

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C.

SECURITIES ACT OF 1933
Release No. 10331 / March 30, 2017

SECURITIES EXCHANGE ACT OF 1934
Release No. 80347 / March 30, 2017

INVESTMENT ADVISERS ACT OF 1940
Release No. 4676 / March 30, 2017

INVESTMENT COMPANY ACT OF 1940
Release No. 32586 / March 30, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-16801

In the Matter of
BENNETT GROUP FINANCIAL
SERVICES, LLC

and

DAWN J. BENNETT

OPINION OF THE COMMISSION

CEASE-AND-DESIST PROCEEDING

INVESTMENT ADVISER PROCEEDING

INVESTMENT COMPANY PROCEEDING

Grounds for Remedial Action

Antifraud violations

Former registered investment adviser and its founder, majority owner, and CEO made material misstatements and omissions regarding assets under management and investment returns in violation of the antifraud provisions of the securities laws. Adviser also failed to adopt and implement policies and procedures reasonably designed to prevent securities law violations. *Held*, it is in the public interest to bar the individual respondent, impose on respondents a cease-and-desist order, and order them to pay disgorgement with prejudgment interest and civil money penalties.

APPEARANCES:

Eugene Ingoglia, Gregory Morvillo, and Caitlin Sikes, Morvillo LLP, for Bennett Group Financial Services, LLC and Dawn J. Bennett.

Julia C. Green, David L. Axelrod, Brendan P. McGlynn, and Patricia A. Paw for the Division of Enforcement.

Appeal filed: August 2, 2016
Last brief received: December 29, 2016

Bennett Group Financial Services, LLC, a former registered investment adviser, and Dawn J. Bennett, Bennett Group's founder, majority owner, and chief executive officer, appeal the initial decision of an administrative law judge finding that they violated the federal securities laws.¹ Although respondents "continue to deny" the allegations in this proceeding "on the merits," their appeal is based "on only one issue: whether the appointment of the presiding Administrative Law Judge ('ALJ') violated the Appointments Clause of the U.S. Constitution." We reject this claim because, in our view, the Commission's ALJs are employees, not inferior officers, and their manner of appointment is not subject to the requirements of the Appointments Clause.

I. Background

On September 9, 2015, the Commission issued an order instituting proceedings ("OIP") alleging that, from at least 2009 through February 2011, respondents "made material misstatements and omissions regarding assets that were purportedly 'managed' for investors and regarding investment returns."² The OIP alleged that respondents made these misstatements and omissions "for the purpose of retaining existing customers and attracting new customers."³ The OIP alleged further that respondents "made additional misstatements in an effort to obstruct the investigation and to 'cover up' their prior fraud."⁴

Although the OIP ordered a hearing before an ALJ to determine whether the allegations were true, respondents stated in a December 29, 2015 letter that they would "decline to participate in the proceeding on the merits (save to preserve [their] constitutional argument)." At a pre-hearing conference several days later, the ALJ cautioned respondents that they would be "found in default" and that the matter would be "determined against them based on the

¹ *Bennett Grp. Fin. Servs., LLC*, Initial Decision Release No. 1033, 2016 WL 4035560 (July 11, 2016).

² *Bennett Grp. Fin. Servs., LLC*, Exchange Act Release No. 75864, 2015 WL 5243888, at *1 (Sept. 9, 2015).

³ *Id.*

⁴ *Id.*

allegations” in the OIP if they persisted in this course. Respondents’ counsel candidly acknowledged the consequences: “[W]e understand the risk that we are taking.” When respondents did not appear at the hearing, the ALJ duly found them in default.

After so finding, the ALJ issued an initial decision in which she found respondents liable for violating the federal securities laws based on the allegations in the OIP and the evidence that the Division of Enforcement adduced at the hearing. The initial decision barred Bennett from the securities industry and imposed cease-and-desist orders, disgorgement, and civil money penalties. This appeal followed.

II. Analysis

Because the initial decision “cease[d] to have any force or effect” once respondents filed their petition for review,⁵ we address the allegations in the OIP before turning to respondents’ constitutional claim. We find that the respondents have waived any arguments regarding the merits of the allegations or the appropriate sanctions; that the allegations, deemed true by virtue of respondents’ default, establish that respondents violated the federal securities laws; and that respondents’ misconduct warrants significant sanctions.

