INITIAL DECISION RELEASE NO. 1088
ADMINISTRATIVE PROCEEDING
FILE NO. 3-17395

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
ANTHONY TYRONE JONES, JR.	:	December 12, 2016

APPEARANCES: Andrew Schiff for the Division of Enforcement, Securities and Exchange Commission

Anthony Tyrone Jones, Jr., *pro se*

BEFORE: Carol Fox Foelak, Administrative Law Judge

SUMMARY

This Initial Decision bars Anthony Tyrone Jones, Jr., from the securities industry. He previously pleaded guilty to wire fraud.

I. INTRODUCTION

The Securities and Exchange Commission instituted this proceeding with an Order Instituting Proceedings (OIP) on August 16, 2016, pursuant to Section 203(f) of the Investment Advisers Act of 1940. The proceeding is a follow-on proceeding based on *United States v. Jones*, No. 16-cr-27 (M.D. Fla.), in which Respondent Anthony Tyrone Jones, Jr., pleaded guilty to wire fraud.

At a September 29, 2016, prehearing conference at which Respondent Jones appeared, October 20, 2016, was set as the deadline for Respondent's Answer to the OIP. *Anthony Tyrone Jones, Jr.*, Admin. Proc. Rulings Release No. 4215, 2016 SEC LEXIS 3735 (A.L.J. Sept. 30, 2016). Respondent was advised that if he did not file an Answer by October 20, 2016, he would be in default, and the undersigned may determine the proceeding against him and bar him from the securities industry. *See id.*; OIP at 2; 17 C.F.R. §§ 201.155(a)(2), .220(f). Respondent did not file an Answer and was ordered to show cause, by November 30, 2016, why he should not be deemed to be in default and barred from associating with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization. *Anthony Tyrone Jones, Jr.*, Admin. Proc. Rulings Release No. 4356, 2016 SEC LEXIS 4260 (A.L.J. Nov. 16, 2016). To date, Respondent has not filed an Answer to the OIP, responded to the order to show cause, or submitted any other correspondence in this proceeding. 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, he is in default, and the undersigned finds that the allegations in the OIP are true as to him. *See* OIP at 2; 17 C.F.R. §§ 201.155(a), .220(f). Official notice pursuant to 17 C.F.R. § 201.323 is taken of the docket report and the court's orders in *United States v. Jones*, No. 16-cr-27 (M.D. Fla.), and *United States v. Jones*, No. 13-cr-5 (M.D. Fla.), and of the public official records of the Commission.

II. FINDINGS OF FACT

On February 29, 2016, Respondent pleaded guilty to wire fraud, in violation of 18 U.S.C. § 1343, in *United States v. Jones*, No. 16-cr-27. ECF Nos. 16, 20. At the same time, he pleaded guilty to failure to appear, in violation of 18 U.S.C. § 3146, in No. 16-cr-27, and to impersonating an officer or employee of the United States in *United States v. Jones*, No. 13-cr-5. *Id.*; No. 13-cr-5, ECF Nos. 63, 66.[1] Sentencing is currently scheduled for January 9, 2017. No. 16-cr-27 at Oct. 17, 2016, min. entry; No. 13-cr-5, ECF No. 81.

Respondent has never been associated with a registered investment adviser or registered broker-dealer. OIP at 1. In about August 2010, Respondent told an individual that he was an investment adviser and would invest her funds in McDonald's and other investments. No. 16-cr-27, ECF No. 16 at 18. On two dates in February 2011, she provided a total of $21,700 to do so. *Id*. Respondent did not invest the funds as represented and instead used the money for his own personal enjoyment. *Id*. He acted with intent to defraud. *Id*. at 4, 17. Concerning the other charges to which he pleaded guilty, in January 2013, Respondent falsely represented to another individual that he was a Federal Bureau of Investigation agent in order to deceive that individual into performing services for him. *Id*. at 19. He was arrested in connection with that conduct in January 2013 and released on bond; he cut off his electronic monitoring ankle bracelet and absconded, remaining a fugitive for more than two years until he was captured in August 2015. *Id*.

III. CONCLUSIONS OF LAW

Section 202(a)(6) of the Advisers Act provides: "'Convicted' includes a . . . plea of guilty . . . whether or not sentence has been imposed." Respondent Jones has been convicted within ten years of the commencement of this proceeding of an offense that "involves the violation of section . . . 1343 . . . of title 18, United States Code" within the meaning of Sections 203(e)(2)(D) and 203(f) of the Advisers Act.

IV. SANCTION

As the Division requests, a collateral bar will be ordered.

A. Sanction Considerations

The Commission determines sanctions pursuant to a public interest standard. *See* 15 U.S.C. § 78*o*(b)(6). The Commission considers factors including:

[1] No. 16-cr-27, ECF No. 16, and No. 13-cr-5, ECF No. 63, are the same document.

