INITIAL DECISION RELEASE NO. 583
ADMINISTRATIVE PROCEEDING
FILE NO. 3-15711

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

In the Matter of	:	INITIAL DECISION ON DEFAULT
	:	April 1, 2014
DANTE DEMIRO	:	
	:	

APPEARANCES: Christopher G. Margand and David Frohlich for the Securities and Exchange Commission

BEFORE: Brenda P. Murray, Chief Administrative Law Judge

On January 31, 2014, the Securities and Exchange Commission (Commission) issued an Order Instituting Proceedings (OIP) alleging that on April 19, 2011, Dante DeMiro (DeMiro) pled guilty to two counts of wire fraud and three counts of bank fraud in United States v. DeMiro, Case No. 2:10-CR-20594 (LPZ-RSW) (E.D. Mich.) (DeMiro), and that on July 12, 2011, DeMiro was sentenced to 120 months in prison followed by four years of supervised release, and ordered to make restitution in the amount of $12,900,904. OIP at 2. DeMiro was served with the OIP on February 14, 2014. He did not file an Answer within twenty days after service of the OIP as required under the Commission's Rules of Practice. See id.; 17 C.F.R. § 201.220.

At my direction, the Division of Enforcement (Division) arranged with officials at Federal Prison Camp at Yankton, South Dakota (Yankton), where DeMiro is incarcerated, for DeMiro to participate in a telephonic prehearing conference on March 21, 2014.[1] I take official notice of the following materials that the Division filed on March 5, 2014, in preparation for the prehearing conference. 17 C.F.R. § 201.323.

1. The Indictment containing the Grand Jury charges in DeMiro filed October 7, 2010;

2. First Superseding Information in DeMiro filed December 22, 2010;

[1] The multi-party call was originally scheduled for March 20, 2014, but was rescheduled for the following day because of connection problems.

3. Rule 11 Plea Agreement in DeMiro filed April 19, 2011;

4. Amended Judgment in DeMiro imposed May 11, 2012;

5. BrokerCheck Report for DeMiro from FINRA's Central Registration Depository; and

6. Form ADV for Brookstone Securities, Inc., conducting advisory business as Brookstone Investment Advisory Services.

On March 20, 2014, a case manager at Yankton e-mailed the Division, stating that DeMiro was aware of the prehearing conference and chose not to participate. The e-mail string suggests that DeMiro may have indicated in an earlier call to the Division that he would not participate in the prehearing conference. I went ahead with the telephonic prehearing conference to establish on the record that DeMiro had an opportunity to participate in the administrative proceeding and chose not to do so.

DeMiro is in default because he did not file an Answer, participate in the prehearing conference, or otherwise defend the proceeding. 17 C.F.R. §§ 201.155(a), .220(f), .221(f). I find the allegations in the OIP to be true as to him. 17 C.F.R. § 201.155(a).

Findings of Fact

DeMiro is approximately forty-six years of age and was a resident of Michigan. From April 2008 through July 2010, DeMiro was a registered representative with Brookstone Securities, Inc., which was a registered broker-dealer and investment adviser. OIP at 1.

As part of his guilty plea in DeMiro, DeMiro admitted the following:

> DeMiro is the founder and managing director of MuniVest Financial Group and MuniVest Services LLC (the "MuniVest entities"). DeMiro dominated and controlled the MuniVest entities and the MuniVest entities were DeMiro's alter egos. DeMiro was an investment advisor to various municipalities, credit unions, school districts, and trade unions. From August 2007 to September 2010, in the Eastern District of Michigan, Southern Division, DeMiro operated a bank and wire fraud Ponzi scheme utilizing the MuniVest entities. In furtherance of this scheme, DeMiro falsely promised investor clients that he would invest their funds in various CDs. He did not invest their funds as promised, but instead, used their funds to purchase personal items, real property, gamble, make payments to other investors in the same scheme, and make loans to several individuals and a local jewelry store.

Plea Agreement at 2-3.

Conclusions of Law

This proceeding was instituted pursuant to Section 15(b)(6) of the Securities and Exchange Act of 1934 (Exchange Act) and Section 203(f) of the Investment Advisers Act of 1940 (Advisers Act), which empower the Commission, when it is in the public interest, to take certain actions where a person has been convicted, within ten years of the OIP, of any offense specified respectively in Section 15(b)(4)(B) of the Exchange Act or Section 203(e)(2) of the Advisers Act. These situations apply to DeMiro because at the time of the misconduct he was associated with a broker-dealer and an investment adviser, and was convicted of wire and bank fraud, within the meaning of Section 15(b)(4)(B) of the Exchange Act and Section 203(e)(2) of the Advisers Act.

