INITIAL DECISION RELEASE NO. 980
ADMINISTRATIVE PROCEEDING
FILE NO. 3-16552

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

In the Matter of	:	INITIAL DECISION OF DEFAULT
	:	March 21, 2016
GEDREY THOMPSON	:	

APPEARANCES: Cynthia A. Matthews and Kevin P. McGrath for the Division of Enforcement, Securities and Exchange Commission

BEFORE: James E. Grimes, Administrative Law Judge

Summary

In this initial decision, I grant the Division of Enforcement's motion for sanctions. Respondent Gedrey Thompson is permanently barred from associating with an investment adviser, broker, dealer, municipal securities dealer, or transfer agent.

Procedural Background

The Commission initiated this proceeding in May 2015, by issuing an order instituting proceedings (OIP). As authority, the OIP relies on Section 203(f) of the Investment Advisers Act of 1940. OIP at 1; *see* 15 U.S.C. § 80b-3(f). The Division alleges the following in the OIP. Thompson incorporated GTF Enterprises, Inc., an investment company "for which he had sole trading authority." OIP at 1. From 2003 through 2009, he was GTF's sole shareholder and acted as an unregistered investment adviser. *Id*. In 2013, the United States District Court for the Southern District of New York entered a final judgment by default, enjoining Thompson from violating Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and Section 206(1), (2), and (4) of the Advisers Act. *Id*. at 2.

In June 2015, the Division notified my office that it had experienced certain challenges in its efforts to serve Thompson with the OIP. *See Gedrey Thompson*, Admin. Proc. Rulings Release No. 2813, 2015 SEC LEXIS 2390 (ALJ June 15, 2015). During a later prehearing conference, the Division proposed serving Thompson in Jamaica by publication. Tr. 4. Following the conference, I ordered the Division to (1) explain its "efforts to locate and serve Mr. Thompson"; (2) provide "evidence that Mr. Thompson is currently in Jamaica"; (3) explain how it proposed to effect service by publication; and (4) provide "support for the proposition

that" service by publication "'is not prohibited by' Jamaican law." *Gedrey Thompson*, Admin. Proc. Rulings Release No. 2846, 2015 SEC LEXIS 2562 (ALJ June 23, 2015) (quoting 17 C.F.R. § 201.141(a)(2)(iv)). After the Division supplied the requested information and evidence, I granted its request to serve Thompson by publication in two Jamaican newspapers and by email, and I directed it to notify my office and the Office of the Secretary when it had completed service. *Gedrey Thompson*, Admin. Proc. Rulings Release No. 2935, 2015 SEC LEXIS 2925 (ALJ July 16, 2015).

In September 2015, the Division filed a declaration showing that it completed service by publication on September 11, 2015. *Gedrey Thompson*, Admin. Proc. Rulings Release No. 3200, 2015 SEC LEXIS 4094 (ALJ Oct. 6, 2015). After Thompson failed to answer the OIP, I ordered him to show cause why this proceeding should not be determined against him. *Id*. Because Thompson failed to respond to the order to show cause, I found him in default.[1] *Gedrey Thompson*, Admin. Proc. Rulings Release No. 3330, 2015 SEC LEXIS 4772, at *1 (ALJ Nov. 19, 2015).

The Division moved for sanctions in January 2016. The Division's motion is supported by twenty-four exhibits, described more fully below.

The findings and conclusions in this initial decision are based on the record and on facts officially noticed under Commission Rule of Practice 323. *See* 17 C.F.R. § 201.323. Because Thompson did not file an answer to the OIP or otherwise participate in this proceeding, I have accepted as true the factual allegations in the OIP. *See* 17 C.F.R. § 201.155(a). I have applied preponderance of the evidence as the standard of proof. *See Steadman v. SEC*, 450 U.S. 91, 101-04 (1981).

Findings of Fact

Thompson was an unregistered investment adviser from at least 2004 through 2009. Ex. 8 (Matthews Decl.) at 7; OIP at 1. He incorporated GTF Enterprises, Inc., which purported to be an investment company. *Id*. Thompson "had sole trading authority" for GTF and was its only shareholder. *Id*.

