

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**  
**September 26, 2006**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-12436**

**In the Matter of**

**BRENDAN E. MURRAY,**

**Respondent.**

**ORDER INSTITUTING ADMINISTRATIVE  
AND CEASE-AND-DESIST PROCEEDINGS  
PURSUANT TO SECTIONS 203(f) AND 203(k)  
OF THE INVESTMENT ADVISERS ACT OF  
1940, AND SECTIONS 9(b) AND 9(f) OF THE  
INVESTMENT COMPANY ACT OF 1940**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 203(f) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”), and Sections 9(b) and 9(f) of the Investment Company Act of 1940 (“Investment Company Act”) against Brendan E. Murray (“Respondent” or “Murray”).

**II.**

After an investigation, the Division of Enforcement alleges that:

**A.     RESPONDENT**

1.       Murray, age 44, is a resident of Island Park, New York. He was the managing director of Cornerstone Equity Advisors, Inc. (“Cornerstone”) during the relevant period and was listed as an executive officer and control person on Cornerstone’s February 2001 Form ADV. Murray also was the secretary of the Cornerstone Funds (the “Funds”) during the relevant period.

**B.     OTHER RELEVANT ENTITIES AND PERSON**

1.       Cornerstone, incorporated in Nevada on February 19, 1997, was registered with the Commission as an investment adviser from October 27, 1998 until March 19, 2002, when it withdrew its registration. Cornerstone was the investment adviser to the Funds from September

1998 through February 2002. Under investment advisory agreements with the Funds, Cornerstone was responsible for managing all aspects of the Funds' operations and supervising administrative services provided to the Funds, and the Funds were required to pay Cornerstone annually between .50 and .80 percent of the assets under management.<sup>1</sup> On October 15, 2002, Cornerstone filed for liquidation under Chapter 7 of the United States Bankruptcy Code.

2. The Cornerstone Funds were a family of mutual funds managed by Cornerstone from September 1998 until their liquidation in February and March 2002. The Cornerstone Funds consisted of the following mutual funds: (1) the Cornerstone Funds, Inc.- New York Muni Fund series; (2) the Cornerstone California Muni Fund; and (3) the Cornerstone Fixed Income Funds. The Cornerstone Fixed Income Funds contained three series: the Cornerstone High Yield Municipal Bond Series; Cornerstone Tax-Free Money Market Series; and the Cornerstone U.S. Government Income Fund Series. The Funds' boards of directors ("the board") suspended the sale of shares on or about April 30, 2000 when the Funds' auditors refused to certify the Funds' 1999 financial statements and commenced liquidation of the Funds beginning in February 2002. During the relevant period, the Funds were investment companies registered with the Commission pursuant to Section 8(a) of the Investment Company Act.

3. James A. DeMatteo ("DeMatteo"), age 46, was the president of Cornerstone and owned 24.7% of its stock during the relevant period. He was listed as an executive officer and control person on Cornerstone's February 2001 Form ADV.

4. Voyager Institutional Services, LLC ("Voyager") was formed in 1999 by DeMatteo and the chief executive officer of Cornerstone to provide certain website and shareholder communication services to the Funds. In December 2000, the board approved a client servicing agreement between Voyager and the Funds under which Voyager provided the services for a fee.

### **C. BACKGROUND**

1. In managing the Funds, Cornerstone was responsible not only for providing investment advice but also for running their day-to-day operations and administrative functions. As such, Cornerstone oversaw the payment of the Funds' bills. In particular, the firm reviewed the invoices submitted by third parties for accounting and other necessary services and then authorized an administrator to pay the invoices from the Funds' assets. The actual payments were remitted by a bank as instructed by the administrator.

2. After Cornerstone's chief executive officer was incapacitated due to illness, DeMatteo and Murray changed the procedures for paying the Funds' expenses in November 2001. Rather than allowing the administrator to pay service providers directly as had

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<sup>1</sup> The advisory agreements between Cornerstone and the Funds expired on March 11, 2001, and new agreements were never executed. Nonetheless, Cornerstone continued to provide advisory services and collect fees from the Funds until February 2002.

been done in the past, they instructed the administrator to pay Voyager for some vendor invoices. DeMatteo and Murray doctored these vendor invoices to request higher amounts than the service providers actually billed. In one instance, an invoice was wholly fictitious. This practice caused the administrator to pay to Voyager, from November 2001 through February 2002, \$102,385 beyond that which the service providers had billed. Voyager, however, was not entitled to this money.

3. When the payments from the administrator reached the Voyager bank account, DeMatteo paid the service providers the actual amounts that they had invoiced the Funds. DeMatteo, who controlled the Voyager bank account, signed each and every check to the service providers. The excess payment, representing the difference between the inflated or fictitious invoices and the amount the vendor actually received, was retained in the Voyager bank account. DeMatteo used these funds to pay his and Murray's salaries, which were increased during the three-month period, and other expenses including office rent, health insurance, car service, meals and credit cards. Checks for these expenses were also drawn on the Voyager bank account and signed or authorized by DeMatteo.

4. Some of the invoices submitted to the Funds' administrator were not only inflated but also were expenses of Cornerstone rather than the Funds. After the chief executive officer of Cornerstone became ill, DeMatteo retained two individuals to provide investment advice for the Funds. DeMatteo and Murray, however, did not seek board approval to enter contracts for advisory services or to make payments for such services from the Funds' assets. During this time, the Funds continued to pay Cornerstone for investment advice under the advisory agreements. Murray and DeMatteo not only inflated these two individuals' invoices in the total amount of \$19,856, but also caused the Funds to pay them \$4,500 for services that Cornerstone was contractually obligated to perform.

5. DeMatteo and Murray thereby caused Cornerstone to misappropriate a total of \$126,741 from the Funds.

6. The Funds' administrator became suspicious of certain payment requests, and brought the matter to the attention of the Funds' counsel. As a result, the misappropriation was uncovered and ceased. After a suit against Voyager and others, the Funds were reimbursed fully.

#### **D. VIOLATIONS**

1. As a result of the conduct described above, Murray willfully aided and abetted and caused Cornerstone to violate Sections 206(1) and 206(2) of the Advisers Act, which prohibit fraudulent conduct by an investment adviser.

2. As a result of the conduct described above, Murray willfully violated Section 37 of the Investment Company Act by unlawfully and willfully converting to his own use or to the use of another the moneys, funds, securities, credits, property and assets of registered investment companies, as more particularly described in paragraphs C. 2-5, above.

### 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 and cease-and-desist proceedings be instituted to determine:

A. Whether the allegations set forth in Section II 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 203(f) of the Advisers Act including, but not limited to, civil penalties pursuant to Section 203(i) of the Advisers Act;

C. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 9(b) of the Investment Company Act including, but not limited to, civil penalties pursuant to Section 9(d) of the Investment Company Act; and

D. Whether, pursuant to Section 203(k) of the Advisers Act and Section 9(f) of the Investment Company Act, Respondent should be ordered to cease and desist from committing or causing violations of and any future violations of Sections 206(1) and 206(2) of the Advisers Act and Section 37 of the Investment Company Act.

E. Whether, pursuant to Section 203(j) of the Advisers Act and Section 9(e) of the Investment Company Act, Respondent should be ordered to pay disgorgement, including reasonable interest.

### 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 not earlier than 30 days and not later than 60 days from service of this Order 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 personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 300 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice.

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.

By the Commission.

Nancy M. Morris  
Secretary