

BEFORE THE
DEPARTMENT OF BUSINESS OVERSIGHT
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Keith Allen Mills

OAH No.: 2013070479

DECISION

The attached Proposed Decision of the Administrative Law Judge of the Office of Administrative Hearings, dated October 30, 2013, is hereby adopted by the Department of Business Oversight as its Decision in the above-entitled matter with technical and minor changes on the attached Errata Sheet pursuant to Government Code Section 11517(c)(2)(C).

This Decision shall become effective on December 26, 2013.

IT IS SO ORDERED this 26th day of November, 2013.

COMMISSONER OF BUSINESS OVERSIGHT

/s/
Jan Lynn Owen

BEFORE THE
DEPARTMENT OF BUSINESS OVERSIGHT¹
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

KEITH ALLEN MILLS,

Respondent.

File No. 1195093

OAH No. 2013070479

PROPOSED DECISION

This matter was heard by Eric Sawyer, Administrative Law Judge, Office of Administrative Hearings, State of California, on September 24, 2013, in Los Angeles. The record was closed and the matter submitted for decision at the conclusion of the hearing.

Marlou de Luna, Senior Corporations Counsel, represented Jan Lynn Owen (Complainant).

Keith Allen Mills (Respondent) appeared by telephone and represented himself.

FACTUAL FINDINGS

Parties and Jurisdiction

1. The Accusation was filed on Complainant's behalf in her official capacity as Commissioner, and it contains a request for an order barring Respondent from any position of employment, management or control over a broker-dealer or investment adviser.

2. Respondent submitted a Notice of Defense, which requested a hearing.

3. The hearing in this matter was timely scheduled pursuant to the Corporations Code. However, the initial hearing date was continued at the request of Respondent's former criminal attorney so that Respondent could appear by telephone from a federal prison camp in Florida. The hearing was again continued because the prison camp was experiencing an unforeseen power outage which curtailed Respondent's access to the telephone.

¹ Effective July 1, 2013, the Department of Corporations and the Department of Financial Institutions merged to form the Department of Business Oversight, in accordance with the Governor's reorganization of state departments and agencies. The name of the Department of Corporations was changed to the Department of Business Oversight, headed by the Commissioner of Business Oversight. (Fin. Code, § 321.)

4. Respondent is licensed as an agent in California. From July 18, 2011, to October 5, 2012, Respondent was employed at Westpark Capital, Inc., (Westpark), a registered broker dealer and investment advisory firm located in Los Angeles, California.

Respondent's Conviction

5. On September 28, 2012, a criminal complaint was filed against Respondent in the United States District Court for the Southern District of Florida.

6. On October 12, 2012, Respondent pleaded guilty to, and was convicted of, one count of wire fraud in violation of Title 18 United States Code section 1343, a felony. Subsequently, on January 14, 2013, Respondent was sentenced to serve 57 months in federal prison, pay a \$100 fine, pay restitution to the victims of his crime, and participate in 500 hours of drug and alcohol treatment. Upon his release from prison, Respondent shall be on supervised release for three years. Respondent began serving his prison sentence in March 2013.

7. The facts and circumstances underlying the conviction were established by the admissions Respondent made in the course of his plea agreement. Respondent was the President of Business Vision Network, Inc. (BVN), a business that purportedly produced television infomercials and sold certain products advertised through infomercials it produced. Between January 2009 through October 2010, in Southern Florida and elsewhere, Respondent knowingly and with intent to defraud, devised a scheme to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, knowing that such pretenses, representations and promises were false and fraudulent when made. Specifically, Respondent solicited investors in BVN by falsely representing that BVN was a successful and financially stable infomercial company; that BVN had \$10 million in revenues; that it was preparing for a public stock offering; and that it had secured marketing campaigns for major companies. Moreover, Respondent falsely represented to investors that BVN had employed several specific people experienced in the infomercial industry; that it had purchased a large inventory of a certain type of electric scooter; and that it had secured a valuable Medicare number. Respondent knew that all of those representations were false. In furtherance of his scheme, on or about February 23, 2010, in Southern Florida, and elsewhere, Respondent knowingly transmitted \$62,000 by wire transfer into BVN's account from an investor who lived in Oklahoma. Based upon the false representations made by Respondent and others associated with BVN, over 90 people invested approximately \$1.9 million in BVN. Rather than being used to further the business interests of BVN, the vast majority of the funds were used to maintain the lavish lifestyle of Respondent and the others associated with BVN.