From January 1, 2004, through April 1, 2009, seventeen investors invested over $820,000 in GTF. Ex. 8 at 7. In order to convince investors to invest, Thompson and his associates gave them a "Welcome to GTF Enterprises" brochure. *See* Ex. 16 (GTF Brochure); *see also* Exs. 15A at 83, 15C at 211, 15D at 364, 15E at 393, 15F at 595-96.[2] This brochure, which is replete with grammatical errors, employs jargon seemingly calculated to convince the reader of GTF's bona fides through the use of sophisticated-sounding investing terminology. *See* Ex. 16. In the brochure, Thompson proclaimed that GTF "Assume[d] All The Trading Risk," and would give

[1] I informed Thompson that he could, "within a reasonable time," move to set aside the default. *Gedrey Thompson*, Admin. Proc. Rulings Release No. 3330, 2015 SEC LEXIS 4772, at *3 (ALJ Nov. 19, 2015). To date, Thompson has not moved to set aside the default.

[2] Exhibits 15A through 15F contain testimony from a related criminal trial.

its "partners . . . a pre-determined rate of interest, which is contractually binding." *Id*. at 1. He also said that while "GTF is a leverage company that day trade [sic] futures and stock options for a profit," *id*., it "specialize[s] in the risk-averse trading strategy," *id*. at 9. Thompson explained these seemingly disparate statements by asserting that GTF's "focus . . . has been on the Commodities, Futures, and Options sectors, which by nature are designed to regularly add 80 to 90 percent to the value of your portfolio on a consistent basis." *Id*. at 9. Thompson would reinforce these statements in form welcome letters given to investors after they invested. *See* Ex. 19 (welcome letters and account statements) at 1; *see also* Exs. 15A at 85, 15C at 224-25.

Thompson and his associates also spoke to potential investors in order to induce their investment. Thompson and his associates targeted unsophisticated investors. Ex. 10 (Opinion and Order Adopting Report and Recommendation in Part) at 5; Exs. 15A at 59, 15B at 187, 15C at 207-08, 15F at 575-76. Many of those investors were immigrants. *See* Exs. 15A at 41, 15B at 156, 15C at 206, 15D at 358, 15F at 574. His investors included a kindergarten teacher, a hotel room attendant, a worker at a group home for people with cerebral palsy, a home care nurse, a retired transit worker, and a soldier recently returned from Iraq.[3] Exs. 15A at 41-42, 15B at 154-55, 165, 15C at 205, 15D at 357, 15E at 389-90, 395, 15F at 574.

During a related criminal trial, witnesses recalled various ways Thompson and his accomplices sought to convince them to invest. Investors were told that the risk of investing with GTF was "very low," they would not lose any money, or their principal was guaranteed. Exs. 15A at 59-60, 15D at 366, 387-88, 15E at 393. One witness recalled that Thompson said he could guarantee returns because he would invest in options. Ex. 15A at 108-09. Another remembered Thompson saying investors could not lose money because Thompson invested in commodities. Ex. 15B at 159-60. Thompson told a third investor that although GTF invested in stocks, bonds, and mutual funds, he did not want to be specific about his strategy because it was "a company secret." Ex. 15E at 397.

Typically, investors were told that their investment was secure and that they could not lose money. *See* Exs. 15B at 159-60, 15D at 366, 15E at 393. They were promised returns of between 4 and 7%. Ex. 18; *see* Exs. 15A at 95, 108, 15B at 160, 164-65, 15C at 207, 222, 15E at 396, 15F at 577. In order to reassure investors that they were earning the returns that had been guaranteed, Thompson provided bogus account statements. *See* Exs. 15A at 86-87, 15B at 164-65, 15C at 218, 225, 15D at 367, 386, 15E at 397-98. Many of these statements purported to show haphazardly calculated or absurd returns. Ex. 19 at 2-9, 11-13, 15-21, 23-65; *see* Exs. 15A at 94-96, 15B at 178, 15E at 409-10, 15F at 577. For over two years, Thompson reported that Martin earned a 6% return compounded monthly, before he switched to 6% compounded

[3] Several witnesses testified during the related criminal trial. Among these witnesses were Crete Martin and Aron Donaldson. Martin's brother, Garnet Locke, was serving in Iraq when he wired money to Martin for her to invest with GTF. Ex. 15B at 165. While Donaldson was in the Army, he was introduced to Locke, whom he knew had invested with GTF. Ex. 15E at 390. Donaldson spoke to Locke in late December 2007 "after returning from overseas." *Id*. at 391. Donaldson invested $80,000 in February 2008. *Id*. at 395. Donaldson earned part of the money he invested while serving overseas in the military. *Id*. Donaldson therefore invested shortly after returning from Iraq.

quarterly, with some apparent calculation errors. Ex. 19 at 27-63. Thompson purported to pay another investor interest at random intervals varying between three and seven months. *See id*. at 16-22. A third investor was told he had received a 7% return compounded nine months after he invested and again three months later. *Id.* at 64-66. These account statements induced some investors to give GTF more money. Ex. 15F at 577, 581.