A. Respondents have waived any arguments on the merits.

Respondents state that the “only appellate issue” is their Appointments Clause claim. We have held previously that we are not “obliged to independently sift through the record to identify and develop arguments that a party fails to advance with clarity.”⁶ Nor do we have the “burden, *sua sponte*,” of anticipating an argument that a party “did not make.”⁷ Our Rules of Practice provide that “[e]xceptions shall be supported by citation to the relevant portions of the record”

⁵ *Eric J. Brown*, Securities Act Release No. 3393, 2012 WL 1143573, at *2 & n.10 (Apr. 5, 2012).

⁶ *John Thomas Capital Mgmt.*, Exchange Act Release No. 74100, 2015 WL 242391, at *1 (Jan. 20, 2015); *see also Canady v. SEC*, 230 F.3d 362, 362-63 (D.C. Cir. 2000) (upholding Commission’s conclusion that respondent “waived [a] defense by failing to argue it”).

⁷ *Zacharias v. SEC*, 569 F.3d 458, 472-73 (D.C. Cir. 2009). In our *de novo* and plenary review, we may raise and determine any matters we deem material, whether or not advanced by the parties or decided by the ALJ. Rule of Practice 411(d), 17 C.F.R. § 201.411(d); *see also Richison v. Ernest Grp., Inc.*, 634 F.3d 1123, 1130 (10th Cir. 2011) (explaining that a reviewing court may affirm on any ground fairly supported by the record). We are not, however, compelled in any given case to exercise this authority so as to overlook a party’s waiver or forfeiture. *See, e.g., Guzzo v. Cristofano*, 719 F.3d 100, 112 (2d Cir. 2013).

and by “concise argument” including citation of relevant legal authorities.⁸ As a result, we hold that respondents have waived any arguments directed to the merits of this proceeding.⁹

B. Respondents violated the federal securities laws.

A respondent commits securities fraud in violation of Section 10(b) of the Exchange Act and Rule 10b-5(b) thereunder if the Division of Enforcement establishes by a preponderance of the evidence that he made a misrepresentation, that such misrepresentation was material, that he acted with scienter, and that the conduct was in connection with the purchase or sale of securities.¹⁰ A respondent is liable under Section 17(a)(2) of the Securities Act if, in the offer or sale of securities, he obtained money or property by means of an untrue statement of material fact.¹¹ A violation of Section 17(a)(2) does not require scienter; negligence is sufficient.¹² Section 17(a), Section 10(b), and Rule 10b-5 all require the use of interstate commerce.¹³

Similarly, Section 206(1) and 206(2) of the Investment Advisers Act of 1940 prohibit fraudulent misstatements by investment advisers to their clients.¹⁴ Unlike Section 17(a) of the

⁸ Rule of Practice 450(b), 17 C.F.R. § 201.450(b); *see also Rules of Practice*, 60 Fed. Reg. 32738, 32778 (June 23, 1995) (release adopting the Rules of Practice) (emphasizing that the “obligation to support claims . . . lies with the person submitting the brief”); *cf. Greenlaw v. United States*, 554 U.S. 237, 244 (2008) (“[O]ur adversary system is designed around the premise that the parties know what is best for them, and are responsible for advancing the facts and arguments entitling them to relief.”) (quotation marks omitted).

⁹ Rules of Practice 410(b), 450(b), 17 C.F.R. §§ 201.410(b), 450(b); *see also Anthony Fields*, Exchange Act Release No. 74344, 2015 WL 728005, at *19 & n.115 (Feb. 20, 2015) (explaining that “arguments for reversal not made in the opening brief” are subject to waiver); *accord Laurie Jones Canady*, Exchange Act Release No. 41250, 1999 WL 183600, at *12 (Apr. 5, 1999), *aff’d*, 230 F.3d 362 (D.C. Cir. 2000).

