INITIAL DECISION RELEASE NO. 1410
ADMINISTRATIVE PROCEEDING
FILE NO. 3-20220

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

In the Matter of	:	
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ROSEDALE ASSET MANAGEMENT, LLC, f/k/a	:	INITIAL DECISION
PRINCETON ADVISORY WEALTH MANAGEMENT, LLC	:	August 12, 2021

APPEARANCES: B. David Fraser and Keefe Bernstein for the Division of Enforcement, Securities and Exchange Commission

Jay A. Dubow, Richard J. Zack, and Thomas H. Cordova, of Troutman Pepper Hamilton Sanders LLP, for Respondent Rosedale Asset Management, LLC, f/k/a Princeton Advisory Wealth Management, LLC

BEFORE: Carol Fox Foelak, Administrative Law Judge

SUMMARY

This Initial Decision (ID) orders respondent Rosedale Asset Management, LLC, f/k/a Princeton Advisory Wealth Management, LLC (Rosedale) to pay a civil penalty of $97,523.

I. INTRODUCTION

A. Procedural Background

The Securities and Exchange Commission instituted this proceeding on February 5, 2021, pursuant to Section 203(k) of the Investment Advisers Act of 1940, with an Order Instituting Proceedings that made various findings of fact and conclusions of law, and imposed a cease-and-desist order and a civil penalty in an undetermined amount; it ordered additional proceedings to determine the amount of the civil penalty "that is appropriate and in the public interest." *Rosedale Asset Mgmt.*, Advisers Act Release No. 5680, 2021 SEC LEXIS 300, at *7-9 (Settlement Order).[1] The procedures for the additional proceedings were set with the agreement

[1] The Settlement Order provides, "The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding." Settlement Order, 2021 SEC LEXIS 300, at *2 n.1.

of the parties. *Rosedale Asset Mgmt.*, Admin. Proc. Release No. 6819, 2021 SEC LEXIS 565 (A.L.J. Mar. 8, 2021). Accordingly, the Division of Enforcement filed a motion for summary disposition, Respondent filed an opposition, the Division filed a reply, and oral argument was held on July 8, 2021.[2]

The findings and conclusions in this ID are based on the record. Official notice pursuant to 17 C.F.R. § 201.323 is taken of the Commission's public official records and of Financial Industry Regulatory Authority, Inc. (FINRA), records as well. *See Joseph S. Amundsen*, Exchange Act Release No. 69406, 2013 SEC LEXIS 1148, at *1 n.1 (Apr. 18, 2013), *pet. denied*, 575 F. App'x 1 (D.C. Cir. 2014). Preponderance of the evidence was applied as the standard of proof. *See Steadman v. SEC*, 450 U.S. 91, 97-104 (1981). All arguments and proposed findings and conclusions that are inconsistent with this ID were considered and rejected.

B. Allegations and Arguments of the Parties

The Division argues that Respondent should pay a second-tier penalty of $487,616, the maximum amount for one violation applicable during the time period at issue. Respondent urges that a lesser amount, such as $20,000,[3] would be more appropriate in the public interest.

II. FINDINGS OF FACT

A. Findings of Fact Established in the Settlement Order

For purposes of this ID and pursuant to the offer of settlement, the findings of fact set forth in the Settlement Order are deemed true and incorporated herein. As detailed in the Settlement Order, the proceeding involves undisclosed payments to sports agents and others with the intent of influencing college basketball players to retain Rosedale as an investment adviser after they became professional players. Rosedale's principal, Munish Sood, who cooperated in the investigation and prosecution of multiple individuals involved in this conspiracy, was convicted on his plea of guilty of several criminal offenses related to this course of action.[4]

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[2] Citations to exhibits offered by the Division and Respondent, which are attachments to the Division's motion for summary disposition and Respondent's opposition, are noted as "Div. Ex. __" and "Resp. Ex. __," respectively. Citations to the transcript of the oral argument are noted as "Tr. __."

[3] Respondent counsel proposed this amount at the oral argument. Tr. 25.

[4] According to FINRA records, Sood had no disciplinary record prior to his conviction. *See Munish Sood*, BrokerCheck, https://brokercheck.finra.org/individual/summary/2805974 (last visited July 26, 2021).

Rosedale was a Commission-registered investment adviser. From at least March 2015 through October 23, 2017, Sood owned at least 95% of the adviser, was its Chief Executive Officer, Chief Investment Officer, and control person.[5] Thereafter Sood divested his direct ownership.

Sood was convicted on his plea of guilty to conspiracy to commit bribery, honest services fraud, and travel act offenses in violation of 18 U.S.C. §§ 371, 666(a)(2), 1343, 1346, and 1952; payments of bribes to an agent of a federally funded organization in violation of 18 U.S.C. § 666(a)(2); and wire fraud conspiracy in violation of 18 U.S.C. § § 1343, 1349; he was ordered to pay a monetary penalty of $25,000 and restitution, jointly and severally with others, of $28,261 to one NCAA Division I university. Div. Exs. 6-7, *United States v. Sood*, No. 1:18-cr-620 (S.D.N.Y. Sept. 24 & Nov. 1, 2019), ECF Nos. 85, 86.[6]

Rosedale participated in a widespread bribery scheme that targeted as prospective clients NCAA Division I college athletes. Rosedale, through Sood, from February 2016 to September 2017,[7] made at least twenty payments totaling more than $96,000 to individuals and entities for the purpose of influencing the college athletes to engage Rosedale as an investment adviser after they turned pro and had money to invest. As a result, at least five former NCAA, now professional, basketball players signed advisory agreements with Rosedale. Rosedale did not disclose the payments to them before they signed the advisory agreements.