> the egregiousness of the defendant's actions, the isolated or recurrent nature of the infraction, the degree of scienter involved, the sincerity of the defendant's assurances against future violations, the defendant's recognition of the wrongful nature of his conduct, and the likelihood that the defendant's occupation will present opportunities for future violations.

Steadman v. SEC, 603 F.2d 1126, 1140 (5th Cir. 1979) (quoting *SEC v. Blatt*, 583 F.2d 1325, 1334 n.29 (5th Cir. 1978)), *aff'd on other grounds*, 450 U.S. 91 (1981). The Commission also considers the age of the violation and the degree of harm to investors and the marketplace resulting from the violation. *Marshall E. Melton*, Advisers Act Release No. 2151, 2003 SEC LEXIS 1767, at *5 (July 25, 2003). Additionally, the Commission considers the extent to which the sanction will have a deterrent effect. *Schield Mgmt. Co.*, Exchange Act Release No. 53201, 2006 SEC LEXIS 195, at *35 & n.46 (Jan. 31, 2006). The public interest requires a severe sanction when a respondent's past misconduct involves fraud because opportunities for dishonesty recur constantly in the securities business. *See Vladimir Boris Bugarski*, Exchange Act Release No. 66842, 2012 SEC LEXIS 1267, at *18 n.26 (Apr. 20, 2012); *Richard C. Spangler, Inc.*, Exchange Act Release No. 12104, 1976 SEC LEXIS 2418, at *34 (Feb. 12, 1976).

B. Sanction

As described in the Findings of Fact, Respondent's conduct was egregious and recurrent, and involved a high degree of scienter. Respondent has not made assurances against future violations, but had he done so, their weight would be diminished by the fact that he has been adjudged guilty of two additional crimes involving dishonesty and a broken promise. His occupation, if he were allowed to continue it in the future, would present opportunities for future violations. Absent a bar, he could engage in the securities industry. The violations were recent at the time Respondent became a fugitive from justice. The $21,700 raised from a would-be investor is a measure of the direct harm to the marketplace. Further, as the Commission has often emphasized, the public interest determination extends beyond consideration of the particular investors affected by a respondent's conduct to the public-at-large, the welfare of investors as a class, and standards of conduct in the securities business generally. *See Christopher A. Lowry*, Investment Company Act of 1940 Release No. 2052, 2002 SEC LEXIS 2346, at *20 (Aug. 30, 2002), *aff'd*, 340 F.3d 501 (8th Cir. 2003); *Arthur Lipper Corp.*, Exchange Act Release No. 11773, 1975 SEC LEXIS 527, at *52 (Oct. 24, 1975). A conviction involving dishonesty requires a bar, and because of the Commission's obligation to maintain honest securities markets, an industry-wide bar is appropriate.

The Commission considers a fraud to be especially serious and to subject a respondent to the severest of sanctions. *Marshall E. Melton*, 2003 SEC LEXIS 1767, at *29-30. Indeed, from 1995 to the present, there have been over fifty litigated follow-on proceedings based on antifraud injunctions or convictions in which the Commission issued opinions, and all of the respondents were barred[2] – at least fifty unqualified bars and three bars with the right to reapply after five years.[3]

[2] In the cases authorized before the effective date of the Dodd-Frank Act, which authorized collateral bars, the Commission imposed industry-specific bars, such as a bar from association with an investment adviser on a respondent who had been associated with an investment adviser at the time of his violation.

Further, in every such case that followed the statutory provision of collateral bars, the Commission imposed a collateral bar rather than an industry specific bar, reasoning that the antifraud provisions of the securities laws apply broadly to all securities-related professionals and violations demonstrate unfitness for future participation in the securities industry, even if the disqualifying conduct is not related to the professional capacity in which the respondent was acting when he or she engaged in the misconduct underlying the proceeding. *See John W. Lawton*, Advisers Act Release No. 3513, 2012 SEC LEXIS 3855, at *42-43 (Dec. 13, 2012), *vacated in part on other grounds*, Advisers Act Release No. 4402, 2016 SEC LEXIS 1926 (May 27, 2016).

V. ORDER

IT IS ORDERED that, pursuant to Section 203(f) of the Investment Advisers Act of 1940, Anthony Tyrone Jones, Jr., 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 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 a 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.[4]

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Carol Fox Foelak
Administrative Law Judge

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[3] Those three were *Richard J. Puccio*, Exchange Act Release No. 37849, 1996 SEC LEXIS 2987 (Oct. 22, 1996), *Martin B. Sloate*, Exchange Act Release No. 38373, 1997 SEC LEXIS 524 (Mar. 7, 1997), and *Robert Radano*, Advisers Act Release No. 2750, 2008 SEC LEXIS 1504 (June 30, 2008). The Commission's opinions do not make clear the factors that distinguished these cases from those in which unqualified bars were imposed, but there is little difference between a "bar" and a "bar with the right to reapply in five years."

[4] 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 & n.28 (Oct. 17, 2013); *see also David Mura*, Exchange Act Release No. 72080, 2014 SEC LEXIS 1530 (May 2, 2014).