¹⁰ *S.W. Hatfield, CPA*, Exchange Act Release No. 73763, 2014 WL 6850921, at *4 (Dec. 5, 2014) (citing 15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5).

¹¹ *Johnny Clifton*, Securities Act Release No. 9417, 2013 WL 3487076, at *8 (July 12, 2013) (citing 15 U.S.C. § 77q(a)(2)).

¹² *Id.*

¹³ 15 U.S.C. § 77q(a); 15 U.S.C. § 78j(b); 17 C.F.R. § 240.10b-5. Respondents’ use of the mails and radio satisfies the interstate commerce requirement. *See, e.g., SEC v. United Fin. Grp., Inc.*, 474 F.2d 354, 356-57 (9th Cir. 1973). Because respondents made their misrepresentations for the purpose of retaining existing customers and attracting new customers, and because after making the fraudulent claims respondents traded securities for such customers, respondents’ misrepresentations were “in connection with” the purchase and sale and “in” the offer and sale of securities. *SEC v. Locke Cap. Mgmt.*, 794 F. Supp. 2d 355, 367 (D. R.I. 2011).

¹⁴ 15 U.S.C. § 80b-6(1), (2).

Securities Act and Section 10(b) of the Exchange Act, Advisers Act Section 206 does not require that the fraudulent conduct occur “in the offer or sale” or “in connection with the purchase or sale” of securities.¹⁵ Scienter is required to establish a violation of Advisers Act Section 206(1), but not a violation of Advisers Act Section 206(2).¹⁶ Section 206(4) of the Advisers Act also prohibits advisers from engaging “in any act, practice, or course of business which is fraudulent, deceptive, or manipulative,” as defined by the Commission.¹⁷ Implementing that provision, Advisers Act Rule 206(4)-1(a)(5) makes it unlawful for a registered adviser to directly or indirectly publish or distribute any advertisement that contains any untrue statement of a material fact, or which is otherwise false or misleading.¹⁸

Giving effect to respondents’ default, we deem admitted the allegations in the OIP.¹⁹ Moreover, when, as here, “additional evidence is adduced,” the factfinder in a default proceeding is not limited “to only the specific allegations contained in the OIP.”²⁰ As we stated in *Alchemy Ventures*, the factfinder may “determine the proceedings against the defaulted respondents upon consideration of the record, including deeming the allegations in the OIP to be true.”²¹ At the hearing, the Division of Enforcement presented the testimony of several witnesses and introduced 33 volumes of exhibits as evidentiary support for the sanctions sought. Respondents did not oppose or contest the Division’s proposed findings of fact regarding their underlying misconduct, which were supported by detailed and specific citations to the record. In light of the record submitted by the Division and the Division’s un rebutted arguments, we are unpersuaded by respondents’ conclusory assertion that they “continue to deny” the Division’s allegations, and thus accept those proposed findings as well.

¹⁵ See *SEC v. Lauer*, No. 03-80612-CIV, 2008 WL 4372896, at *24 (S.D. Fla. Sept. 24, 2008), *aff’d*, 478 F. App’x 550 (11th Cir.), *cert. denied*, 133 S. Ct. 545 (2012) (citation omitted). Section 206, like Section 17(a) and Section 10(b), requires an interstate commerce nexus. 15 U.S.C. § 80b-6.

¹⁶ See *Steadman v. SEC*, 603 F.2d 1126, 1133-34 (5th Cir. 1979), *aff’d*, 450 U.S. 91 (1981).

¹⁷ 15 U.S.C. § 80b-6(4).

¹⁸ 17 C.F.R. § 275.206(4)-1(a)(5). Scienter is not a required element of a violation of Section 206(4) or Rule 206(4)-1. See *SEC v. Steadman*, 967 F.2d 636, 647 (D.C. Cir. 1992).

¹⁹ Rules of Practice 155(a), 310, 17 C.F.R. §§ 201.155(a), 310; see also *Alchemy Ventures, Inc.*, Exchange Act Release No. 70708, 2013 WL 6173809, at *3 (Oct. 17, 2013).

²⁰ *David E. Lynch*, Exchange Act Release No. 46439, 2002 WL 1997953, at *1 & n.12 (Aug. 30, 2002).

