

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C.

In the Matter of

WARD ONSA

: INITIAL DECISION
: June 17, 2013
:

APPEARANCES: Polly A. Atkinson for the Division of Enforcement, Securities and Exchange
Commission

Ward Onsa, pro se

BEFORE: Brenda P. Murray, Chief Administrative Law Judge

Background

The Securities and Exchange Commission (Commission) issued an Order Instituting Proceedings (OIP) on March 1, 2013. The OIP alleges that on December 15, 2011, Ward Onsa (Onsa) pled guilty to one count of securities fraud and on July 26, 2012, was ordered to serve a prison term of seventy-eight months and to pay \$3.1 million in restitution in United States v. Onsa, Case No. 10-cr-730 (E.D.N.Y.). Onsa was served with the OIP on March 6, 2013. In a letter filed on March 25, 2013, Onsa stated he was incarcerated and indigent and could not appear at any court proceeding. I treated this letter as Onsa's answer.

On April 4, 2013, the Division of Enforcement (Division) filed a Motion for Default Pursuant to Rule 155(a)(2) of the Commission's Rules of Practice. (Default Motion). The Default Motion has seven attachments: (1) USPS Domestic Return Receipt showing service of the OIP on March 6, 2013; (2) Indictment in Onsa (Nov. 18, 2010); (3) Judgment in Onsa (Aug. 21, 2012); (4) Memorandum and Order in Onsa (Mar. 1, 2013); (5) Complaint and Jury Demand in SEC v. Hansen, Case No. 13-cv-1403 (S.D.N.Y. Mar. 1, 2013); (6) Complaint in Henry v. Onsa, Case No. 05-cv-2406-HHK (D.D.C. Dec. 15, 2005); and (7) Judgment in Henry (Apr. 30, 2008).

On April 10, 2013, I held a telephonic conference, at which Onsa stated that he did not contest either the allegations in the OIP or the collateral bar sought by the Division, although he did not understand the full ramifications of the collateral bar, but that he did not want to be found in

default.¹ It appeared that a settlement was a possibility and the Division agreed to provide Onsa with settlement materials. Tr. 5-8, 14. I ruled that I would consider the pending Default Motion as a motion for summary disposition and that Onsa would have until April 23, 2013, to file an opposition to the motion for summary disposition. Tr. 11-12; Onsa, Order Following Prehearing Conference (Apr. 11, 2013).

Onsa did not file an opposition to the motion for summary disposition, and on May 22, 2013, the Division filed a Status Report Re Settlement in which it stated that Onsa had failed to submit a signed and notarized Offer of Settlement, which he represented to the Division that he would do on April 17, 2013.

I take official notice of, and accept into evidence the exhibits attached to the Summary Disposition Motion. 17 C.F.R. §201.323. There are no issues of material fact that require a hearing and the presentation of witnesses. My findings are based on the record and I applied preponderance of the evidence as the applicable standard of proof. See Steadman v. SEC, 450 U.S. 91, 102 (1981).

Findings of Fact

Onsa began to solicit investor funds in 1996 through an entity he formed and managed. Default Motion, Ex. D at 2. His conduct as a person associated with an unregistered investment adviser as the basis of the criminal charges in Onsa. Default Motion, Ex B. The Indictment consisted of one count of securities fraud and six counts of wire fraud. Id. On December 15, 2011, pursuant to a plea agreement, Onsa pled guilty to one count of securities fraud set out in the Indictment filed November 18, 2010:

In or about and between May 2004 and the present, both dates being approximate and inclusive, within the Eastern District of Pennsylvania and elsewhere, the defendant Ward Onsa did knowingly and willfully use and employ manipulative and deceptive devices and contrivances, contrary to Rule 10b-5 of the Rules and Regulations of the United States Securities and Exchange Commission (Title 17, Code of Federal Regulations, Section 240.10b-5), by (a) employing devices, schemes and artifices to defraud; (b) making untrue statements of material fact and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaging in acts, practices and courses of business which would and did operate as a fraud and deceit upon investors, in connection with the purchases and sales of investments in the [New Century Hedge Fund Partners I, L.P.], directly and indirectly, by use of means and instrumentalities of interstate and foreign commerce and the mails.