Respondent's Defenses

8. Respondent testified that he has been registered in California for over 17 years, and had never had a customer complaint from someone residing in California. While true, it was also established that he had two significant complaints against him from

customers residing in other states that were settled by essentially reimbursing the customers for their losses. Those complaints were made in 1992 and 1994.

9. Respondent submitted a character reference letter from his prior supervisor at Westpark, Jason S. Stern. Respondent worked at Westpark from 2011 until he resigned in October 2012. Mr. Stern, who is Westpark's Chief Operating Officer, indicates that Respondent was a model employee while at Westpark and that staff and customers miss him. Based on his experience with Respondent, Mr. Stern would re-hire him, if able to do so.

10. Respondent testified that he has made a significant payment toward his restitution, and that he has begun drug and alcohol treatment while in prison.

11. Respondent explained that his criminal sentence includes drug and alcohol treatment because he had a "severe alcohol problem" before the events in question. Respondent testified that he has a sobriety date of September 1, 2011, and that he has benefitted from the counseling while in prison.

LEGAL CONCLUSIONS

1. Corporations Code section 25213 provides, as follows:

The commissioner may, after appropriate notice and opportunity for hearing, by order censure, or suspend for a period not exceeding 12 months, or deny or bar from any position of employment, management or control of any broker-dealer or investment adviser, any officer, director, partner, agent, employee of, or person performing similar functions for, a broker-dealer, or any other person, if the commissioner finds that the censure, suspension, denial, or bar is in the public interest and that the person has committed any act or omission enumerated in subdivision (a), (e), (f), (g) of Section 25212 or has been convicted of, or pled nolo contendere to, any offense or been held liable in any civil action specified in subdivision (b) of Section 25212, or is enjoined from any act, conduct or practice specified in subdivision (c) of Section 25212 or is subject to any order specified in subdivision (d) of Section 25212.

2. Corporations Code section 25213, subdivision (b), describes the types of convictions that establish cause to censure, suspend or a bar a license, as including a felony or misdemeanor which involved the purchase or sale of any security, arose out of the conduct of the business of a broker-dealer or investment adviser, involved theft, or involved the violation of sections 1341, 1342, or 1343 of Title 18 of the United States Code.

3. Cause was established for the censure, suspension or bar of Respondent from any position of employment, management or control of any broker-dealer or investment adviser pursuant to Corporations Code section 25213, subdivision (b), in that his federal felony conviction involved the violation of Title 18 United States Code section 1343.

4. In this case, Complainant established that it is in the public interest to bar Respondent from any position of employment, management or control of any broker-dealer or investment adviser. Respondent was convicted of a serious felony, involving a significant amount of money bilked from numerous defrauded customers. It cannot be concluded that Respondent has no prior history of misconduct as a licensee. Although Respondent appears to be on the track toward rehabilitation, all of the steps he has taken toward that goal have been mandated by the criminal justice system. Respondent has presented insufficient evidence to compel less than maximum discipline. The order below is warranted to protect the public health, safety and welfare. (Factual Findings 1-11.)

ORDER

Respondent Keith Allen Mills is barred from any position of employment, management or control of any broker-dealer or investment adviser pursuant to Corporations Code section 25213.

DATED: October 30, 2013

/s/
ERIC SAWYER
Administrative Law Judge
Office of Administrative Hearings

ERRATA SHEET

(Changes to Proposed Decision – Keith Allen Mills)

- 1) On page 1 of the Proposed Decision, paragraph 1 of the Factual Findings, line 3, delete “over a” and insert “of any”.
- 2) On page 3 of the Proposed Decision, paragraph 2 of the Legal Conclusions, line 1, delete “25213” and insert “25212”.
- 3) On page 3 of the Proposed Decision, paragraph 2 of the Legal Conclusions, line 2, after “censure,” add “deny,”.
- 4) On page 3 of the Proposed Decision, paragraph 2 of the Legal Conclusions, line 2, delete “a bar” and add “revoke”.
- 5) On page 4 of the Proposed Decision, paragraph 3 of the Legal Conclusions, line 3, delete “subdivision (b),”.