

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
January 16, 2009

ADMINISTRATIVE PROCEEDING
File No. 3-13345

In the Matter of

ALBERTO W. VILAR and GARY
ALAN TANAKA,

Respondents.

ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 203(f) OF THE
INVESTMENT ADVISERS ACT OF 1940
AND NOTICE OF HEARING

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 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”), against Alberto W. Vilar (“Vilar”) and Gary Alan Tanaka (“Tanaka,” together with Vilar, the “Respondents”).

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENTS

1. Respondent Tanaka, age 65, resided in the United Kingdom during the relevant time period. Since approximately May 2005, Tanaka has resided in New York, New York. During the relevant time period, Tanaka was a person associated with an investment adviser.

2. Respondent Vilar, age 68, is a resident of New York, New York. During the relevant time period, Vilar was a person associated with an investment adviser.

B. CRIMINAL CONVICTIONS

3. Beginning in September 2008, Vilar and Tanaka were tried before a jury in the United States District Court for the Southern District of New York, in United States v. Alberto William Vilar and Gary Alan Tanaka, S3 05 Cr. 621 (RJS).

4. On November 19, 2008, Vilar was found guilty on 2 counts of securities fraud; 2 counts of wire fraud; 4 counts of money laundering; 1 count of investment adviser fraud; 1 count of mail fraud; 1 count of making false statements; and 1 count of conspiracy to commit securities fraud, investment adviser fraud, wire fraud, mail fraud and money laundering, in violation of 15 U.S.C. §§ 80b-6, 80b-17, 78j(b) and 78ff; 17 C.F.R. § 240.10b-5; and 18 U.S.C. §§ 371, 1001, 1341, 1343, 1957 and 2.

5. On November 19, 2008, Tanaka was found guilty on 1 count of securities fraud; 1 count of investment adviser fraud; and 1 count of conspiracy to commit securities fraud, investment adviser fraud, wire fraud, mail fraud and money laundering, in violation of 15 U.S.C. §§ 80b-6, 80b-17, 78j(b) and 78ff; 17 C.F.R. § 240.10b-5; and 18 U.S.C. §§ 371 and 2.

6. The counts of the criminal indictment to which Vilar and Tanaka were found guilty alleged that Vilar and Tanaka engaged in a scheme to defraud that involved (a) misappropriation of millions of dollars of investor assets and (b) misrepresentation to investors of how their money was being invested.

7. It is further alleged in the criminal indictment that (a) beginning in or about 1986, Vilar and Tanaka solicited, and caused others to solicit, clients to invest in Amerindo Guaranteed Fixed Rate Deposit Accounts (“GFRDAs”) based on misrepresentations that they would invest the majority of the clients’ funds in short-term debt instruments that would earn a fixed-rate of interest, but Vilar and Tanaka did not invest the funds as promised, nor did they provide the investors with the promised rate of return on their GFRDA investments; and (b) beginning in or about June 2002, Vilar induced a client to invest approximately \$5 million in an Amerindo venture (the “Amerindo SBIC”) based on misrepresentations concerning the Amerindo SBIC investment, but misappropriated the client’s investment and repeatedly made misrepresentations to the client concerning her investment in the Amerindo SBIC.

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 proceedings be instituted to determine:

A. Whether the allegations set forth in Section II are true and, in connection therewith, to afford Respondents an opportunity to establish any defenses to such allegations;

B. What, if any, remedial action is appropriate in the public interest against Respondents Vilar and Tanaka pursuant to Section 203(f) of the Advisers Act.

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 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 each 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 a 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 Respondents personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 210 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.

For the Commission, by its Secretary, pursuant to delegated authority.

Elizabeth M. Murphy
Secretary