Pursuant to Section 15(b)(6) of the Exchange Act and Section 203(f) of the Advisers Act, the Commission can censure, place limitations on the activities of, suspend for a period not exceeding twelve months, or bar a person from being associated with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization or from participating in an offering of penny stock. The generally accepted criteria for making a public interest determination are:

> [T]he 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), aff'd on other grounds, 450 U.S. 91 (1981) (quoting SEC v. Blatt, 583 F.2d 1325, 1334 n.29 (5th Cir. 1978)). See Donald T. Sheldon, 51 S.E.C. 59, 86 (1992), aff'd, 45 F.3d 1515 (11th Cir. 1995); Joseph J. Barbato, Securities Act of 1933 Release No. 7638 (Feb. 10, 1999), 69 SEC Docket 178, 200 n.31.

On March 7, 2014, the Commission declined to summarily affirm an Administrative Law Judge's imposition of the industry-wide bars allowed by the Dodd-Frank Wall Street Reform and Consumer Protection Act amendments to Exchange Act Section 15(b)(6) where it determined that it was necessary to articulate with specificity why the facts and circumstances of the particular case warranted the industry-wide bars. Ross Mandell, Exchange Act Release No. 71668, 2014 WL 907416. The Commission directed that in ordering an industry-wide bar the Administrative Law Judge's analysis should be grounded in "specific findings regarding the protective interests to be served by barring the respondent and the risk of future misconduct." Id., at *2 (internal quotations omitted).

I find an industry-wide bar, preventing DeMiro from participating in the securities industry and from participating in any penny stock offering, to be necessary and appropriate to protect the public for the following reasons.

DeMiro's Illegal Conduct Involved Two Different Crimes of Fraud

DeMiro pled guilty to three counts of bank fraud and two counts of wire fraud and was sentenced to prison for 120 months, followed by four years of supervised release, and ordered to pay restitution of $12,900,904.40.[2] Amended Judgment at 1-5. DeMiro's acts of fraudulent wrongdoing were recurrent, occurring repeatedly over a three-year period. Plea Agreement at 3.

It would be hard to describe conduct more egregious than taking over $13 million from public organizations, labor unions, and banks to spend for one's personal benefit. See Amended Judgment at 12. The list of DeMiro's forfeited assets includes a Rolex Oyster Perpetual Datejust watch, a 2009 Harley-Davidson Motorcycle, a 2007 Cadillac STS, a 2009 Cadillac Escalade, and two real estate holdings. Plea Agreement at 7-8, 13.

Degree of Scienter Involved

DeMiro admitted that for three counts of bank fraud and two counts of wire fraud, he knowingly devised a scheme to defraud and to obtain money or property by means of false or fraudulent pretense or representations, that the scheme included material misrepresentations or concealment of a material fact, and that he acted with the intent to defraud, that is, with the intent to deceive or cheat. Plea Agreement, at 2.

Recognition of Wrongful Conduct

DeMiro's Plea Agreement in DeMiro could be taken as an acknowledgement of wrongdoing, and, in addition, by not participating in this proceeding DeMiro relinquished his opportunity to admit to wrongdoing and to provide assurances that illegal activity would not continue if he were allowed to continue to participate in the securities industry.

Likelihood of Opportunities for Future Wrongdoing

There is nothing in the record that provides any assurance that DeMiro would not repeat his prior conduct following his incarceration.

Order

I ORDER, pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Section 203(f) of the Investment Advisers Act of 1940, that Dante DeMiro is permanently BARRED from associating with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, and from participating in an offering of penny stock, including acting as any promoter, finder, consultant, agent, or other person who engages in activities with a broker, dealer, or issuer for purposes of

[2] The restitution amount was set by the Plea Agreement. Fifteen counties, unions, credit unions, and public schools are listed as additional restitution payees in an amount of $13,400,904. Division Amended Judgment at 12

the issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock.

This Initial Decision shall become effective in accordance with and subject to the provisions of Rule 360. See 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. See 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 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 occurs, the Initial Decision shall not become final as to that party. In addition, a respondent has the right to file a motion to set aside a default within a reasonable time, stating the reasons for the failure to appear or defend, and specifying the nature of the proposed defense. 17 C.F.R. § 201.155(b). The Commission can set aside a default at any time for good cause. Id.; see Alchemy Ventures, Inc., Exchange Act Release No. 70708, 2013 SEC LEXIS 3459, at *5-6 (Oct. 7, 2013).

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Brenda P. Murray
Chief Administrative Law Judge