²¹ 2013 WL 6173809, at *3.

“[U]pon consideration of the record,”²² we find that respondents from 2009 through 2011 knowingly or recklessly made material misstatements and omissions regarding assets under management. They falsely claimed to be managing assets totaling \$1.1 billion to over \$2 billion when, in reality, the most Bennett Group managed during the relevant period was approximately \$407 million. These misrepresentations were made to Barron’s magazine for its nationally published rankings of financial advisors, on a Washington, D.C.-area radio program that Bennett hosted, and in a variety of other advertisements and communications with existing and prospective customers. Respondents also made material misstatements and omissions regarding Bennett Group’s investment returns on the radio show by representing model portfolio returns as actual returns. After respondents made their fraudulent claims, prospective customers became clients and existing clients remained so, generating compensation for respondents, including commissions generated through the purchase and sale of securities. Finally, respondents failed to adopt and implement adequate written policies and procedures related to the calculation and advertisement of assets managed and investment returns.

The record establishes that respondents committed antifraud violations. Respondents violated Exchange Act Section 10(b) and Rule 10b-5(b) because their misstatements and omissions were material, they acted with scienter, and their conduct was in connection with the purchase and sale of securities. Respondents also violated Securities Act Section 17(a)(2) because by means of their material misrepresentations they obtained compensation, including brokerage commissions. Because the record establishes that respondents were investment advisers and made their representations to their clients in advertisements and otherwise, they also violated Advisers Act Section 206(1), (2), and (4) and Rule 206(4)-1(a)(5) thereunder.²³

In addition to these antifraud violations, Bennett Group violated Section 206(4) of the Advisers Act as implemented through Advisers Act Rule 206(4)-7. That rule requires investment advisers to “[a]dopt and implement written policies and procedures reasonably designed to prevent violation[s] . . . of the [Advisers] Act and the rules” thereunder.²⁴ The record, including the unrebutted report submitted by the Division’s expert, establishes that Bennett Group did not adopt a full set of compliance policies and procedures that were customized for its advisory business and reasonably designed to prevent violations of the Advisers Act. Indeed, even the inadequate policies and procedures that it adopted were not

²² Rule of Practice 155(a), 17 C.F.R. § 201.155(a). To be clear, our discussion of the merits is not to be construed as relieving respondents from their waiver. *See supra* Section II.A; *Bartholdi Cable Co. v. FCC*, 114 F.3d 274, 280 (D.C. Cir. 1997).

²³ *See Koch v. SEC*, 793 F.3d 147, 156-57 (D.C. Cir. 2015) (holding registered investment adviser’s principal and sole owner liable for violations of Section 206(1) and (2)). We do not find Bennett liable for violating Rule 206(4)-1(a)(5) because that rule applies only to registered investment advisers or those required to be registered. Instead, we find her liable for aiding and abetting and causing Bennett Group’s violation of that rule by knowingly and substantially assisting its violation. *See infra* note 25.

²⁴ 17 C.F.R. § 275.206(4)-7(a).

implemented. The record also establishes that Bennett, who made the decisions for the firm, aided and abetted and caused this violation by knowingly providing substantial assistance.²⁵

C. Respondents' misconduct warrants significant sanctions.

In granting respondents' petition for review, we also on our own motion raised the issue of "what sanctions, if any, are appropriate."²⁶ Exchange Act Section 15(b)(6) and Advisers Act Section 203(f) authorize us to bar from the securities industry a respondent who willfully violated the federal securities laws and who at the time of the misconduct was associated with a broker-dealer (Section 15(b)(6)) or an investment adviser (Section 203(f)) if we find such a bar in the public interest.²⁷ Exchange Act Section 15(b)(6) also authorizes a bar from participating in an offering of penny stock if we make those required findings.²⁸ And Section 9(b) of the Investment Company Act of 1940 authorizes us to permanently prohibit a respondent from association with an investment adviser or investment company if we find that a respondent willfully violated the Exchange Act or the Advisers Act and such a bar is in the public interest.²⁹

