INITIAL DECISION RELEASE NO. 744
ADMINISTRATIVE PROCEEDING
FILE NO. 3-16152

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

In the Matter of	:	
	:	INITIAL DECISION MAKING FINDINGS AND
ALBERT REDA	:	IMPOSING SANCTIONS BY DEFAULT
	:	February 18, 2015

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

BEFORE: Carol Fox Foelak, Administrative Law Judge

SUMMARY

This Initial Decision (ID) concludes that Albert Reda (Reda) violated the antifraud provisions of the federal securities laws. The ID orders him to cease and desist from further violations and imposes penny stock and officer and director bars.

I. BACKGROUND

The Securities and Exchange Commission (Commission) instituted this proceeding with an Order Instituting Proceedings (OIP) on September 22, 2014, pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934 (Exchange Act). The OIP alleges that Reda willfully violated Section 10(b) of the Exchange Act and Rule 10b-5(a) thereunder through his activities in the purchase and sale of securities that involved a fraudulent scheme in which insiders of publicly-traded penny stock companies paid secret kickbacks to a purported corrupt hedge fund manager.

Reda was served with the OIP in accordance with 17 C.F.R. § 201.141(a)(2)(i) on November 7, 2014. To date, he has failed to file an Answer to the OIP, due twenty days after he was served. *See* OIP at 4; 17 C.F.R. § 201.220(b). Additionally, he did not appear at a prehearing conference of which he had been notified. The Division of Enforcement (Division) filed a Motion for Default on January 23, 2015, and Reda was ordered to show cause, by February 13, 2015, why the sanctions requested by the Division should not be imposed. *Albert Reda*, Admin. Proc. Rulings Release No. 2251, 2015 SEC LEXIS 269 (A.L.J. Jan. 23, 2015). He did not respond. Accordingly, Reda has failed to answer, to appear at a prehearing conference of which he had been notified, or otherwise to defend the proceeding within the meaning of 17 C.F.R. § 201.155(a)(2). *See* OIP at 4; 17 C.F.R. §§ 201.155(a), .220(f), .221(f). Accordingly, he

is in default, and the undersigned finds that the allegations in the OIP are true as to him. *See* OIP at 4; 17 C.F.R. § 201.155(a).

II. FINDINGS OF FACT

Reda was convicted after a jury trial in 2013 of mail and wire fraud, in violation of 18 U.S.C. §§ 1341, 1343, in *United States v. Reda*, 1:11-cr-10416 (D. Mass. Mar. 11, 2014).[1] He was sentenced to twenty-six months of imprisonment, followed by one year of supervised release, fined $6,000, and ordered to forfeit $16,000 in proceeds traceable to his violations. *Id*., ECF Nos. 208, 208-1. The events at issue in *United States v. Reda* and the instant proceeding arose from a fraudulent scheme in which insiders of publicly-traded penny stock companies paid secret kickbacks to a purported corrupt hedge fund manager, who was actually an undercover Federal Bureau of Investigation (FBI) agent, in exchange for the agent's purchase of restricted stock of penny stock companies on behalf of his purported (and nonexistent) hedge fund.

Reda, age 67, a California resident, was Treasurer of 1st Global Financial, Inc. (1st Global) and a member of its Board of Directors. From June 30 through July 6, 2011, Reda participated in an offering of the stock of 1st Global, which is a penny stock. During that time Reda met with the FBI agent, who told Reda that he was prepared to invest up to $5 million of the hedge fund's money in a series of tranches, with 50% being kicked back to the FBI agent. They agreed to disguise the kickbacks as payments for bogus consulting services purportedly provided by a consulting company controlled by the agent. Reda sent the agent documents related to the kickback transaction and consulting agreement. Then, in accordance with wiring instructions provided by Reda, $32,000 was sent by interstate wire transfer from the purported hedge fund's purported account to a 1st Global bank account. Then, Reda caused a stock certificate representing the hedge fund's purchase of 1st Global shares to be sent to the FBI agent and caused $16,000 to be sent by interstate wire transfer from a 1st Global bank account to an account in the name of the agent's purported consulting company.

III. CONCLUSIONS OF LAW

The OIP charges that Reda willfully violated Section 10(b) of the Exchange Act and Rule 10b-5(a) thereunder. As discussed below, it is concluded that these charges were proved.

A. Antifraud Provisions

Exchange Act Section 10(b) makes it unlawful to "use or employ, in connection with the purchase or sale of any security . . . any manipulative or deceptive device or contrivance in contravention of such rules and regulations as the Commission may prescribe." Rule 10b-5(a) makes it unlawful, by jurisdictional means, to employ any device, scheme, or artifice to defraud.

As described in the Findings of Fact, Reda was involved in the sale of 1st Global stock, which is a security. Further, as shown by his conviction for mail and wire fraud, he was involved in a "scheme, or artifice to defraud." "The elements of wire fraud, as prescribed under

[1] Official notice, pursuant to 17 C.F.R. § 201.323, is taken of the docket report and the court's orders in *United States v. Reda*.

18 U.S.C. § 1343 are as follows: (1) a scheme or artifice to defraud; (2) use of interstate wire communications in furtherance of the scheme; and (3) intent to deprive a victim of money or property." *United States v. Prince*, 214 F.3d 740, 747-48 (6th Cir. 2000) (internal footnotes omitted). Accordingly, Reda violated Exchange Act Section 10(b) and Rule 10b-5(a).

IV. SANCTIONS

As the Division requests, a cease-and-desist order, a penny stock bar, and an officer and director bar will be ordered.

