

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 74385 / February 26, 2015

ADMINISTRATIVE PROCEEDING

File No. 3-16408

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In the Matter of

THOMAS EDWARD KENT,

Respondent.

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**ORDER INSTITUTING ADMINISTRATIVE  
PROCEEDINGS PURSUANT TO RULE  
102(e) OF THE COMMISSION'S RULES OF  
PRACTICE, 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 against Thomas Edward Kent (“Respondent” or “Kent”) pursuant to Rules 102(e)(2) and 102(e)(3)(i) of the Commission’s Rules of Practice.<sup>1</sup>

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<sup>1</sup> Rule 102(e)(2) provides, in relevant part, that:

Any attorney who has been suspended or disbarred by a court of the United States or of any State. . . shall be forthwith suspended from appearing or practicing before the Commission. . . .

Rule 102(e)(3)(i) provides, in relevant part, that:

The Commission, with due regard to the public interest and without preliminary hearing, may, by order, . . . suspend from appearing or practicing before it any attorney . . . who has been by name . . . permanently enjoined by any court of competent jurisdiction, by reason of his or her misconduct in an action brought by the Commission, from violating or aiding and abetting the violation of any provision of the Federal securities laws or of the rules and regulations thereunder.

## 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, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over him and the subject matter of these proceedings, and the findings contained in Section III.1 and 4 below, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Rule 102(e) of the Commission’s Rules of Practice, 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. Kent, age 56, was at all relevant times an attorney licensed to practice in the State of California. Kent was disbarred by the State of California effective August 30, 2014. At all relevant times, Kent was employed at the Law Offices of Lee & Kent in Los Angeles, California. He acted as legal counsel for Nexland, Inc., dba Nexland Investment Group (“Nexland”) from at least some time in 2010 to August 2011. He also served as the executive vice president and general counsel of Nexsun Ethanol, LLC (“Nexsun”), and served on its Board of Directors from about 2008 to 2009. Kent resides in Granada Hills, California.

2. Nexland is a California Corporation which was at all relevant times headquartered in Los Angeles, California. Nexland is the managing member of three California limited liability companies which purported to offer investments eligible under the United States Government’s EB-5 visa program, which is administered by the United States Citizenship and Immigration Service (“USCIS”), and provides immigrant investors conditional permanent residency status for a two-year period, followed by permanent residency if the required program conditions, including creation of full-time jobs, are met. Nexland was incorporated by Kent at the direction of Justin Moongyu Lee (“J. Lee”), its CEO and president, and a principal of Lee & Kent, and Kent acted as Nexland’s legal counsel from 2010 to August 2011.

3. Nexsun is a Kansas limited liability company which was at all relevant times headquartered in Los Angeles, California. Nexsun was created to purportedly operate an ethanol plant in Kansas, which plant was the purported EB-5 eligible investment. At all relevant times, Kent was executive vice president and general counsel of Nexsun. Kent was also on the board of directors of Nexsun in or about 2008 through 2009.

4. On October 15, 2014, a judgment was entered against Kent, 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, in the civil action entitled

5. The Commission's complaint alleged, among other things, that Kent participated in the fraudulent EB-5 scheme as follows.

a. Under the EB-5 program, an immigrant who invests capital in a "commercial enterprise" in the United States may petition USCIS and receive conditional permanent residency status for a two-year period. The immigrant must invest at least \$500,000 in a "Targeted Employment Area" ("TEA") and thereby create at least ten full-time jobs for United States workers. If the immigrant satisfies these and other conditions within the two-year period, the immigrant may then petition the USCIS for permanent residency. To facilitate investment and job creation within a TEA, the EB-5 program allows entities to apply to USCIS to become approved "regional centers." To become a regional center, the entity must demonstrate, with supporting economic and statistical studies, how it will promote economic growth, including job creation.

b. First, Kent and J. Lee applied to USCIS in 2006 on behalf of Kansas Biofuel Regional Center, LLC ("Kansas Biofuel"), an entity for which they had prepared the business plan, for designation as a "regional center." Kent was the vice president of Kansas Biofuel. Among other representations, Kent and J. Lee claimed to USCIS that there would be "substantial economic benefit" to the area stemming from construction and operation of new ethanol plants by Nexsun, including "thousands" of new jobs.

c. Second, after USCIS approved the designation of Kansas Biofuel as a regional center, Kent and J. Lee created various companies through which to raise monies from immigrant investors. Kent reviewed all of the offering materials, and was thus aware of their content. The Defendants, including Kent, then proceeded to raise millions of dollars from immigrant investors by representing to them that their monies would be used to construct an ethanol plant in Kansas, and that this investment qualified the investors to obtain residency, and ultimately citizenship, in the United States.

d. In fact, however, as Kent knew, the ethanol plant was never built. No jobs were created, and J. Lee and his wife, Rebecca Taewon Lee, misappropriated and misused most of the \$11.5 million raised in the offerings. These misuses of investor monies were neither permissible under the EB-5 program nor disclosed to investors.

e. To conceal the fraudulent use of funds and failure to construct the promised ethanol plant and create the jobs contemplated by the EB-5 program, Kent and the Lees submitted various false documents to USCIS. In particular, Kent wrote and signed cover letters for Form I-829 packages submitted to USCIS in 2010 and 2011 petitioning for removal of the conditions on specific investors' residency in the United States, which packages claimed that the job creation requirements of the EB-5 program had been met. Kent reviewed the packages before they were submitted to the USCIS. Those packages included Forms I-9 purporting to identify

individual employees to be hired by Nexsun, even though no Nexsun plant had been built, and Nexsun employee lists. The lists were misleading because, among other things, they listed Kent's wife as a full-time Nexsun employee without disclosing that she lived in California, rather than in the Kansas TEA, and because they described her position as "Accountant," when at most she performed clerical functions for Nexsun. Additionally, in response to USCIS Requests for Additional Evidence in support of specific I-829 petitions ("RFEs"), Kent falsely represented that either twenty-one or twenty-six "full time direct jobs" were created by Nexsun as of the date of the investor's I-829 petition, that "construction of Nexsun's refinery is substantially underway and moving towards successful completion," and that the investor petitioner "currently expects that construction will be complete and commercial operations will commence by the first quarter of 2012," when he knew construction had in fact ceased in mid-2008.

#### IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanction agreed to in Respondent Kent's Offer.

Accordingly, it is hereby ORDERED, effective immediately, that:

Kent is suspended from appearing or practicing before the Commission as an attorney.

By the Commission.

Brent J. Fields  
Secretary