Bennett does not dispute (and the record establishes) that she was associated with several broker-dealers as well as investment adviser Bennett Group at the time of the misconduct. She also does not dispute that her violations were willful, and we so find.³⁰ In determining whether a bar is in the public interest, we consider the egregiousness of Bennett's actions, the isolated or recurrent nature of the violations, the degree of scienter involved, Bennett's recognition of the wrongful nature of her conduct, the sincerity of her assurances against future violations, and the likelihood that her occupation will present opportunities for future violations.³¹

²⁵ See, e.g., *Graham v. SEC*, 222 F.3d 994, 1000 (D.C. Cir. 2000) (finding that aiding and abetting liability requires that (1) a primary violation occurred; (2) the respondent substantially assisted the violation; and (3) the respondent provided that assistance with the requisite scienter); *Sharon M. Graham*, Exchange Act Release No. 40727, 1998 WL 823072, at *7 n.35 (Nov. 30, 1998) (finding that one who aids and abets a violation is necessarily a cause of the violation), *aff'd*, 222 F.3d 994 (D.C. Cir. 2000).

²⁶ *Bennett Grp. Fin. Servs., LLC*, Exchange Act Release No. 78637, 2016 WL 4426912, at *1 (Aug. 22, 2016).

²⁷ 15 U.S.C. §§ 78o(b)(6), 80b-3(f)

²⁸ 15 U.S.C. § 78o(b)(6).

²⁹ 15 U.S.C. § 80a-9(b).

³⁰ In this context, a person acts willfully if in undertaking the acts that make up the violation he "knows what he is doing," even if he does not know "that he is breaking the law." *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000). Our finding of scienter, amply supported by evidence in the record, demonstrates that Bennett's violations were willful.

³¹ See *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979), *aff'd on other grounds*, 450 U.S. 91 (1981).

Applying this framework, we find that barring Bennett is in the public interest. Our determination is premised on the egregious and recurrent nature of the fraudulent misconduct (which spanned more than a year and involved repeated, knowing misstatements), the high degree of scienter displayed, the absence of meaningful assurances against future misconduct, and the evident need to protect investors from respondents. Because the “securities industry presents continual opportunities for dishonesty and abuse, and depends heavily on the integrity of its participants and on investors’ confidence,” we have treated fraud as “especially serious and subject to the severest of sanctions under the securities laws”³² We have also taken account of respondents’ efforts to obstruct Commission staff’s examination and investigation by providing false information about short-term cash management advice that they purportedly provided to three corporate clients. These calculated attempts to conceal their misconduct are compelling additional evidence of Bennett’s consciousness of wrongdoing and confirm our assessment that she is unfit to serve the investing public and should be barred.³³ Given the above, and considering all of the *Steadman* factors, we bar Bennett from the securities industry,³⁴ bar her from participating in an offering of penny stock, and permanently prohibit her from association with an investment adviser or company.³⁵

Exchange Act Section 21C, Advisers Act Section 203(k), and Investment Company Act 9(f) authorize us to impose a cease-and-desist order on a respondent who “is violating, has violated, or is about to violate any provision of” the securities laws.³⁶ In order to impose a cease-and-desist order, there must be “some risk of future violations.”³⁷ In determining whether a

³² *Conrad P. Seghers*, Advisers Act Release No. 2656, 2007 WL 2790633, at *7 (Sept. 26, 2007), *petition denied*, 548 F.3d 129 (D.C. Cir. 2008); *see also Steadman*, 603 F.2d at 1142 (stating that the Commission may consider “violations occurring in the context of a fiduciary relationship to be more serious than they otherwise might be”).

³³ *See, e.g., Brophy v. Jiango Pharm., Inc.*, 781 F.3d 1296, 1305 (11th Cir. 2015); *Ross Mandell*, Exchange Act Release No. 71668, 2014 WL 907416, at *5 (Mar. 7, 2014); *Sandra K. Simpson*, Exchange Act Release No. 45923, 2002 WL 987555, at *16 (May 14, 2002).

