

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 100885 / August 30, 2024**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-21925**

**In the Matter of**

**TIMOTHY A. NEMECKAY,**

**Respondent.**

**ORDER PURSUANT TO SECTION 15(b)**  
**OF THE SECURITIES EXCHANGE ACT**  
**OF 1934 MAKING FINDINGS, AND**  
**IMPOSING REMEDIAL SANCTIONS**

**I.**

On May 1, 2024, the Securities and Exchange Commission (“Commission”) instituted public administrative proceedings pursuant to Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”) against Timothy A. Nemeckay (“Nemeckay” or “Respondent”).

**II.**

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 Commission’s jurisdiction over him and the subject matter of these proceedings and the findings contained in paragraph III.2 below and consents to the entry of this Order 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. Nemeckay, age 64, is a resident of Utah. Nemeckay is the Founder, President, Secretary, and Board Manager of Mine Shaft Brewing, LLC (“Mine Shaft”) and is listed as an Executive Officer on Mine Shaft’s Form D filings. Nemeckay has never been registered with the

Commission in any capacity. In 2016, the Commission barred Nemeckay from association with a broker or dealer and from participating in any offering of a penny stock.<sup>1</sup>

2. On October 6, 2023, a final judgment was entered against Nemeckay, permanently enjoining him from future violations of Sections 5 and 17(a) of the Securities Act of 1933 (“Securities Act”), and Sections 10(b) and 15(a)(1) of the Exchange Act and Exchange Act Rule 10b-5 in the civil action entitled Securities and Exchange Commission v. Mine Shaft Brewing, LLC, et al., Civil Action Number 2:21-CV-00457-DBB-JCB, in the United States District Court for the District of Utah.

3. The Commission’s complaint alleged that, in connection with the sale of Mine Shaft securities:

a. Nemeckay misrepresented to investors, among other things, that Mine Shaft would use the majority of its funds to establish a brewery and restaurant, that Mine Shaft’s offering was exempt from registration, that investors would receive 8% annual returns, and that Mine Shaft had large investors and an experienced team of professionals;

b. Nemeckay failed to disclose that Mine Shaft had no material revenues, that he was barred from association with or participation in an offering of penny stock, that he used the bulk of investor funds to pay his personal expenses, including paying his restitution obligations to victims from his prior securities fraud scheme; and

c. Nemeckay offered and sold securities of Mine Shaft in unregistered transactions and did so without registering with the Commission as a broker.

#### IV.

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

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

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<sup>1</sup> *In the Matter of Timothy A. Nemeckay*, SEC File No. 3-17360 (2016).

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