A. Sanction Considerations

In determining sanctions, the Commission considers such factors as:

> 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, 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*, Exchange Act Release No. 48228, 2003 SEC LEXIS 1767, at *4-5 (July 25, 2003). Additionally, the Commission considers the extent to which the sanction will have a deterrent effect. *Schield Mgmt. Co.*, Exchange Act Release No. 53201, 2006 SEC LEXIS 195, at *35-36 & n.46 (Jan. 31, 2006). As the Commission has often emphasized, the public interest determination extends 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*, Investment Company Act of 1940, Release No. 2052, 2002 SEC LEXIS 2346, at *20 (Aug. 30, 2002), *aff'd*, 340 F.3d 501 (8th Cir. 2003); *Arthur Lipper Corp.*, Exchange Act Release No. 11773, 1975 SEC LEXIS 527, at *52 (Oct. 24, 1975). The amount of a sanction depends on the facts of each case and the value of the sanction in preventing a recurrence. *See Berko v. SEC*, 316 F.2d 137, 141 (2d Cir. 1963); *Leo Glassman*, Exchange Act Release No. 11929, 1975 SEC LEXIS 111, at *7 (Dec. 16, 1975).

B. Sanctions

1. Cease and Desist

Exchange Act Section 21C(a) authorizes the Commission to issue a cease-and-desist order against a person who "is violating, has violated, or is about to violate" any provision of the Exchange Act or rules thereunder. Whether there is a reasonable likelihood of such violations in the future must be considered. *KPMG Peat Marwick LLP*, Exchange Act Release No. 43862, 2001 SEC LEXIS 98, at *101 (Jan. 19, 2001). Such a showing is "significantly less than that required for an injunction." *Id.* at 114. In determining whether a cease-and-desist order is appropriate, the Commission considers the *Steadman* factors quoted above, as well as the

recency of the violation, the degree of harm to investors or the marketplace, and the combination of sanctions against the respondent. *See WHX Corp. v. SEC*, 362 F.3d 854, 859-61 (D.C. Cir. 2004); *KPMG Peat Marwick*, 2001 SEC LEXIS 98, at *116.

Reda's conduct was egregious and had a high degree of scienter as shown by his conviction for mail and wire fraud. The record contains no assurances against future violations or recognition of the wrongful nature of the conduct. The violations were relatively recent, in 2011. Harm to the marketplace is evident from the dishonest nature of Reda's misconduct. In light of these considerations, a cease-and-desist order is appropriate.

2. Penny Stock Bar

Combined with other sanctions ordered, a penny stock bar is in the public interest and an appropriate deterrent. The violations involved a penny stock, and the same reasons that support a cease-and-desist order support a penny stock bar. Reda's conviction for mail and wire fraud provides a separate basis in itself for a penny stock bar. Reda has been convicted "within 10 years of the commencement of [this proceeding]" of a felony that "involves the violation of section . . . 1341 . . . or 1343 . . . of title 18, United States Code" within the meaning of Sections 15(b)(4)(B)(iv) and 15(b)(6)(A)(ii) of the Exchange Act.

3. Officer and Director Bar

Exchange Act Section 21C(f) authorizes a bar against a respondent who has violated Exchange Act Section 10(b) from acting as an officer or director of any issuer with a class of securities registered pursuant to Exchange Act Section 12 or that is required to file reports pursuant to Exchange Act Section 15(d), "if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer." In line with the reasoning in *Joseph P. Doxey*, Initial Decision Release No. 598, 2014 SEC LEXIS 1668, at *74-78 (A.L.J. May 15, 2014), the so-called *Patel* factors[2] will be considered in addition to the *Steadman* factors in evaluating the appropriateness of this sanction.

As discussed above, Reda violated Exchange Act Section 10(b) while acting with scienter and awareness of the deceptive and manipulative nature of his conduct. As an officer and director of 1st Global, Reda was at the center of the fraud. Without an officer and director bar, Reda would be free to assume officer and director roles in the future. Thus, it is appropriate and in the public interest to impose a permanent officer and director bar against Reda. He will be barred from acting as an officer or director of any issuer with a class of securities registered pursuant to Exchange Act Section 12 or that is required to file reports pursuant to Exchange Act Section 15(d).

[2] The *Patel* factors are: (1) the egregiousness of the underlying securities law violation; (2) recidivism; (3) the defendant's role or position in the fraud; (4) degree of scienter; (5) the defendant's economic stake in the violation; and (6) the likelihood of recurrence. *SEC v. Bankosky*, 716 F.3d 45, 48 (2d Cir. 2013); *SEC v. Patel*, 61 F.3d 137, 141 (2d Cir. 1995).

V. ORDER

IT IS ORDERED that, pursuant to Section 21C(a) of the Exchange Act, ALBERT REDA CEASE AND DESIST from committing or causing any violations or future violations of Section 10(b) of the Exchange Act and Rule 10b-5(a) thereunder.

IT IS FURTHER ORDERED that, pursuant to Section 15(b) of the Exchange Act, ALBERT REDA IS BARRED from participating in an offering of penny stock.[3]

IT IS FURTHER ORDERED that, pursuant to Section 21C(f) of the Exchange Act, ALBERT REDA IS BARRED from acting as an officer or director of any issuer that has a class of securities registered with the Commission pursuant to Section 12 of the Exchange Act or that is required to file reports pursuant to Section 15(d) of the Exchange Act.

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.[4]

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Carol Fox Foelak
Administrative Law Judge

[3] Thus, he 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).

[4] A respondent may also file a motion to set aside a default pursuant to 17 C.F.R. § 201.155(b). *See David Mura*, Exchange Act Release No. 72080, 2014 SEC LEXIS 1530 (May 2, 2014); *Alchemy Ventures, Inc.*, Exchange Act Release No. 70708, 2013 SEC LEXIS 3459, at *13-14 & n.28 (Oct. 17, 2013).