³⁴ To be precise, we bar Bennett from association with a broker, dealer, investment adviser, municipal securities dealer, transfer agent, municipal advisor or nationally recognized statistical rating organization. Respondents’ misconduct spanned 2009 to 2011, and we find that the conduct that post-dates the effective date of the Dodd-Frank Wall Street Reform and Consumer Protection Act by itself warrants a bar from all these associations. *Cf. Bartko v. SEC*, 845 F.3d 1217, 1222-24 (D.C. Cir. 2017); *Koch v. SEC*, 793 F.3d 147, 158 (D.C. Cir. 2015).

³⁵ To be precise, we permanently prohibit Bennett from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter.

³⁶ 15 U.S.C. §§ 78u-3(a), 80a-9(f), 80b-3(k)(1).

³⁷ *Guy P. Riordan*, Exchange Act Release No. 61153, 2009 WL 4731397, at *19 (Dec. 11, 2009), *aff’d*, 627 F.3d 1230 (D.C. Cir. 2011).

cease-and-desist order is appropriate, we conduct an inquiry similar to that described above for imposing a bar,³⁸ and for essentially the same reasons we order respondents to cease and desist from committing or causing violations of the provisions they violated.

Exchange Act Section 21C(e), Advisers Act Section 203(k)(5), and Investment Company Act Section 9(f) authorize us to impose disgorgement plus prejudgment interest in a cease-and-desist proceeding.³⁹ We order respondents to disgorge \$556,102—the commissions they received on new accounts during the time that they were circulating their false assets-under-management and performance advertisements—plus prejudgment interest.⁴⁰

Finally, Exchange Act Section 21B(a), Advisers Act Section 203(i), and Investment Company Act Section 9(d) authorize us to impose civil penalties in this proceeding.⁴¹ Third-tier penalties are authorized when, as here, the violation involves fraud or deceit and resulted in a significant risk of substantial loss to others or a substantial pecuniary gain to the violator.⁴² We may impose a penalty for each violative act or omission if we find that doing so is in the public interest.⁴³ Because the violations occurred after March 3, 2009, and before March 5, 2013, the maximum third-tier civil penalty is \$150,000 per violation for a natural person and \$725,000 per violation for any other person.⁴⁴ Here, we find that the public interest requires stringent penalties and that one penalty is appropriate for each category of Respondents' misstatements: the Barron's articles, the radio show claims regarding assets under management, the radio show claims regarding returns, and all other communications with current or prospective clients containing the misrepresentations. We therefore assess four maximum third-tier civil penalties against each respondent, totaling \$600,000 for Bennett and \$2.9 million for Bennett Group.

III. The Appointments Clause

Respondents argue that the ALJ who presided over this matter was an inferior officer not appointed in a manner consistent with the Appointments Clause of the Constitution.⁴⁵

³⁸ See, e.g., *KPMG Peat Marwick LLP*, Exchange Act Release No. 43862, 2001 WL 47245, at *26 (Jan. 19, 2001), *petition denied*, 289 F.3d 109 (D.C. Cir. 2002) (describing the relevant considerations for issuance of a cease-and-desist order).

³⁹ 15 U.S.C. §§ 78u-3(e), 80a-9(f), 80b-3(k)(5).

⁴⁰ Despite respondents' misrepresentations, in reality respondents managed approximately \$400 million, and of that amount approximately \$338 million consisted of brokerage assets.

⁴¹ 15 U.S.C. §§ 78u-2(a), 80a-9(d), 80b-3(i).

⁴² 15 U.S.C. §§ 78u-3(e), 80a-9(e), 80b-3(j).

⁴³ See 15 U.S.C. §§ 78u-2(a), 80a-9(d), 80b-3(i) (providing a broad, non-exclusive list of factors that we may consider in determining the public interest).

⁴⁴ 17 C.F.R. § 201.1001 tb1. 1.

⁴⁵ U.S. Const. art. II, § 2, cl. 2.

Consistently with our rulings in prior cases, we reject this claim.⁴⁶ We recognize that the U.S. Court of Appeals for the Tenth Circuit held in *Bandimere v. SEC* that “SEC ALJs are inferior officers under the Appointments Clause.”⁴⁷ We respectfully disagree with the *Bandimere* panel decision, including its reading of *Freytag v. Commissioner*,⁴⁸ for the reasons stated in our petition for rehearing en banc filed with the Tenth Circuit.⁴⁹ We likewise decline to acquiesce in that decision.⁵⁰ Respondents’ motion for leave to file a supplemental brief regarding the *Bandimere* decision is denied given the foregoing.

