

INITIAL DECISION RELEASE NO. 695
ADMINISTRATIVE PROCEEDING
FILE NO. 3-16057

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

In the Matter of :
: INITIAL DECISION MAKING FINDINGS AND
JOHN THOMAS PAPPAS : IMPOSING SANCTION BY DEFAULT
: October 20, 2014

APPEARANCES: Robert F. Schroeder for the Division of Enforcement,
Securities and Exchange Commission

BEFORE: Carol Fox Foelak, Administrative Law Judge

SUMMARY

This Initial Decision bars John Thomas Pappas (Pappas) from the securities industry.

I. BACKGROUND

The Securities and Exchange Commission (Commission) instituted this proceeding with an Order Instituting Proceedings (OIP) on September 5, 2014, pursuant to Section 203(f) of the Investment Advisers Act of 1940 (Advisers Act). The proceeding is a follow-on proceeding based on an Alabama state administrative order that found that Pappas had violated Alabama state laws and barred him from engaging in securities activities into, within, or from Alabama. Pappas was served with the OIP by personal service in accordance with 17 C.F.R. § 201.141(a)(2)(i) on September 10, 2014, and has failed to file an Answer, due within twenty days of service on him, or otherwise to defend the proceeding within the meaning of 17 C.F.R. § 201.155(a)(2). *See* OIP at 2; 17 C.F.R. § 201.220(b). Accordingly, he 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

On February 1, 2012, the Alabama Securities Commission entered a final administrative order against Pappas barring him from “registration and from engaging in any securities activities into, within, or from the State of Alabama, indefinitely.” *In the Matter of John Thomas Pappas*,

¹ Pappas was previously warned 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 John Thomas Pappas*, Admin. Proc. Rulings Release No. 1875, 2014 SEC LEXIS 3721, at *1 n.1 (Oct. 1, 2014).

Administrative Order No. OB-2012-0005 (Alabama Order). Previously, on July 7, 2011, Pappas executed a Letter of Acceptance, Waiver and Consent (AWC) with the Financial Industry Regulatory Authority (FINRA), by which he agreed to a permanent bar from associating in any capacity with any FINRA member as a result of his violation of FINRA Rules 2150(a), 2010, 8210, and NASD Rule IM-2310-2.

Pappas was associated with dually-registered broker-dealers and investment advisers from at least November 2000 through March 2010. The misconduct underlying the Alabama Order and the AWC occurred between 2007 and February 2010 when Pappas misappropriated \$157,564 from three of his customers and attempted to misappropriate \$14,260 from a fourth customer.

III. CONCLUSIONS OF LAW

Pursuant to Section 203(f) of the Advisers Act, the Commission may impose a sanction on “any person associated . . . or, at the time of the alleged misconduct, associated . . . with an investment adviser” if such person “is subject to any final order of a State securities commission . . . that . . . bars such person . . . from engaging in the business of securities.” Sections 203(e)(9) and 203(f) of the Advisers Act, 15 U.S.C. §§ 80b-3(e)(9), 80b-3(f). The Alabama Order was a “final order of a State securities commission” and bars Pappas “from engaging in the business of securities” within the meaning of Advisers Act Sections 203(e)(9) and 203(f).

IV. SANCTION

Pappas will be barred from the securities industry.² This sanction will serve the public interest and the protection of investors, pursuant to Section 203(f) 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, Pappas’s unlawful conduct was egregious and involved a high degree of scienter. Pappas misappropriated and attempted to misappropriate thousands of dollars from his customers. 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) of the Investment Advisers Act of 1940, 15 U.S.C. § 80b-3(f), JOHN THOMAS PAPPAS IS BARRED from associating with any broker,

² The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act), which became effective on July 22, 2010, provided collateral bars in each of the several statutes regulating different aspects of the securities industry. Pappas’s wrongdoing occurred before July 22, 2010. However, the Commission has determined that sanctioning a respondent with a collateral bar for pre-Dodd-Frank Act wrongdoing is not impermissibly retroactive, but rather provides prospective relief from harm to investors and the markets. *John W. Lawton*, Advisers Act Release No. 3513, 2012 SEC LEXIS 3855 (Dec. 13, 2012); *see also Tzemach David Netzer Korem*, Securities Exchange Act of 1934 Release No. 70044, 2013 SEC LEXIS 2155 (July 26, 2013) ; *Johnny Clifton*, Securities Act of 1933 Release No. 9417, 2013 SEC LEXIS 2022 (July 12, 2013); *Alfred Clay Ludlum, III*, Advisers Act Release No. 3628, 2013 SEC LEXIS 2024 (July 11, 2013).

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 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 *5-6 (Oct. 17, 2013).