Default Motion, Exs. B at 5-6, C.

¹ Default is appropriate where a party fails to answer, participate in a hearing or prehearing conference, respond to a dispositive motion, or otherwise defend the proceeding. 17 C.F.R. § 201.155.

As the result of his guilty plea in Onsa, Onsa received a sentence of seventy-eight months of imprisonment, followed by three years of supervised release, and was ordered to pay restitution of \$3,135,132.22 to twenty-six people. Default Motion, Ex. C. His sentence was enhanced because he was acting as an investment adviser and investor losses were so high. Default Motion, Ex. D.

Conclusions of Law

This proceeding was instituted pursuant to Section 203(f) of the Investment Advisers Act of 1940, which provides that the Commission shall censure, place limitations on the activities of any person, suspend for a period of up to twelve months or bar a person, associated with an investment adviser, where the sanction is in the public interest and the person has, among other things, willfully violated a provision of the Securities Exchange Act of 1934 Act (Exchange Act), an Exchange Act regulation, or been convicted of a crime punishable by imprisonment for more than one year within ten years of the commencement of this proceeding. Onsa was acting as a person associated with an investment adviser, he willfully violated Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5, and is serving a sentence of more than one year. Default Motion, Exs. C, D. See Feeley & Wilcox Asset Mgmt. Corp., Securities Act of 1933 (Securities Act) Release No. 8249 (July 10, 2013), 56 S.E.C. 616, 618, 647 (barring a person associated with an unregistered investment adviser from association with an investment adviser), motion for reconsideration denied, Securities Act Release No. 8303 (Oct. 9, 2003), 56 S.E.C. 1264.

The criteria for making a public interest determination are set out in Steadman v. SEC, 603 F.2d 1126 (5th Cir. 1979), aff'd on other grounds, 450 U.S. 91 (1981). Onsa's conduct was egregious as shown by his criminal conduct and the amount of restitution ordered. It was also recurrent in that he began soliciting investor funds in 1996. Onsa also withheld material information from investors about the nature of his investments and losses sustained in a classic Ponzi scheme he operated until at least November 18, 2011. Default Motion, Ex. D at 1-3. In addition to Onsa, the record shows a \$5.37 million judgment by consent against Onsa, Ward Onsa & Company, and Denise Onsa in Henry. Default Motion, Ex. G. Onsa has not shown that he appreciates the wrongful nature of his conduct and he has made no assurances against future violations.

The evidence shows it is in the public interest to bar Onsa from any further participation in the securities industry.

Order

I ORDER, pursuant to Section 203(f) of the Investment Company Act of 1940, that Ward Onsa is barred from being associated with an investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

This Initial Decision shall become effective in accordance with and subject to the provisions of Rule 360 of the Commission's Rules of Practice, 17 C.F.R. § 201.360. Pursuant to that Rule, a party may file a petition for review of this Initial Decision within twenty-one days after service of the Initial Decision. A party may also file a motion to correct a manifest error of fact within ten days of the Initial Decision, pursuant to Rule 111 of the Commission's Rules of Practice, 17 C.F.R. § 201.111. If a motion to correct a manifest error of fact is filed by a party, then that party shall

have twenty-one days to file a petition for review from the date of the undersigned's order resolving such motion to correct manifest error of fact. The Initial Decision will not become final until the Commission enters an order of finality. The Commission will enter an order of finality unless a party files a petition for review or motion to correct manifest error of fact or the Commission determines on its own initiative to review the Initial Decision as to a party. If any of these events occur, the Initial Decision shall not become final as to that party.

Brenda P. Murray
Chief Administrative Law Judge