

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

In the Matter of :
: INITIAL DECISION MAKING FINDINGS AND
STEPHEN E. GAGNON : IMPOSING SANCTION BY DEFAULT
: March 12, 2014

APPEARANCES: Martin Healey for the Division of Enforcement,
Securities and Exchange Commission

BEFORE: Carol Fox Foelak, Administrative Law Judge

SUMMARY

This Initial Decision bars Stephen E. Gagnon (Gagnon) from the securities industry.

I. BACKGROUND

The Securities and Exchange Commission (Commission) instituted this proceeding with an Order Instituting Proceedings (OIP) on October 21, 2013, pursuant to Section 203(f) of the Investment Advisers Act of 1940 (Advisers Act). The proceeding is a follow-on proceeding based on a Rhode Island state administrative order that found that Gagnon had violated Rhode Island state securities laws and revoked his investment adviser representative and insurance producer licenses. Gagnon was served with the OIP in accordance with 17 C.F.R. § 201.141(a)(2)(i) on February 15, 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 3; 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. See OIP at 3; 17 C.F.R. §§ 201.155(a), .220(f).

II. FINDINGS OF FACT

On March 25, 2013, the Rhode Island Department of Business Regulation, which performs functions like those of a state securities commission, entered a consent order, In the Matter of Stephen E. Gagnon, DBR No. 125C086 (Rhode Island Order), against Gagnon. The Rhode Island Order found that Gagnon violated anti-fraud provisions of Rhode Island's securities laws and Rhode Island insurance laws. The Rhode Island Order required him to cease and desist from any further violations of those laws, and revoked his investment adviser representative and insurance producer licenses. It granted him the right to apply for state re-

registration as a broker-dealer, sales representative, insurance producer, investment adviser, and/or investment adviser representative after ten years.

Gagnon was associated with dually-registered broker-dealers and investment advisers from at least July 2001 to July 2009 and from August 2010 through March 2013. The misconduct underlying the Rhode Island Order occurred in 2007 when Gagnon convinced a customer to terminate a variable annuity that she owned and replace it with two other variable annuities that were inappropriate investments for her. The transaction gave rise to thousands of dollars of excessive charges and included forged signatures on disclosure documents.

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 (or any agency or officer performing like functions) . . . that . . . bars such person . . . from engaging in the business of securities [or] insurance . . .” Sections 203(e)(9) and 203(f) of the Advisers Act. The Rhode Island Order was a “final order of a State securities commission (or any agency . . . performing like functions)” and bars Gagnon “from engaging in the business of securities [and] insurance” within the meaning of Advisers Act Sections 203(e)(9) and 203(f).

IV. SANCTION

Gagnon will be barred from the securities industry. 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). As described in the Findings of Fact, Gagnon’s unlawful conduct was egregious and involved a high degree of scienter. Gagnon used dishonest means to execute an inappropriate transaction that resulted in the loss of thousands of dollars by a single customer. 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), STEPHEN E. GAGNON 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 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.¹

Carol Fox Foelak
Administrative Law Judge

¹ 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).