UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 82201 / December 1, 2017

Admin. Proc. File No. 3-14880

In the Matter of

JOHN JANTZEN

ORDER DENYING MOTION TO MODIFY BAR FROM ASSOCIATION WITH A BROKER-DEALER AND VACATING COLLATERAL BARS

On November 6, 2012, an administrative law judge issued an initial decision barring John Jantzen from the securities industry for five years after he had been permanently enjoined by a U.S. district court from violating the antifraud provisions of the federal securities laws.[1] Jantzen did not file a petition for review, and the Commission issued a notice on December 10, 2012, that the initial decision had become the final decision of the Commission and was thereby declared effective.[2] Jantzen now seeks to modify that bar. He asks that the Commission declare that his five-year bar ended March 8, 2017. He also claims that provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 were impermissibly applied retroactively.

The Commission has long held that administrative bar orders will "remain in place in the usual case and be removed only in compelling circumstances."[3] "Preserving the status quo ensures that the Commission, in furtherance of the public interest and investor protection, retains its continuing control over such barred individuals' activities."[4]

We have considered, in determining whether relief would be consistent with the public interest and investor protection, factors such as the nature of the underlying misconduct; the time that has passed since issuance of the bar; the compliance record of the petitioner since issuance

---

1 *John Jantzen*, Initial Decision Release No. 472, 2012 WL 5422022 (Nov. 6, 2012).

2 *John Jantzen*, Exchange Act Release No. 68396, 2012 WL 6101866 (Dec. 10, 2012).

3 *Ciro Cozzolino*, Exchange Act Release No. 49001, 2003 WL 23094746, at *3 (Dec. 29, 2003).

4 *Id.*

of the bar; the age and securities industry experience of the petitioner, and the extent to which we have granted prior relief from the bar; whether the petitioner has identified verifiable, unanticipated consequences of the bar; the position and persuasiveness of the Division of Enforcement's response to the petition for relief; and whether there exists any other circumstance that would cause the requested relief from the bar to be inconsistent with the public interest or the protection of investors.[5] We have also stated that "[n]ot all of these factors will be relevant in determining the appropriateness of relief in a particular case, and no one factor is dispositive."[6] Here, other than mentioning his age, Jantzen does not invoke these considerations.

Rather, Jantzen argues that the bar should have been deemed to be effective on March 7, 2012 (the day he claims to have ended his "affiliation" with all regulated entities) and thus ended as of March 8, 2017. But Jantzen unsuccessfully raised this argument before the law judge, whose initial decision Jantzen did not appeal. And the Commission's notice declaring that decision final on December 10, 2012 expressly stated that "the order contained in [the Initial Decision] is hereby declared effective." Jantzen now suggests that he mistakenly believed that the bar became effective earlier, but a mistaken belief about when his bar began does not meet his burden of showing a "compelling circumstance" that justifies modifying his bar.[7] Nor do Jantzen's vague references in his motion to his age and "sincerity."

Jantzen also argues that his bar should be vacated due to "the flaws of applying an impermissibly retroactive penalty through the use of Dodd-Frank's provisions against Mr. Jantzen" for his pre-Dodd-Frank conduct. With respect to the bar from associating with a broker or dealer, a capacity in which Jantzen admits he was associated at the time of his misconduct, Jantzen contends that it was impermissibly retroactive for the bar to cover stocks, bonds, or options. According to Jantzen, the broker-dealer with which he was affiliated at the time of his misconduct did not market those securities. But Dodd-Frank did not authorize the Commission to bar individuals who were associated with a broker or dealer at the time of their misconduct

---

5 *Charles E. Gaecke*, Investment Advisers Act Release No. 2681, 2007 WL 4246109, at *1 (Dec. 4, 2007).

6 *Kenneth W. Haver*, Exchange Act Release No. 54824, 2006 WL 3421789, at *3 (Nov. 28, 2006).

7 *Cf. Robert Hardee Quarles*, Exchange Act Release No. 66530, 2012 WL 759386, at *2–3 (Mar. 7, 2012) (vacating supervisory and proprietary bar where respondent had more than 20 years of unblemished conduct as a general securities representative and the Division supported respondent's petition and urged the Commission to grant the requested relief); *Mark E. Ross*, Exchange Act Release No. 43033, 2000 WL 964574, at *1 (July 13, 2000) (vacating bar where respondent had participated in the industry for 25 years without incident after the Commission had modified the bar to permit his limited association with certain firms and where the Division supported respondent's motion); *John W. Bendall, Jr.*, Exchange Act Release No. 38326, 1997 WL 76700, at *1 (Feb. 24, 1997) (vacating bar where 28 years had elapsed since bar was imposed, respondent had an unblemished record in the securities industry for 19 years after the Commission had modified the bar to permit him to return to the industry in a limited capacity, and the Division supported respondent's motion).

from association with a broker or dealer without limiting the bar to specific securities. The Commission has consistently barred respondents from associating with brokers and dealers, without limiting the bar to specific types of securities, since before Dodd-Frank was enacted.[8] Indeed, Jantzen identifies no case either before or after Dodd-Frank was enacted in which the Commission limited a broker-dealer bar to specific types of securities.

We further reject Jantzen's contention that it was improper for the initial decision to rely on a post-Dodd-Frank case when deciding the proper length of Jantzen's broker-dealer bar.[9] Jantzen chose not to appeal the initial decision, and the cited case did not apply remedies that Dodd-Frank authorized to pre-Dodd-Frank conduct. Rather, both the bar imposed in that case and the bar from associating with a broker or dealer imposed on Jantzen were remedies that were authorized prior to Dodd-Frank. And both cases involved pre-Dodd-Frank conduct. There was nothing impermissibly retroactive about citing a case that was decided after Dodd-Frank's enactment to support imposing a remedy that was authorized before Dodd-Frank as a result of conduct that predated Dodd-Frank's passage. As noted in the law judge's initial decision, the Commission had imposed five-year bars for misconduct similar to Jantzen's well before Dodd-Frank's effective date.[10]

With respect to the bars from other associational capacities, Jantzen argues that they should be vacated pursuant to *Bartko v. SEC*, which found that it was "impermissibly retroactive" to impose a collateral bar based solely on violative conduct that occurred before Dodd-Frank's effective date.[11] Because Jantzen's misconduct occurred before that date, we agree that the bars from associating with an investment adviser, municipal securities dealer, transfer agent, or nationally recognized statistical rating organization should be vacated.

Accordingly, it is ORDERED that John Jantzen's motion to modify the Commission's order barring him from association with a broker or dealer for five years is DENIED; and it is further

---

[8] *See, e.g.*, *Phillip J. Milligan*, Exchange Act Release No. 61790, 2010 WL 1143088, at *6 (Mar. 26, 2010) (barring respondent who was permanently enjoined for his involvement in a stock kickback scheme from associating with "any broker or dealer").

[9] *See Jantzen*, 2012 WL 5422022, at *6 (citing *Ran H. Furman*, Initial Decision Release No. 459A, 2012 WL 2339281 (June 20, 2012)).

[10] *Id.* (citing *Martin B. Sloate*, Exchange Act Release No. 38373, 1997 WL 126707, at *3 (Mar. 7, 1997) (imposing bar from association with a broker or dealer with a right to reapply after five years on respondent who purchased or solicited purchases of securities while in possession of material, non-public information).

[11] 845 F.3d 1217, 1224–26 (D.C. Cir. 2017).

ORDERED that the Commission's order barring John Jantzen from association with an investment adviser, municipal securities dealer, transfer agent, or nationally recognized statistical rating organization for five years is VACATED.

By the Commission.

Brent J. Fields
Secretary