In total, investors gave Thompson $821,707. Ex. 8 at 7. Thompson and his associates returned $208,000 to investors. *Id*. Thompson operated GTF as a Ponzi scheme; payments to earlier investors were made from funds invested by later investors. Ex. 10 at 9.

Thompson invested only $100,000 of the $820,000 investors gave him. Ex. 10 at 5. And he did not use the $100,000 to engage in a "risk-averse trading strategy," instead choosing to engage in high-risk options trading. *Id*. Of the remaining amount, Thompson took $465,000 in cash from GTF and diverted $52,000 to his personal accounts. *Id*.

In May 2010, the Commission filed an injunctive complaint against Thompson, GTF, and two other individuals in relation to the actions described above. *See* Ex. 7. In its complaint, the Commission alleged that Thompson violated Sections 5(a), 5(c), and 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and Section 206(1), (2), and (4) of the Advisers Act and Rule 206(4)-8 thereunder. *Id*. at 4. The district court entered final judgment by default as to Thompson and GTF in September 2013. Ex. 9. It permanently enjoined him from violating each of the statutory and regulatory provisions cited in the Commission's complaint. *Id*. at 2-6. The court also ordered Thompson and GTF to disgorge over $940,000 in profits and prejudgment interest. *Id*. at 6. Finally, the court referred the matter to a magistrate judge to determine the amount Thompson and GTF should be required to pay as a civil penalty. *Id*. at 7.

The magistrate judge later issued a report and recommendation recommending that, although a third-tier civil penalty was warranted, no civil penalty should be imposed because he could not ascertain the appropriate penalty amount. Ex. 10 at 2. On review, the district court agreed that a third-tier civil penalty was warranted but did not adopt the recommendation that no civil penalty be imposed. *Id.* at 2, 5-6. In doing so, the court held that:

> Thompson, through GTF, deliberately orchestrated an investment scheme that defrauded unsophisticated investors of hundreds of thousands of dollars over a five year period. After duping those investors about his qualifications and employment history, Thompson misappropriated the vast majority of their investments.

Id. at 5. The court also held that Thompson's "conduct clearly 'involved fraud, deceit, manipulation, or reckless disregard of a regulatory requirement,' and 'directly or indirectly resulted in substantial losses to other persons.'" *Id*. (quoting *SEC v. Razmilovic*, 738 F.3d 14, 38-39 (2d. Cir. 2013)). According to the district court, Thompson's "conduct was not 'isolated.'" *Id*. at 8. After analyzing various factors, the district court imposed penalties of $130,000 against Thompson and $650,000 against GTF. *Id*. at 9. In April 2015, the district court issued an amended final judgment incorporating the civil penalties it imposed. Ex. 11.

Conclusions of Law

Section 203(f) of the Advisers Act gives the Commission authority to impose a collateral bar[4] against Thompson if, among other things, (1) he was associated with or seeking to become associated with an investment adviser; (2) he was enjoined "from engaging in or continuing any conduct or practice in connection with . . . activity" as a broker, dealer, or investment adviser, or "in connection with the purchase or sale of any security"; and (3) imposing a bar is in the public interest. 15 U.S.C. § 80b-3(e)(4), (f).

Because Thompson acted as an investment adviser, OIP at 1, the first factor is met in this case. The second factor is also met. In the context of his conduct as an unregistered investment adviser, the district court enjoined Thompson from violating Sections 5(a), 5(c), and 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and Section 206(1), (2), and (4) of the Advisers Act and Rule 206(4)-8 thereunder. Exs. 9, 11. It thus enjoined him "from engaging in or continuing any conduct or practice in connection with [his] activity" as an investment adviser. *See* 15 U.S.C. § 80b-3(e)(4), (f).

