

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

In the Matter of : INITIAL DECISION MAKING FINDINGS AND
: IMPOSING SANCTION BY DEFAULT
JAMES L. BRANDOLINO : November 20, 2013

SUMMARY

This Initial Decision bars James L. Brandolino (Brandolino) from the securities industry.

I. BACKGROUND

The Securities and Exchange Commission (Commission) instituted this proceeding with an Order Instituting Proceedings (OIP) on September 30, 2013, pursuant to Section 15(b) of the Securities Exchange Act of 1934 (Exchange Act). The OIP alleges that Brandolino was convicted of mail fraud. Brandolino was served with the OIP in accordance with 17 C.F.R. § 201.141(a)(2)(i) on October 7, 2013, and his Answer to the OIP was due within twenty days of service of the OIP on him. See OIP at 2; 17 C.F.R. § 201.220(b). Brandolino has not filed an Answer to date. Accordingly, he has failed to answer or otherwise to defend the proceeding within the meaning of 17 C.F.R. § 201.155(a)(2). Therefore, Brandolino is in default, and the undersigned finds that the allegations in the OIP are true as to him.¹ See OIP at 2; 17 C.F.R. §§ 201.155(a), .220(f).

II. FINDINGS OF FACT

Brandolino was convicted of mail fraud. United States v. Brandolino, No. 1:11-cr-33 (N.D. Ill. May 2, 2013). He was sentenced to 107 months of incarceration² and a three-year term of post-release supervision and ordered to pay \$3,865,484.42 in restitution. Id.

¹ Brandolino was advised that if he failed to file an Answer within the time provided, he would be deemed to be in default, and the undersigned would enter an order barring him from the securities industry. See James L. Brandolino, Admin. Proc. Rulings Release No. 974 (A.L.J. Oct. 21, 2013).

² The Bureau of Prisons website, <http://www.bop.gov> (last visited Nov. 20, 2013), displays Brandolino's name as Brandalino. Brandolino is used in this Initial Decision as consistent with the OIP and with United States v. Brandolino. The findings, conclusions, and order apply whichever spelling is correct.

Brandolino, 45, formerly of Chicago, Illinois, was the Senior Managing Partner of Brandolino Investment Group, LLC, an Illinois limited liability company that purported to be a registered investment adviser specializing in managing portfolios with asset classes that include equities and managed futures. From 2003 to January 2011, in connection with certain managed accounts and the offer and sale of investment interests in commodity pools, Brandolino knowingly devised a scheme to defraud investors, obtained money and property by means of materially false and fraudulent statements and by material omissions, and delivered false account statements by the United States mail.

Neither Brandolino nor Brandolino Investment Group, LLC, was registered as an investment adviser with the Commission. From October 1999 through January 2001, and from April 2002 through October 2005, Brandolino was a registered representative associated with broker-dealers registered with the Commission.

III. CONCLUSIONS OF LAW

Brandolino has been convicted within ten years of the commencement of this proceeding of a felony that “arises out of the conduct of the business of a[n] . . . investment adviser” and “involves the violation of section . . . 1341 . . . of title 18, United States Code” within the meaning of Sections 15(b)(4)(B)(ii), (iv) and 15(b)(6) of the Exchange Act.

IV. SANCTION

Brandolino will be barred from the securities industry.³ This sanction will serve the public interest and the protection of investors, pursuant to Section 15(b)(6), and accord with Commission precedent and the sanction considerations set forth in Steadman v. SEC, 603 F.2d 1126, 1140 (5th Cir. 1979). Brandolino’s unlawful conduct was recurring and egregious; extending over a period of several years, Brandolino’s scheme resulted in the loss of millions of dollars.

V. ORDER

IT IS ORDERED that, pursuant to Section 15(b) of the Securities Exchange Act of 1934, 15 U.S.C. § 78o(b), JAMES L. BRANDOLINO IS BARRED from associating with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or

³ The fact that Brandolino was not associated during the entire period of his wrongdoing with a registered broker-dealer or investment adviser during his wrongdoing does not insulate him from a bar. See Vladislav Steven Zubkis, Exchange Act Release No. 52876 (Dec. 2, 2005), 86 SEC Docket 2618, 2627, recon. denied, Exchange Act Release No. 53651 (Apr. 13, 2006), 87 SEC Docket 2584 (barring unregistered associated person of an unregistered broker-dealer from association with a broker or dealer). Likewise, the Commission has authority to bar persons from association with investment advisers, whether registered or unregistered. See Teicher v. SEC, 177 F.3d 1016, 1017-18 (D.C. Cir. 1999).

nationally recognized statistical rating organization and from participating in an offering of penny stock.⁴

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 a 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 a motion to correct a 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.⁵

Carol Fox Foelak
Administrative Law Judge

⁴ Thus, he will be barred from acting as a promoter, finder, consultant, or agent; or otherwise engaging 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, pursuant to Exchange Act Section 15(b)(6)(A), (C).

⁵ A respondent may also file a motion to set aside a default pursuant to 17 C.F.R. § 201.155(b). See Alchemy Ventures, Inc., Exchange Act Release No. 70708, 2013 SEC Lexis 3459, at *5-6 (Oct. 17, 2013).