

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 81875/ October 16, 2017**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-18252**

**In the Matter of**

**JOSEPH VITALE,**

**Respondent.**

**ORDER INSTITUTING ADMINISTRATIVE  
PROCEEDINGS PURSUANT TO SECTION  
15(b) OF THE SECURITIES EXCHANGE  
ACT OF 1934 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 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”) against Joseph Vitale (“Respondent” or “Vitale”).

**II.**

After an investigation, the Division of Enforcement alleges that:

**A.     RESPONDENT**

1.       Vitale, 32 years old, engaged in the business of effecting transactions in securities for the account of others by working as a broker soliciting investments in LottoNet Operating Corp. (“LottoNet”), a Delaware corporation with its principal place of business in Pompano Beach, Florida, from approximately 2015 to 2017. He is not currently registered with the Commission in any capacity. Prior to that time, from 2006 until 2009, Vitale was a Series 7 and 63 licensed registered representative. He is currently incarcerated in Miami, Florida in connection with the conviction described in paragraph B.

B. RESPONDENT'S CRIMINAL CONVICTION

2. On March 27, 2017, a federal criminal complaint was filed against Vitale in a criminal action. On June 6, 2017, Vitale pleaded guilty to one count of mail fraud in violation of Title 18 United States Code, Section 1341 before the United States District Court for the Southern District of Florida, in *United States v. Joseph Vitale*, Case No. 17-60102-CR-BLOOM. On August 22, 2017, a judgment in the criminal case was entered against Vitale. The Court sentenced Vitale to a prison term of 57 months and ordered him to make restitution in an amount to be determined by the Court.

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

- (a) From approximately 2015 to 2017, he worked as a broker soliciting investments in LottoNet;
- (b) He frequently used the alias of "Donovan Kelly" when speaking to potential investors in LottoNet;
- (c) He sent out the LottoNet private placement memorandum to prospective investors, which explicitly stated that: "[n]o commissions or any other form of remuneration will be paid on sales made directly to the public by the company";
- (d) In or around December 2016, Vitale met with a Federal Bureau of Investigation cooperating witness ("CW") regarding LottoNet and told the CW that he received 35% commissions on investor money raised. On a conference call with an undercover agent posing as a potential investor, Vitale instructed the CW to falsely represent that no commissions were paid to CW as a broker;
- (e) At least one investor that Vitale solicited mailed a \$250,000 check to LottoNet's offices for an investment in LottoNet. Vitale did not tell the investor that he was receiving a 35% commission on the transaction and the investor would not have invested had he known of this commission;
- (f) LottoNet made at least \$700,000 in payments to Vitale or his companies; and
- (g) Vitale was responsible for soliciting more than ten investors who made investments in LottoNet.

**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;

B. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 15(b) of the Exchange Act; and

C. Whether, pursuant to Section 15(b) of the Exchange Act, it is appropriate and in the public interest to suspend or bar Respondent from participating in any offering of 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.

#### IV.

IT IS ORDERED that a public hearing 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, and before an Administrative Law Judge to be designated by further order as provided by 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 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If Respondent fails to file the directed answer, or fails to appear at a hearing 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 as provided for in the Commission's Rules of Practice.

IT IS FURTHER ORDERED that, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice, 17 C.F.R. § 201.360(a)(2), the Administrative Law Judge shall issue an initial decision no later than 75 days from the occurrence of one of the following events: (A) The completion of post-hearing briefing in a proceeding where the hearing has been completed; (B) Where the hearing officer has determined that no hearing is necessary, upon completion of briefing on a motion pursuant to Rule 250 of the Commission's Rules of Practice, 17 C.F.R. § 201.250; or (C) The determination by the hearing officer 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 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.

Brent J. Fields  
Secretary