

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 93712 / December 2, 2021**

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 5917 / December 2, 2021**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-20666**

**In the Matter of**

**PHILLIP W. CONLEY,**

**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 Phillip W. Conley (“Respondent”).

**II.**

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (“Offer”) that 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 paragraphs III.2 and III.4 below, 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. From September 2012 through May 2014, Conley was a registered representative associated with Merrill Lynch, Pierce, Fenner & Smith, Inc., a dually-registered broker-dealer and investment adviser. In or around January 2014, Conley formed ALPAX, a West Virginia limited liability company that he described at various times as an investment partnership, an investment fund, or a private equity fund. Conley was the sole member, owner, and control person of ALPAX and ALPAX Management LLC, which purported to act as a management company and investment adviser for a series of purported funds associated with ALPAX. Conley, aged 38, is a resident of Morgantown, West Virginia.

2. On July 30, 2021, a judgment was entered by consent against Conley, permanently enjoining him from future violations of Sections 17(a) of the Securities Act of 1933 (“Securities Act”), Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and Sections 206(1), 206(2), and 206(4) of the Advisers Act and Rule 206(4)-8 thereunder, in the civil action entitled Securities and Exchange Commission v. Phillip W. Conley, Civil Action Number 1:20-CV-70, in the United States District Court for the Northern District of West Virginia.

3. The Commission’s complaint alleged that between January 2014 and September 2018, Conley induced investors to purchase securities by making materially false and misleading statements and omissions concerning the legitimacy of the investments and the use of investor proceeds. Conley failed to invest those proceeds as promised and instead comingled investor funds in bank accounts that he controlled. Conley used most of the funds for his personal benefit, and the remainder to make payments to earlier investors in the nature of a Ponzi scheme.

4. On June 28, 2021, Conley pled guilty to one count of securities fraud in violation of Title 15 United States Code, Section 78j(b) and 78ff(a), and Title 17, Code of Federal Regulations Section 240.10b-5 before the United States District Court for the Northern District of West Virginia in United States v. Phillip W. Conley, Criminal Indictment Number 1:20-CR-35. Conley is scheduled to be sentenced on December 3, 2021.

5. The count of the criminal indictment to which Conley pled guilty alleged, among other things, that Conley knowingly and willfully, used and employed deceptive and manipulative devices and contrivances in connection with the offer and sale of securities, by employing devices, schemes, and artifices to defraud, making untrue statements of material fact, and engaging in transactions, acts, practices, and courses of business which operated as a fraud and deceit upon persons in connection with the purchase and sale of securities relating to purported investments through ALPAX, LLC.

#### IV.

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