An appropriate order will issue.⁵¹

By the Commission (Acting Chairman PIWOWAR and Commissioner STEIN).

Brent J. Fields
Secretary

⁴⁶ *E.g., optionsXpress, Inc.*, Exchange Act Release No. 78621, 2016 WL 4413227, at *47 (Aug. 18, 2016); *Timbervest, LLC*, Investment Advisers Act Release No. 4197, 2015 WL 5472520, at *23 (Sept. 17, 2015), *petition for review filed*, No. 15-1416 (D.C. Cir. Nov. 13, 2015). We also reject respondents’ argument that the multi-level protection-from-removal regime that ALJs enjoy is unconstitutional under *Free Enter. Fund v. PCAOB*, 561 U.S. 477 (2010). *E.g., optionsXpress, Inc.*, 2016 WL 4413227, at *50.

⁴⁷ 844 F.3d 1168, 1179 (10th Cir. 2016).

⁴⁸ 501 U.S. 868 (1991).

⁴⁹ *See* Doc. No. 01019778117, *Bandimere v. SEC*, No. 15-9586 (10th Cir. filed Mar. 13, 2017).

⁵⁰ *See, e.g., United States v. Mendoza*, 464 U.S. 154, 160-61 (1984); *Indep. Petroleum Ass’n v. Babbitt*, 92 F.3d 1248, 1260 n.3 (D.C. Cir. 1996). The record shows that respondents may appeal to the Fourth Circuit or to the D.C. Circuit, but not to the Tenth Circuit. *See* 15 U.S.C. § 78y(a).

⁵¹ We have considered all of the parties’ contentions. We have rejected or sustained them to the extent that they are inconsistent or in accord with the views expressed in this opinion.

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
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ADMINISTRATIVE PROCEEDING
File No. 3-16801

In the Matter of
BENNETT GROUP FINANCIAL
SERVICES, LLC
and
DAWN J. BENNETT

ORDER IMPOSING REMEDIAL SANCTIONS

On the basis of the Commission's opinion issued this day, it is:

It is ORDERED that Dawn J. Bennett be barred from association with a broker, dealer, investment adviser, municipal securities dealer, transfer agent, municipal advisor or nationally recognized statistical rating organization or from participating in an offering of penny stock.

It is further ORDERED that Dawn J. Bennett be permanently prohibited from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter.

It is further ORDERED that Dawn J. Bennett and Bennett Group Financial Services, LLC cease and desist from committing or causing violations of or any future violations of Section 17(a) of the Securities Act; Section 10(b) of the Exchange Act and Rule 10b-5 thereunder; and Sections 206(1), 206(2), and 206(4) of the Advisers Act and Rules 206(4)-1(a)(5) and 206(4)-7 thereunder.

It is further ORDERED that Dawn J. Bennett and Bennett Group Financial Services, LLC disgorge, jointly and severally, \$556,102 plus prejudgment interest at the rate established under Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. § 6621(a)(2), compounded quarterly. Pursuant to 17 C.F.R. § 201.600(a), prejudgment interest is due from March 1, 2011, through the last day of the month preceding which payment is made.

It is further ORDERED that Dawn J. Bennett pay a civil money penalty of \$600,000.

It is further ORDERED that Bennett Group Financial Services, LLC pay a civil money penalty of \$2.9 million.

Payment of the amounts to be disgorged and the civil money penalties shall be: (i) made by United States postal money order, certified check, bank cashier's check, or bank money order; (ii) made payable to the Securities and Exchange Commission; (iii) mailed to Enterprises Services Center, Accounts Receivable Branch, HQ Bldg., Room 181, 6500 South MacArthur Blvd., Oklahoma City, OK 73169; and (iv) submitted under cover letter that identifies the respondent and the file number of this proceeding.

By the Commission.

Brent J. Fields
Secretary