

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

SECURITIES EXCHANGE ACT OF 1934
Release No. 69355/April 9, 2013

INVESTMENT ADVISERS ACT OF 1940
Release No. 3581/April 9, 2013

INVESTMENT COMPANY ACT OF 1940
Release No. 30455/April 9, 2013

ADMINISTRATIVE PROCEEDING
File No. 3-14351

In the Matter of :
: ORDER MAKING FINDINGS AND
ROBERT DAVID BEAUCHENE : IMPOSING SANCTIONS BY DEFAULT

SUMMARY

This Order bars Robert David Beauchene (Beauchene) from the securities industry.

I. BACKGROUND

The Securities and Exchange Commission (Commission) issued an Amended Order Instituting Proceedings (OIP) on March 8, 2013, pursuant to Sections 15(b) of the Securities Exchange Act of 1934 (Exchange Act), 203(f) of the Investment Advisers Act of 1940 (Advisers Act), and 9(b) of the Investment Company Act of 1940 (Investment Company Act). The OIP alleges that Beauchene was convicted of securities and wire fraud. Beauchene was served with the OIP by USPS certified mail in accordance with 17 C.F.R. § 201.141(a)(2)(i) on March 15, 2013, and his Answer to the OIP was due within twenty days of service of the OIP on him. See OIP at 5; 17 C.F.R. § 201.220(b). He has not filed an Answer to date. Accordingly, he has failed to answer or otherwise to defend the proceeding within the meaning of 17 C.F.R. § 201.155(a)(2). Therefore, Beauchene is in default, and the undersigned finds that the allegations in the OIP are true as to him.¹ See OIP at 5; 17 C.F.R. §§ 201.155(a), .220(f).

II. FINDINGS OF FACT

Beauchene, 45, of Wilmington, North Carolina, was convicted on October 9, 2012, of securities fraud in violation of 15 U.S.C. §§ 78j(b), 78ff, and 17 C.F.R. § 240.10b-5 and wire fraud in violation of 18 U.S.C. § 1343. United States v. Beauchene, No. 1:11-cr-01016 (S.D.N.Y. Oct. 9, 2012). He was

¹ Beauchene was advised that if he failed to file an Answer within the time provided, he would be deemed to be in default, and the undersigned would enter an order barring him from the securities industry. Robert David Beauchene, Admin. Proc. File No. 3-14351 (A.L.J. Mar. 19, 2013).

sentenced to twelve months and one day of imprisonment, followed by three years of supervised release, and ordered to pay restitution of \$160,000. The wrongdoing underlying his conviction took place from August 2005 through July 2007, when Beauchene, an unregistered investment adviser and, during part of the relevant period, a registered representative associated with a registered broker-dealer, fraudulently raised at least \$160,000 from four investors for investment in a purported hedge fund using false representations. Beauchene used the funds primarily to pay personal expenses.

III. CONCLUSIONS OF LAW

Beauchene has been convicted, within ten years of the commencement of this proceeding, of a felony that “arises out of the conduct of the business of a[n] . . . investment adviser” and “involves the violation of section 1343 . . . of title 18, United States Code” within the meaning of Sections 15(b)(4)(B)(ii), (iv) and 15(b)(6)(A)(ii) of the Exchange Act and Sections 203(e)(2)(B), (D) and 203(f) of the Advisers Act.²

IV. SANCTION

Beauchene will be barred from the securities industry.³ This sanction will serve the public interest and the protection of investors, pursuant to Sections 15(b) of the Exchange Act and 203(f) of the Advisers Act, and accord with Commission precedent and the sanction considerations set forth in Steadman v. SEC, 603 F.2d 1126, 1140 (5th Cir. 1979). Beauchene’s unlawful conduct was recurring and egregious. It involved multiple trades and thousands of dollars.

V. ORDER

IT IS ORDERED that, pursuant to Sections 15(b) of the Exchange Act and 203(f) of the Advisers Act, ROBERT DAVID BEAUCHENE IS BARRED from associating with any 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.⁴

Carol Fox Foelak
Administrative Law Judge

² The fact that Beauchene was an unregistered investment adviser does not moot this proceeding against him. The Commission has authority to bar persons from association with registered or unregistered investment advisers or otherwise sanction them under Section 203 of the Advisers Act. Teicher v. SEC, 177 F.3d 1016, 1017-18 (D.C. Cir. 1999).

³ In light of the incarceration, supervised release, and restitution ordered in United States v. Beauchene, under the applicable sanctions considerations, civil penalties, which are authorized in the OIP, are unnecessary to serve the public interest and the protection of investors.

⁴ 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).