

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 5618 / October 22, 2020

ADMINISTRATIVE PROCEEDING
File No. 3-20134

In the Matter of

**PAUL HORTON
SMITH, SR.,**

Respondent.

**ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO 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 Paul Horton Smith, Sr. (“Smith” or “Respondent”).

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENT

1. Smith, age 57, is a resident of Moreno Valley, California. Smith is a California registered investment adviser representative. Smith was associated with broker-dealers or investment advisers registered with the Commission from 1993-1995, 1996-2000, and 2007-2011. Smith is a California licensed insurance agent and holds Series 63 and 65 licenses. On February 18, 2020, the California securities regulator filed a notice of intention to bar Smith from association with any state-registered investment adviser and broker dealer. Smith is not currently

registered with the Commission in any capacity. The complaint alleged that Smith has a disciplinary history. From at least January 2018 through May 2020, Smith offered and sold securities in his company, Northstar Communications, LLC (“Northstar”), in conjunction with his state-registered investment advisory firm, eGate, LLC (“eGate”), and his insurance and estate planning company, Planning Services, Inc. (“Planning Services”).

B. ENTRY OF THE INJUNCTION

2. On October 19, 2020, a final judgment was entered against Respondent permanently enjoining him from future violations of Section 17(a) of the Securities Act of 1933 and Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and Sections 206(1) and 206(2) of the Advisers Act, in the civil action entitled Securities and Exchange Commission v. Paul Horton Smith, Sr.; Northstar Communications, LLC; Planning Services, Inc.; and eGate, LLC, Civil Action No. 2:20-cv-01056 PA-SHKx, in the United States District Court for the Central District of California.

3. The Commission’s complaint alleged that Respondent conducted a Ponzi scheme targeting senior citizens and engaged in other fraudulent conduct by offering and selling securities in Northstar in conjunction with his state-registered investment advisory firm, eGate, and his insurance and estate planning company, Planning Services. The complaint alleged Smith and Northstar assured investors their principal would be safe, secure, and invested in purported “private annuity contracts,” and they promised investors guaranteed annual interest payments between 3 percent and 10.5 percent, but Smith and Northstar did not invest any investor funds in any securities. The complaint alleged that from January 2018 through April 2020, Smith sold more than \$5.6 million of fictitious Northstar securities to at least 35 investors, and paid out over \$5.3 million to Northstar investors as interest payments or principal return, in a Ponzi scheme. The complaint further alleged that Smith misused at least \$256,000 of Northstar investor funds by comingling those funds among bank accounts of Northstar, eGate, and Planning Services that Smith controlled; and Smith misused at least \$175,000 of Northstar investor funds by settling investor lawsuits brought against him by defrauded investors. The complaint alleged that Smith perpetrated this fraud by holding himself out as a trusted fiduciary through his position as an investment adviser representative with eGate and by failing to disclose his disciplinary history in the securities industry.

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