

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

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In the Matter of : INITIAL DECISION MAKING FINDINGS AND  
: IMPOSING SANCTION BY DEFAULT  
FREDRICK D. SCOTT : April 22, 2014

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APPEARANCE: Justin A. Alfano, Alexander Vasilescu, and Adam S. Grace for the  
Division of Enforcement, Securities and Exchange Commission

BEFORE: Carol Fox Foelak, Administrative Law Judge

### SUMMARY

This Initial Decision bars Fredrick D. Scott (Scott) from the securities industry.

### I. BACKGROUND

The Securities and Exchange Commission (Commission) instituted this proceeding, pursuant to Section 203(f) of the Investment Advisers Act of 1940 (Advisers Act), with an Order Instituting Proceedings (OIP) on March 13, 2014. The proceeding is a follow-on proceeding based on United States v. Scott, No. 13-cr-520 (E.D.N.Y.). Scott was served with the OIP in accordance with 17 C.F.R. § 201.141(a)(2)(i) by March 24, 2014, 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). Scott 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, Scott is in default, and the undersigned finds that the allegations in the OIP are true as to him.<sup>1</sup> See OIP at 2; 17 C.F.R. §§ 201.155(a), .220(f).

### II. FINDINGS OF FACT

Scott was convicted, on his September 13, 2013, plea of guilty, of conspiracy to commit wire fraud and making a material false statement to Commission staff; he was sentenced to sixty-

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<sup>1</sup> Scott 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 Fredrick D. Scott, Admin. Proc. Rulings Release No. 1363, 2014 SEC LEXIS 1222 (A.L.J. Apr. 7, 2014).

three months of incarceration<sup>2</sup> and a three-year term of post-release supervision and ordered to pay \$1,338,190 in restitution. United States v. Scott, No. 1:13-cr-520 (E.D.N.Y. Apr. 15, 2014).

Scott, 29, was the founder, sole officer, and sole member of ACI Capital Group, LLC (ACI), an investment adviser registered with the Commission from July 11, 2011, through April 1, 2013. In the conduct underlying his conviction, Scott: (a) from approximately July 2011 through May 2013, conspired to devise a scheme to defraud people by using his position at ACI to make false promises of a high rate of return to short term lenders; and (b) on or about May 4, 2012, falsely stated in writing to Commission staff that no person other than he had loaned money to ACI, when in fact he knew that a victim had lent ACI \$100,000 in exchange for a promissory note. Scott caused losses of \$1,338,770. Plea Hr'g Tr. at 18-19, United States v. Scott, No. 1:13-cr-520 (E.D.N.Y. Sept. 13, 2013).

### **III. CONCLUSIONS OF LAW**

Scott 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 . . . 1343 . . . of title 18, United States Code” within the meaning of Sections 203(e)(2)(B), (D) and 203(f) of the Advisers Act.

### **IV. SANCTION**

Scott will be barred from the securities industry. This sanction will serve the public interest and the protection of investors, pursuant to Section 203(f) of the Advisers Act, and accord with Commission precedent and the sanction considerations set forth in Steadman v. SEC, 603 F.2d 1126, 1140 (5th Cir. 1979). As described in the Findings of Fact, Scott's unlawful conduct was recurring and egregious; extending over a period of more than a year, Scott's scheme resulted in losses of over a million dollars. There is a reasonable foreseeable risk that, if allowed to resume his former business activities, he would engage in similar criminal conduct. Because of the Commission's obligation to ensure honest securities markets, an industry-wide bar is appropriate.

### **V. ORDER**

IT IS ORDERED that, pursuant to Section 203(f) Investment Advisers Act of 1940, 15 U.S.C. § 80b-3(f), FREDRICK D. SCOTT IS BARRED from associating with any broker, dealer, investment adviser, 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

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<sup>2</sup> The Bureau of Prisons website, <http://www.bop.gov> (last visited Apr. 22, 2014), and the Judgment document display Scott's first name as Frederick. The findings, conclusions, and order apply whichever spelling is correct.

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.<sup>3</sup>

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Carol Fox Foelak  
Administrative Law Judge

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<sup>3</sup> 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).