B. Additional Findings of Fact

In its prosecution of *United States v. Sood*, the government advised that Sood had entered a cooperation agreement shortly after being arrested and had provided substantial assistance that was significant and useful in its successful prosecution of other individuals involved in the bribery scheme. Div. Ex. 2 at 10-14.[8] Sood explained the working of the scheme as only an insider could and provided the government with certain information of which it was not previously aware. *Id*. He testified for one day in the trial of one defendant and for three days in the trial of another, and met with the government dozens of times to prepare for his testimony. *Id*. The government advised that the information he provided was truthful, complete, and reliable and that his assistance was timely. *Id*. Sood took responsibility for his own misconduct during his testimony in the two trials and at the plea hearing in *Sood*. Div. Ex. 2 at 12; Resp. Ex. 1 at 25-26. Specifically, Sood

[5] Rosedale's last Form ADV, filed in January 2018, reported at Item 5 that it had four full- or part-time employees, of which one performed investment advisory functions. Rosedale Asset Management, LLC, Form ADV (Jan. 25, 2018), https://reports.adviserinfo.sec.gov/reports/ADV/159763/PDF/159763.pdf.

[6] The judgment and order of restitution, *Sood*, ECF Nos. 85 and 88, are attached to the Division's Motion for Summary Disposition at Exs. 6 and 7.

[7] Sood was arrested on September 25, 2017. *Sood*, ECF No. 12.

[8] Div. Ex. 2, the government's filing, is *Sood*, ECF No. 79.

acknowledged that, at the time that he engaged in the misconduct, he knew that it was prohibited by NCAA rules and that it was wrong. Resp. Ex. 1 at 26.

Four of the players for whom Sood made violative payments were identified as becoming Rosedale clients. Div. Ex. 8 at 219-26, 306, 319; Div. Ex. 9 at 712-18, 731-33. Respondent provided affidavits from two of the four and an additional, former football player, client who stated that they were well satisfied with Sood's services, that he had disclosed his criminal prosecution and the misconduct behind it, and that they had continued to engage him and Respondent.[9] Resp. Exs. 3-5. Respondent maintains, and the Division does not dispute, that it did not profit from the wrongdoing during the time at issue. Tr. 16, 20. Respondent maintains that it has no clients now and is not currently functioning. Tr. 16. It did not make an inability to pay showing or otherwise provide any financial information.

III. VIOLATIONS

As stated in the Settlement Order, Rosedale violated the antifraud provisions of the Advisers Act: Sections 206(1), 206(2), and 206(4); and Rule 206(4)-3, which makes unlawful the payment, directly or indirectly, of a cash fee by an investment adviser to any person who, directly or indirectly, solicits any client for, or refers any client to, the adviser unless disclosed to the client or prospective client.

IV. SANCTION

The Division requests that Rosedale be ordered to pay a second-tier civil penalty of $487,616. Respondent maintains that $20,000 would be appropriate. A penalty of $97,523 will ordered.

A. Sanction Considerations

In determining sanctions, the Commission considers such factors as:

> 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 v. SEC, 603 F.2d 1126, 1140 (5th Cir. 1979) (quoting *SEC v. Blatt*, 583 F.2d 1325, 1334 n.29 (5th Cir. 1978)), *aff'd on other grounds*, 450 U.S. 91 (1981). 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

[9] Respondent counsel represented that Sood now provides "concierge services, not investment services" for these clients. Tr. 24.

which the sanction will have a deterrent effect. *Schield Mgmt. Co*., Exchange Act Release No. 53201, 2006 SEC LEXIS 195, at *35 & 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), *pet. denied*, 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 Leo Glassman*, Exchange Act Release No. 11929, 1975 SEC LEXIS 111, at *7 (Dec. 16, 1975).

B. Civil Money Penalty

The Division requests that Respondent be ordered to pay a second-tier penalty of $487,616. In a cease-and-desist proceeding, such as this one, instituted under Advisers Act Section 203(k), Section 203(i)(1)(B) authorizes the Commission to impose civil money penalties for violations of the securities laws. 15 U.S.C. § 80b-3(i)(1)(B). Although not explicitly mentioned in Section 203(i)(1)(B),[10] in considering whether a penalty is in the public interest, the Commission may consider six factors: (1) fraud or deliberate or reckless disregard of a regulatory requirement; (2) harm to others; (3) unjust enrichment; (4) previous violations; (5) deterrence; and (6) such other matters as justice may require. *See* 15 U.S.C. § 80b-3(i)(3); *see, e.g., Anthony Fields, CPA*, Securities Act of 1933 Release No. 9727, 2015 SEC LEXIS 662, at *101-02 (Feb. 20, 2015).