With respect to the third factor, whether imposition of a collateral bar would be in the public interest, I must consider the public interest factors set forth in *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979), *aff'd on other grounds*, 450 U.S. 91 (1981). *See Toby G. Scammell*, 2014 SEC LEXIS 4193, at *23. The public interest factors include:

> the egregiousness of the [respondent]'s actions, the isolated or recurrent nature of the infraction, the degree of scienter involved, the sincerity of the [respondent]'s assurances against future violations, the [respondent]'s recognition of the wrongful nature of his conduct, and the likelihood that the [respondent]'s occupation will present opportunities for future violations.

Steadman, 603 F.2d at 1140 (quoting *SEC v. Blatt*, 583 F.2d 1325, 1334 n.29 (5th Cir. 1978)). Other relevant factors include the degree of harm resulting from the violation[5] and the deterrent

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[4] A collateral bar is a bar that prevents an individual from participating in the securities industry in capacities in addition to those in which the person was participating at the time of his or her misconduct. *See Toby G. Scammell*, Advisers Act Release No. 3961, 2014 SEC LEXIS 4193, at *1 & n.1 (Oct. 29, 2014). Though Section 203(f) did not include a collateral bar until the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act on July 21, 2010, Thompson's earlier misconduct can still serve as the basis for a collateral bar except as to municipal advisors and nationally recognized statistical rating organizations. *See Koch v. SEC*, 793 F. 3d 147, 157-58 & n.3 (D.C. Cir. 2015).

[5] *KPMG Peat Marwick LLP*, Exchange Act Release No. 43862, 2001 SEC LEXIS 98, at *116 (Jan. 19, 2001), *pet. denied*, 289 F.3d 109 (D.C. Cir. 2002).

effect of administrative sanctions.[6] The public interest "inquiry is flexible[] and no single factor is dispositive." *David F. Bandimere*, Exchange Act Release No. 76308, 2015 SEC LEXIS 4472, at *109 (Oct. 29, 2015).

Before imposing a collateral bar, an administrative law judge must determine, based on the evidence presented, "whether such a remedy is necessary or appropriate to protect investors and markets." *Ross Mandell*, Exchange Act Release No. 71668, 2014 SEC LEXIS 849, at *7 (Mar. 7, 2014) (quoting *John W. Lawton*, Advisers Act Release No. 3513, 2012 SEC LEXIS 3855, at *32 (Dec. 13, 2012)). I must therefore "'review [Thompson's] case on its own facts' to make findings regarding [his] fitness to participate in the industry in the barred capacities." *Id.* at *7-8 (quoting *McCarthy v. SEC*, 406 F.3d 179, 188 (2d Cir. 2005)). A decision to impose a collateral bar "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 *8 (quoting *McCarthy*, 406 F.3d at 189-90); *see John W. Lawton*, 2012 SEC LEXIS 3855, at *34-35.

Because "[t]he securities industry presents a great many opportunities for abuse and overreaching," it "depends very heavily on the integrity of its participants." *Bruce Paul*, Exchange Act Release No. 21789, 1985 SEC LEXIS 2094, at *6 (Feb. 26, 1985). As a result, "conduct that violates the antifraud provisions of the federal securities laws" should be "'subject to the severest of sanctions.'" *Daniel Imperato*, Exchange Act Release No. 74596, 2015 SEC LEXIS 1377, at *17 (March 27, 2015) (quoting *Chris G. Gunderson, Esq.*, Exchange Act Release No. 61234, 2009 WL 4981617, at *5 (Dec. 23, 2009)).

The public interest and the need to protect investors support imposing a collateral bar. Thompson and his accomplices used lies when they solicited investments from unsophisticated investors. Thompson and his accomplices first told investors that they could not lose money and would receive a guaranteed return. He used sophisticated-sounding investment jargon while promising to use a low-risk strategy. In fact, it was a virtual certainty that investors would lose money. Thompson stole most of the money he received and what little he did invest was invested using a high-risk trading strategy.

In order to induce additional investment and deflect any investor's concerns, Thompson furthered his scheme by generating false account statements showing fanciful returns. He also paid earlier investors with funds provided by later investors.

The fact that Thompson repeatedly lied in order to induce investment and then generated bogus account statements while running a Ponzi scheme and misappropriating funds shows both that his conduct was egregious and that he cannot be permitted to remain in the securities industry. *See Alfred Clay Ludlum, III*, Advisers Act Release No. 3628, 2013 SEC LEXIS 2024, at *17-18, *26-28 (July 11, 2013); *James C. Dawson*, Advisers Act Release No. 3057, 2010 SEC LEXIS 2561 at *8-9, *15-16, *24 (July 23, 2010).

