INITIAL DECISION RELEASE NO. 475
ADMINISTRATIVE PROCEEDING
FILE NO. 3-14983

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

In the Matter of	:	
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STANLEY C. BROOKS and	:	INITIAL DECISION
BROOKSTREET SECURITIES CORP.	:	December 11, 2012

APPEARANCES: Molly M. White for the Division of Enforcement, Securities and Exchange Commission

H. Thomas Fehn, Gregory J. Sherwin, and Orly Davidi of Fields, Fehn & Sherwin for Respondents Stanley C. Brooks and Brookstreet Securities Corp.

BEFORE: Carol Fox Foelak, Administrative Law Judge

SUMMARY

This Initial Decision imposes broker, dealer, investment adviser, and penny stock bars on Stanley C. Brooks (Brooks) and Brookstreet Securities Corp. (Brookstreet). They were previously enjoined from violating the antifraud provisions of the federal securities laws.

I. INTRODUCTION

A. Procedural Background

The Securities and Exchange Commission (Commission) instituted this proceeding with an Order Instituting Proceedings (OIP) on August 14, 2012, pursuant to Section 15(b) of the Securities Exchange Act of 1934 (Exchange Act) and Section 203(f) of the Investment Advisers Act of 1940 (Advisers Act). The proceeding is a "follow-on" proceeding, based on Respondents' permanent injunction from future violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, in SEC v. Brookstreet Sec. Corp., No. 8:09-cv-01431 (C.D. Cal. Feb. 28, 2012). Respondents failed to file a timely Answer,[1] and the Division of Enforcement (Division) filed a Motion for Default dated September 21, 2012. The undersigned ordered that the Division's filing be treated as a Motion for Summary Disposition, pursuant to 17 C.F.R. § 201.250(a), in view of Respondents' late-filed Answer, filed on September 21, 2012, Stanley C. Brooks, Admin. Proc. No. 3-14983 (A.L.J. Sept. 25, 2012).

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[1] Respondents were served with the OIP on August 20, 2012, and their Answer was due within twenty days, that is, by September 12, 2012. See OIP at 3; 17 C.F.R. §§ 201.160(b), .220(b).

This Initial Decision is based on (1) the Division's Motion for Summary Disposition (Motion); (2) Respondents' Opposition; (3) the Division's Reply; and (4) Respondents' Answer. There is no genuine issue with regard to any fact that is material to this proceeding. All material facts that concern the activities for which Respondents were enjoined were decided against them in the civil case on which this proceeding is based. Any other facts in their pleadings have been taken as true, pursuant to 17 C.F.R. § 201.250(a). All arguments and proposed findings and conclusions that are inconsistent with this decision were considered and rejected.

B. Allegations and Arguments of the Parties

The OIP alleges that Respondents were enjoined on February 28, 2012, in Brookstreet, from violating the antifraud provisions of the federal securities laws, based on wrongdoing from 2004 through 2007. The Division urges that an industry bar be imposed on Respondents. Respondents argue that the Motion should be denied and an evidentiary hearing held.

C. Procedural Issues

1. Official Notice

Official Notice pursuant to 17 C.F.R. § 201.323 is taken of the docket report and the court's orders in Brookstreet.

2. Collateral Estoppel

Respondents argue that the Brookstreet injunction is not a sufficient basis for this proceeding because it was reached via a motion for summary judgment and also was based on the primary wrongdoing of three Brookstreet registered representatives, Troy L. Gagliardi (Gagliardi), Steven I. Shrago (Shrago), and Travis A. Branch (Branch), whose individual cases in a different court have not yet been adjudicated.[2] To the contrary, the Commission does not permit a respondent to relitigate issues that were addressed in a previous civil proceeding against a respondent, whether resolved by summary judgment, by consent, or after a trial. See Jeffrey L. Gibson, Exchange Act Release No. 57266 (Feb. 4, 2008), 92 SEC Docket 2104 (injunction entered by consent); John Francis D'Acquisto, Advisers Act Release No. 1696 (Jan. 21, 1998), 53 S.E.C. 440, 444 (injunction entered by summary judgment); James E. Franklin, Exchange Act Release No. 56649 (Oct. 12, 2007), 91 SEC Docket 2708, 2713 (injunction entered after trial); Demitrios Julius Shiva, Exchange Act Release No. 38389 (Mar. 12, 1997), 52 S.E.C. 1247, 1249 & nn.6-7. The fact that others may have contributed to the violation for which a respondent has been enjoined does not negate the violation and injunction. See James J. Pasztor, Exchange Act Release No. 42008 (Oct. 14, 1999), 54 S.E.C. 398 (sanctioning supervisor for violative trades carried out by registered representative at the direction of broker-dealer's owner). Finally, the pendency of an appeal does not preclude the Commission from action based on an injunction. See Franklin, 91 SEC Docket at 2714 n.15.

II. FINDINGS OF FACT

Brooks resides in San Clemente, California. Answer at 1. From January 1990 through June 2007, Brooks was the president and CEO of Brookstreet. Id. He held Series 1, 3, 4, 40, 63, and 65

[2] Gagliardi, Shrago, and Branch are among ten Brookstreet defendants in SEC v. Betta, No. 9:09-cv-80803 (S.D. Fla.).

licenses. Id. Between 1992 and 1997, Brooks was sanctioned by state securities regulators and FINRA. Id. Each of these proceedings was resolved by settlement. Id. From March 6, 2006, through May 4, 2008, FINRA suspended Brooks from serving in any supervisory capacity and fined him $95,000 for, among other things, failing to commence and complete compliance inspections. Id. From August 2007 through September 2008, Brooks was a registered representative with Wedbush Morgan Securities, Inc., a registered broker-dealer and investment adviser. Id. Brooks is currently associated with Gold Coast Futures, Inc., which is not registered. Id.

