

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
VISION SPECIALIST GROUP, LLC : August 5, 2014

SUMMARY

This Initial Decision censures Vision Specialist Group, LLC (Vision Specialist), for its violation of the antifraud provisions of the federal securities laws.

I. BACKGROUND

The Securities and Exchange Commission (Commission) instituted this proceeding with an Order Instituting Proceedings (OIP) on June 10, 2014, pursuant to Section 203(e) of the Investment Advisers Act of 1940 (Advisers Act). The OIP alleges that Vision Specialist was enjoined against violation of the antifraud provisions of the federal securities laws. It was served with the OIP in accordance with 17 C.F.R. § 201.141(a)(2)(ii) on June 13, 2014. To date, it has failed to file an Answer to the OIP, due within twenty days of service. See OIP at 4; 17 C.F.R. § 201.220(b). The Division of Enforcement filed a Motion for Sanctions Based on Default on July 28, 2014, asking that Vision Specialist be censured. Vision Specialist has not responded. Accordingly, it has failed to answer, to respond to a dispositive motion within the time provided, or otherwise to defend the proceeding within the meaning of 17 C.F.R. § 201.155(a)(2). Therefore, Vision Specialist is in default, and the undersigned finds that the allegations in the OIP are true.¹ See OIP at 4; 17 C.F.R. §§ 201.155(a), .220(f).

II. FINDINGS OF FACT

Vision Specialist is a state-registered investment adviser owned and operated by Robert G. Bard (Bard). It is permanently enjoined against violation of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder,

¹ Vision Specialist was previously warned that if it failed to file an Answer within the time provided, it would be deemed to be in default, and the undersigned would enter an order imposing sanctions, including a censure. Vision Specialist Group, LLC, Admin. Proc. Rulings Release No. 1584, 2014 SEC LEXIS 2367 (A.L.J. July 2, 2014) (citing OIP at 4; 17 C.F.R. §§ 201.155(a), .220(f)).

and Sections 206(1) and 206(2) of the Advisers Act. SEC v. Bard, No. 1:09-cv-1473 (M.D. Pa. Nov. 10, 2011), ECF No. 125.² It was also ordered, jointly and severally with Bard, to pay disgorgement, civil penalties, and prejudgment interest totalling \$3,003,039. SEC v. Bard, (May 23, 2012), ECF No. 140. Bard has also been found guilty of securities fraud, wire fraud, mail fraud, bank fraud, investment advisor fraud, and making false statements to a Special Agent of the Federal Bureau of Investigation who was conducting an investigation of Bard's activities. United States v. Bard, No. 1:12-cr-181 (M.D. Pa. Aug. 21, 2013), ECF No. 91. He was sentenced to 262 months of imprisonment, followed by two years of supervised release, and ordered to pay \$4,203,089.30 in restitution. United States v. Bard, (July 31, 2014), ECF No. 132. Bard has been barred from the securities industry. Robert G. Bard, Initial Decision Release No. 640, 2014 SEC LEXIS 2667 (A.L.J. July 24, 2014).

From at least 2005 to 2009, Bard and Vision Specialist targeted unsophisticated investors with promises of high yields and safety of principal, telling clients that they had invested in safe investments such as bonds, certificates of deposits, and money market funds, and showing, as proof, consistently rising or stable account values. In reality, Bard squandered hundreds of thousands of dollars of client funds by making risky (and losing) investments in penny stocks and other securities, and then fraudulently overstating account values when reporting to his clients. By masking the improper investments and the dwindling balances of clients' accounts through various misrepresentations, Bard and Vision Specialist maintained client relationships and received advisory fees from the unknowing clients.

III. CONCLUSIONS OF LAW

Vision Specialist has been permanently enjoined "from engaging in or continuing any conduct or practice in connection with any such activity" as an investment adviser within the meaning of Sections 203(e)(4) of the Advisers Act.

IV. SANCTION

Vision Specialist will be censured for its violation of the antifraud provisions. This sanction will serve the public interest and the protection of investors, pursuant to Section 203(e) of the Advisers Act, and accords with Commission precedent and the sanction considerations set forth in Steadman v. SEC, 603 F.2d 1126, 1140 (5th Cir. 1979), aff'd on other grounds, 450 U.S. 91 (1981). As described in the Findings of Fact, Vision Specialist's unlawful conduct was recurring over a period of years, egregious, involved a high degree of scienter, and resulted in unlawful gains of millions of dollars. This is all the more reprehensible because investment advisers are fiduciaries. See Fundamental Portfolio Advisors, Inc., 56 S.E.C. 651, 684 (2003); see also Capital Gains Research Bureau, Inc., 375 U.S. 180, 191-92, 194, 201; Transamerica Mortg. Advisors, Inc. v. Lewis, 444 U.S. 11, 17 (1979). As fiduciaries, they are required "to act for the benefit of their clients, . . . to exercise the utmost good faith in dealing with clients, to disclose all material facts, and to employ reasonable care to avoid misleading clients." SEC v. DiBella, No. 3:04-cv-1342, 2007 WL 2904211, at *12 (D. Conn. Oct. 3, 2007) (quoting SEC v.

² Official notice, pursuant to 17 C.F.R. § 201.323, is taken of the docket report and the court's orders in SEC v. Bard and in United States v. Bard, No. 1:12-cr-181 (M.D. Pa.).

Moran, 922 F. Supp. 867, 895-96 (S.D.N.Y. 1996)), aff'd, 587 F.3d 553 (2d Cir. 2009); see also Capital Gains Research Bureau, Inc., 375 U.S. at 194 (“Courts have imposed on a fiduciary an affirmative duty of ‘utmost good faith, and full and fair disclosure of all material facts,’ as well as an affirmative obligation ‘to employ reasonable care to avoid misleading’ his clients.”) (footnotes omitted). Accordingly, and because of the Commission’s obligation to ensure honest securities markets, a censure, the maximum sanction available to the Commission in a follow-on proceeding to impose on a state-registered investment adviser, is appropriate. The fact that Vision Specialist’s owner has been found guilty of securities fraud and other felonies adds to the necessity of this remedy.

V. ORDER

IT IS ORDERED that, pursuant to Section 203(e) of the Investment Advisers Act of 1940, VISION SPECIALIST GROUP, LLC, IS CENSURED for violation of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and Sections 206(1) and 206(2) of the Investment Advisers Act of 1940.

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.³

Carol Fox Foelak
Administrative Law Judge

³ 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 *13-14 & n.28 (Oct. 17, 2013); see also David Mura, Exchange Act Release No. 72080, 2014 SEC LEXIS 1530 (May 2, 2014).