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[6] *Schield Mgmt. Co*., Exchange Act Release No. 53201, 2006 SEC LEXIS 195, at *35 & n.46 (Jan. 31, 2006); *see Guy P. Riordan*, Securities Act Release No. 9085, 2009 SEC LEXIS 4166, at *81 & n.107 (Dec. 11, 2009), *pet. denied*, 627 F.3d 1230 (D.C. Cir. 2010).

Thompson caused his victims substantial harm. His victims were not wealthy. In many cases, they gave Thompson money they had saved over years working in difficult jobs for low pay. As a percentage of what his victims had saved, the financial harm Thompson caused was severe.

As the district court held, Thompson's "conduct was not 'isolated.'" Ex. 10 at 8. Instead, Thompson's conduct was recurrent. His scheme involved seventeen investors and lasted over a period of years. *Id*. at 5.

There is no doubt that Thompson acted with scienter. He distributed a brochure replete with lies and nonsensical jargon. He stole investment funds and tried to cover his tracks by producing account statements with no connection to reality. When he bothered to actually invest investors' capital, he adopted a high-risk strategy, contrary to what he told investors. The fact that Thompson was willing to repeatedly lie to investors over a period of several years shows that he cannot be permitted to remain in the securities industry, where he would have the opportunity to again harm investors.

Thompson has made no assurances against future violations. He avoided service in both district court and in this proceeding, and eventually had to be served via newspaper publication and email. Thompson therefore failed to participate in either matter. He has thus not shown that he recognizes the wrongfulness of his conduct.

As the Commission has recognized, "the existence of a violation raises an inference that" the acts in question will recur. *Tzemach David Netzer Korem*, Exchange Act Release No. 70044, 2013 SEC LEXIS 2155, at *23 n.50 (July 26, 2010) (quoting *Geiger v. SEC*, 363 F.3d 481, 489 (D.C. Cir. 2004)). Thompson's occupation would "present[] opportunities for future illegal conduct in the securities industry." *John W. Lawton*, 2012 SEC LEXIS 3855, at *43. In combination with Thompson's failure to show that he recognizes the harm he caused and the wrongfulness of his actions, this factor shows that the Commission's interest in protecting the investing public weighs heavily in favor of a collateral bar. *Cf. Charles Trento*, Exchange Act Release No. 49296, 2004 SEC LEXIS 389, at *12 (Feb. 23, 2004) ("There can be little doubt that [respondent]'s egregious misconduct over a more than three-year period carries with it the risk that it may be repeated after he completes his sentence.").

Finally, imposing a collateral bar will serve as a general and specific deterrent.[7] It will deter Thompson and will further the Commission's interest in deterring others from engaging in similar misconduct.

[7] While general deterrence is not determinative of the question of whether the public interest weighs in favor of imposing a collateral bar, it is a relevant consideration. *See Peter Siris*, Exchange Act Release No. 71068, 2013 SEC LEXIS 3924, at *48 n.72 (Dec. 12, 2013), *pet. denied*, 773 F.3d 89 (D.C. Cir. 2014); *see also PAZ Sec., Inc. v. SEC*, 494 F.3d 1059, 1066 (D.C. Cir. 2007); *Guy P. Riordan*, 2009 SEC LEXIS 4166, *81 & n.107.

Given the foregoing, I find that it is in the public interest to impose a collateral bar against Thompson.

Order

The Division of Enforcement's motion for sanctions is GRANTED.

Under Section 203(f) of the Investment Advisers Act of 1940, Gedrey Thompson is permanently BARRED from associating with an investment adviser, broker, dealer, municipal securities dealer, or transfer agent.[8]

This initial decision shall become effective in accordance with and subject to the provisions of Rule 360. *See* 17 C.F.R. § 201.360. Under 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 a 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.

Thompson is again notified that he may move to set aside the default in this case. Pursuant to 17 C.F.R. § 201.155(b), a default may be set aside by the Commission, at any time, for good cause, in order to prevent injustice and on such conditions as may be appropriate. A motion to set aside a default shall be made within a reasonable time, state the reasons for the failure to appear or defend, and specify the nature of the proposed defense in the proceeding.

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James E. Grimes
Administrative Law Judge

[8] The Division does not seek to bar Thompson from associating with a municipal advisor or nationally recognized statistical rating organization. Mot. at 11 n.6 (citing *Koch v. SEC*, 793 F.3d 147 (D.C. Cir. 2015)).