

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 80065 / February 17, 2017

INVESTMENT ADVISERS ACT OF 1940
Release No. 4652 / February 17, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-17851

In the Matter of

CHRISTOPHER M.
CUNNINGHAM,

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 Christopher M. Cunningham (“Respondent”).

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, Respondent admits the Commission’s jurisdiction over him and the subject matter of these proceedings, and the findings contained in Section III.2, 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. Cunningham was a registered representative associated with Merrill Lynch, Pierce, Fenner & Smith Incorporated, Morgan Stanley DW Inc., Wells Fargo Advisors, LLC, and Fulcrum Securities, LLC from August 1993 to July 2011. Cunningham was also employed as a registered investment adviser by Morgan Stanley DW Inc., Wells Fargo Advisors, LLC, and Fulcrum Advisory Services, LLC from February 1999 through July 2011. Cunningham, 48 years old, is currently incarcerated at FCI Petersburg in Hopewell, Virginia.

2. On July 8, 2014, Cunningham pled guilty to one count of wire fraud in violation of Title 18 United States Code, Section 1343 before the United States District Court for the Eastern District of Virginia, in United States v. Christopher Matthew Cunningham, Crim. No. 1:14-CR-00225-LMB. On October 10, 2014, a judgment in the criminal case was entered against Cunningham. He was sentenced to a prison term of 57 months, followed by 3 years of supervised release and ordered to make restitution in the amount of \$1,080,884.54.

3. In connection with that plea, Cunningham admitted that from in or around 2005 through 2011, he knowingly and intentionally solicited investor funds from certain of his clients by making false representations about the risks of investments in two companies with which he was affiliated and had personally invested, and the use of investor funds by those companies. Among other things, Cunningham admitted to raising money from one investor through written misrepresentations concerning collateral for the investment, and that he made false representations concerning guaranteed profits to another. Cunningham raised an additional \$380,785 from five investors to be used in his affiliated companies. Contrary to his representations, Cunningham admitted that he used a portion of those investor funds for his personal use.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent’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 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 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, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) 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 (d) 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.

Brent J. Fields
Secretary