

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 88931 / May 21, 2020

ADMINISTRATIVE PROCEEDING
File No. 3-19806

In the Matter of

**Nicholas Fleming aka “Nick
Franklin,”**

Respondent.

**ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 15(b) OF THE
SECURITIES EXCHANGE ACT OF 1934,
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”) against Nicholas Fleming aka Nick Franklin (“Fleming” or “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 Section III.2. below, and consents to the entry of the Order Instituting Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934, 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. Fleming, 66 years old, is a resident of Northridge, California. From approximately October 2015 through approximately July 2016, Respondent participated in the offering of Niyato Industries, Inc. (“Niyato”), a company incorporated in Nevada and registered as an operating entity in Charlotte, North Carolina. Respondent, acting as an unregistered broker, recruited investors in the United States to purchase Niyato stock in return for commission payments. Although Respondent was associated with three small broker-dealers registered with the Commission in the late 1980s and early 1990s, Respondent himself has never been registered with the Commission as a broker or dealer.

2. On October 17, 2017, Fleming pled guilty to one count of conspiracy to commit mail and wire fraud in violation of Title 18 United States Code, Section 1349 and one count of wire fraud and aiding and abetting the same in violation of Title 18 United States Code, Sections 2 and 1343 before the United States District Court for the Western District of North Carolina, in United States v. Nicholas Fleming, 3:16-cr-221-6-MOC. On July 18, 2019, a judgment in the criminal case was entered against Fleming. He was sentenced to a prison term of five months followed by two years of supervised release and ordered to make restitution, jointly and severally with his co-defendants, in the amount of \$1,398,250.

3. In connection with that plea, Fleming admitted that:

(a) he participated in a scheme to defraud U.S. residents by convincing them to invest in Niyato under the false pretense that Niyato was a legitimate company with significant operational facilities and proprietary technology;

(b) in order to induce victims to purchase Niyato stock, he and his co-defendants made numerous false representations about Niyato including, among other things, that Niyato was on the verge of an initial public offering (“IPO”) and would have a value of at least \$5.00 per share after the IPO; and

(c) in return for recruiting investors, he received commissions of approximately 40-45 percent of victim funds, a portion of which he shared with others that were working with him.

IV.

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

Accordingly, it is hereby ORDERED pursuant to Section 15(b)(6) of the Exchange Act, that Respondent Fleming 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; and

Pursuant to Section 15(b)(6) of the Exchange Act Respondent Fleming be, and hereby is barred from participating in any offering of a 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.

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, compliance with the Commission's order and payment of any or all of the following: (a) any disgorgement or civil penalties ordered by a Court against the Respondent in any action brought by the Commission; (b) any disgorgement amounts ordered against the Respondent for which the Commission waived payment; (c) any arbitration award related to the conduct that served as the basis for the Commission order; (d) 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 (e) 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