Brookstreet is a California corporation that was a registered broker-dealer and registered investment adviser, headquartered in Irvine, California. Id. at 2. In June 2007, Brookstreet failed to meet its net capital requirements and ceased operations. Id. As of 2008, Brookstreet is no longer a registered broker-dealer or investment adviser. Id.

Brooks and Brookstreet were (and are) permanently enjoined from violating the antifraud provisions: Section 10(b) of the Exchange Act and Rule 10b-5 thereunder. Brookstreet, (Feb. 28, 2012), aff'd on reconsideration, (June 29, 2012), appeal pending, No. 12-56404 (9th Cir.). The court also ordered Brooks to pay a civil penalty of $10,010,000. The court explained that value as reflecting the maximum applicable third-tier penalty for each violation established by undisputed evidence, with the sales of each of the seventy-seven investor victims who purchased collateralized mortgage obligations from former Brookstreet registered representatives Gagliardi, Shrago, and Branch, each constituting a single violation. Id. at 3. The court also ordered Brooks to disgorge $90,000 plus prejudgment interest of $20,713.31. Id.

III. CONCLUSIONS OF LAW

Respondents have been permanently enjoined "from engaging in or continuing any conduct or practice in connection with any such activity" as a broker, dealer, or investment adviser "or in connection with the purchase or sale of any security" within the meaning of Sections 15(b)(4)(C) and 15(b)(6)(A)(iii) of the Exchange Act and Sections 203(e)(4) and 203(f) of the Advisers Act.

IV. SANCTION

The Division requests industry bars, including collateral bars. As discussed below, Respondents will be barred from association with any broker, dealer, or investment adviser and from participating in an offering of penny stock.[3, 4]

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[3] Brookstreet is a "person" within the meaning of the Exchange and Advisers Acts, and thus may be subject to broker, dealer, investment adviser, and penny stock bars. See Sections 3(a)(9), 15(b)(4), and 15(b)(6) of the Exchange Act and 202(16), 203(e), and 203(f) of the Advisers Act. See also Ahmed Mohamed Soliman, Exchange Act Release No. 35609 (Apr. 17, 1995), 52 S.E.C. 227, 231 (Commission both revoked respondent's investment adviser registration and barred him from association with a broker-dealer or investment adviser based on his conviction for submitting fraudulent documents to the Internal Revenue Service).

[4] The Division's request for sanctions also includes a collateral bar pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act). However, the misconduct that the Division alleges antedates the July 22, 2010, effective date of the Dodd-Frank Act. Neither the Commission nor the courts have approved such retroactive application of its provisions in any litigated

A. Sanction Considerations

The Commission determines sanctions pursuant to a public interest standard. See Section 15(b)(6) of the Exchange Act. The Commission considers factors including:

> 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)). 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 (July 25, 2003), 56 S.E.C. 695, 698. Additionally, the Commission considers the extent to which the sanction will have a deterrent effect. See Schield Mgmt. Co., Exchange Act Release No. 53201 (Jan. 31, 2006), 87 SEC Docket 848, 862 & n.46.

In proceedings based on an injunction, the Commission examines the facts and circumstances underlying the injunction in determining the public interest. See Melton, 56 S.E.C. at 698. "An injunction, by its very nature, is predicated on conduct that . . . violate[s] laws, rules or regulations." Id. at 709. The Commission considers an antifraud injunction to be particularly serious. Id. at 710. 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 Richard C. Spangler, Inc., Exchange Act Release No. 12104 (Feb. 12, 1976), 46 S.E.C. 238, 252.

B. Sanctions

Respondents' conduct was egregious and recurrent as shown by the fact that there were at least seventy-seven investor victims. At a minimum, a reckless degree of scienter is a necessary element of their violations of the antifraud provisions of the Exchange Act. Respondents have not given assurances against future violations or recognition of the wrongful nature of their conduct. Rather, they maintain that others were the perpetrators of wrongdoing.

Respondents' previous occupation, if they were allowed to continue it in the future, would present opportunities for future violations. The violations are neither recent nor distant in time. The degree of harm to investors and the marketplace is indicated in the $10,010,000 civil penalty that Brooks was ordered to pay. 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, Advisers Act Release No. 2052 (Aug. 30, 2002), 55 S.E.C. 1133, 1145, aff'd, 340 F.3d 501 (8th Cir. 2003); Arthur Lipper Corp., Exchange Act Release No. 11773 (Oct. 24, 1975), 46 S.E.C. 78, 100. Bars are also necessary for the purpose of deterrence. Arthur Lipper Corp., 46 S.E.C. at 100.

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case, and the undersigned declines to impose the new sanction retroactively. See Koch v. SEC, 177 F.3d 784 (9th Cir. 1999); see also Sacks v. SEC, 648 F.3d 945 (9th Cir. 2011).

V. ORDER

IT IS ORDERED that, pursuant to Section 15(b) of the Securities Exchange Act of 1934, 15 U.S.C. § 78o(b), and Section 203(f) of the Investment Advisers Act of 1940, 15 U.S.C. § 80b-3(f), STANLEY C. BROOKS and BROOKSTREET SECURITIES CORP. ARE BARRED from associating with any broker, dealer, or investment adviser and from participating in an offering of penny stock.[5]

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.

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Carol Fox Foelak
Administrative Law Judge

[5] Thus, they will be barred from acting as a promoter, finder, consultant, or agent; or otherwise engaging in activities with a broker, dealer, or issuer for purposes of the issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock, pursuant to Exchange Act Section 15(b)(6)(A), (C).