. The Indictment alleged seven counts against Hu of wire fraud in violation of 18 U.S.C. § 1343 based upon the wire transfer of funds during the fraudulent scheme.

4. On June 20, 2012, a federal jury found Hu guilty on all seven wire fraud counts alleged in the Indictment. On January 29, 2013, the Court filed the Judgment in a Criminal Case against Hu based upon the criminal conviction. The Court sentenced Hu to 144 months of incarceration based upon the seven wire fraud counts, plus three years of supervised release.

5. Based upon the criminal conviction's collateral estoppel effects, the Commission moved for entry of a Final Judgment against Hu in the civil case. Hu did not oppose the Commission's motion against him. On April 26, 2013, the Court entered its Order Granting Plaintiff's Motion for Final Judgment Against All Defendants. ECF 107. The Order imposed permanent injunctions against Hu and the Asenqua Managers prohibiting violations of Section 10(b) and Rule 10b-5 of the Exchange Act and Section 17(a) of the Securities Act. The Order also imposed permanent injunctions against Hu prohibiting violations of Sections 206(1), 206(2) and 206(4) and Rule 206(4)-8 of the Advisers Act. The Order further imposed disgorgement of \$4,980,000 and prejudgment interest of \$1,644,238 (for a total of \$6,624,238) against Hu and the Asenqua Managers on a joint and several basis. The Order moreover imposed civil monetary penalties of \$1,300,000 against Hu and the Asenqua Managers on a joint and several basis.

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; and

B. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 203(f) of the Advisers Act.

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 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