The conduct was recurrent over a period of two years and was relatively recent. Quantifiable harm to others, including Respondent's clients, and previous violations are absent from the instant case. However, the violative conduct caused indirect harm to the marketplace generally, to the colleges that sponsored teams in sports in which prospects were targeted, and to any athletes whose eligibility was affected.[11] The violations involved scienter and fraud, which is an element of several of the counts on which Sood was convicted, and at least a reckless disregard of a regulatory requirement. There is no affirmative evidence of unjust enrichment, and the handful of clients that Respondent obtained through the scheme have been satisfied with

[10] *Compare* Advisers Act Section 203(i))(1)(A) (*In General*, applicable to proceedings instituted pursuant to Section 203(e) or (f)), *with* Section 203(i)(1)(B) (*Cease-and-Desist Proceedings*, applicable to proceedings instituted pursuant to Section 203(k)). This proceeding was instituted pursuant to Section 203(k); however, "additional proceedings in this proceeding" – the subject of this ID – were ordered "to determine . . . the amount of a civil penalty that is appropriate and in the public interest." *See* Settlement Order, 2021 SEC LEXIS 300, at *7-9.

[11] Even absent quantifiable direct harm to the marketplace, 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*, 2002 SEC LEXIS 2346, at *20; *Arthur Lipper Corp.*, 1975 SEC LEXIS 527, at *52.

Respondent and with Sood. Sood's remorse and cooperation during the investigation and prosecution of the scheme indicated recognition of the wrongful nature of the conduct and the unlikelihood of future violations in any future investment advisory business. Deterrence of others requires a penalty for the violations.

A penalty in addition to the cease-and-desist order imposed by the Settlement Order is in the public interest. Because Respondent's conduct involved fraud and was reckless, a second-tier penalty is appropriate. 15 U.S.C. § 80b-3(i)(2)(B); *see SEC v. M&A W., Inc.*, 538 F.3d 1043, 1054 (9th Cir. 2008) ("[T]he imposition of second-tier penalties requires an assessment of scienter."). Pursuant to Section 203(i)(2) of the Advisers Act, for each violative act or omission during the period of violation after November 2, 2015, the maximum second-tier penalty for each violation for a natural person is $97,523 and for any other person is $487,616. 17 C.F.R. § 201.1001(b); Adjustments to Civil Monetary Penalty Amounts, 86 Fed. Reg. 2716, 2718 (Jan. 13, 2021). At the time of the misconduct, Sood owned and controlled Respondent and personally committed the fraudulent conduct, and he was the only wrongdoer identified at Respondent. Given these facts, the unlikelihood that Respondent will be a repeat offender, and the absence of other aggravating factors, a penalty of less than the maximum for an entity is warranted. A penalty similar to the maximum second-tier penalty for a natural person is appropriate in this proceeding.

The applicable provisions, like most civil penalty statutes, leave the precise unit of violation undefined. *See* Colin S. Diver, *The Assessment and Mitigation of Civil Money Penalties by Federal Administrative Agencies*, 79 Colum. L. Rev. 1435, 1440-41 (1979).

The events at issue will be considered as one course of action, and the violation will be analogized to that of a natural person for the reasons discussed above. Rosedale will be ordered to pay a penalty of $97,523. Combined with the other sanction ordered in the Settlement Order, this penalty is in the public interest.

V. ORDER

IT IS ORDERED that, pursuant to Sections 203(i)(1)(B) and 203(i)(2)(B) of the Investment Advisers Act of 1940, Rosedale Asset Management, LLC, f/k/a Princeton Advisory Wealth Management, LLC, PAY A CIVIL PENALTY OF $97,523.

Payment of the civil penalty shall be made no later than twenty-one days following the day this Initial Decision becomes final, unless the Commission directs otherwise. Payment shall be made in one of the following ways: (1) transmitted electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request; (2) direct payments from a bank account via Pay.gov through the SEC website at http://www.sec.gov/ofm; or (3) by certified check, United States postal money order, bank cashier's check, or bank money order, payable to the Securities and Exchange Commission.

Any payment by certified check, United States postal money order, bank cashier's check, or bank money order shall include a cover letter identifying the Respondent and Administrative Proceeding File No. 3-20220, and shall be delivered to: Enterprise Services Center, Accounts

Receivable Branch, HQ Bldg., Room 181, AMZ-341, 6500 South MacArthur Blvd., Oklahoma City, OK 73169. A copy of the cover letter and instrument of payment shall be sent to the Commission's Division of Enforcement, directed to the attention of counsel of record.

This ID shall become effective in accordance with and subject to the provisions of 17 C.F.R. § 201.360, pursuant to which a party may file a petition for review of this ID within twenty-one days after service of the ID. A party may also file a motion to correct a manifest error of fact within ten days of the ID, pursuant to 17 C.F.R. § 201.111(h). 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 ID 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 ID as to a party. If any of these events occur, the ID shall not become final as to that party.

/S/ Carol Fox Foelak
Carol Fox Foelak
Administrative Law Judge