UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 69896 /July 1, 2013

ADMINISTRATIVE PROCEEDING
File No. 3-15294

In the Matter of

JENNIFER E. THOENNES

: ORDER MAKING FINDINGS AND
: IMPOSING SANCTIONS BY DEFAULT

The Securities and Exchange Commission (Commission) issued an Order Instituting Proceedings (OIP) on April 19, 2013. The OIP alleges that on December 20, 2012, the United States District Court for the District of Utah entered a Final Judgment as to Defendant Jennifer E. Thoennes (Thoennes), by default permanently enjoining her from future violations of Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933 (Securities Act), Sections 10(b) and 15(a) of the Securities Exchange Act of 1934 (Exchange Act) and Exchange Act Rule 10b-5, and aiding and abetting violations of Sections 10(b) and 15(a) of the Exchange Act and Rule 10b-5 thereunder in SEC v. Wilcox, Case No. 2:11-cv-01219-DN.[1] Thoennes was also ordered to pay disgorgement and a civil monetary penalty. Thoennes was served with the OIP on April 25, 2013, which required her to file an Answer within twenty days after service. See OIP at 3; 17 C.F.R. §§ 201.160(b), .220(b).

Thoennes is in default in this administrative proceeding because she did not file an Answer, participate in the prehearing conference on May 29, 2013, or otherwise defend the proceeding. See 17 C.F.R. §§ 201.155(a), .220(f), .221(f). Where there has been a default, the Commission's Rules of Practice permit a finding that the allegations in the OIP are true. See 17 C.F.R. § 201.155(a). I make that finding. At the prehearing conference, the Division of Enforcement requested imposition of a full bar under Section 15(b) of the Exchange Act. Tr. 4.

I take official notice of certain material filed in the underlying civil action, Wilcox: (1) the Complaint filed on December 29, 2011; (2) Plaintiff's Motion and Memorandum of Law in Support of Motion for Final Judgment and Permanent Injunctive Relief as to Defendant Jennifer E. Thoennes (Motion), filed December 12, 2012, with the following attachment: the Declaration of Christopher M. McLean (Declaration) with Ex. 1, portions of the May 29, 2010, investigative testimony of Thoennes; Ex. 2, August 20, 2009, letter from Joseph Nelson (Nelson) to Thoennes; Exs. 3-5, e-mails from Thoennes to prospective investors; Ex. 6, promissory installment notes dated October 8, November 13, and December 2, 2009, signed by Thoennes; and Ex. 7, prejudgment

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[1] The Commission requested an injunction against future violations of aiding and abetting Sections 10(b) and 15(a) of the Exchange Act, and Exchange Act Rule 10b-5. The Final Judgment included an injunction against aiding and abetting Section 5 of the Securities Act, Section 10(b) of the Exchange Act, and Exchange Act Rule 10b-5.

interest report; and (3) the Final Judgment as to Defendant Jennifer E. Thoennes (Final Judgment) entered after default. See 17 C.F.R. § 201.323.

Facts

The OIP in this proceeding and the Complaint and Motion in Wilcox, to which Thoennes did not respond, allege that from approximately August 2009 through January 2010, Thoennes, a resident of Saugus, Massachusetts, in her late thirties, was Project Manager of JCN, Inc. OIP at 1; Complaint at 5; Motion at 4; Declaration at 1. Thoennes was not registered with the Commission as a broker-dealer or as a person associated with a registered broker-dealer and acted as an unregistered broker-dealer selling unregistered securities while she engaged in fraudulent conduct that resulted in the permanent injunction. OIP at 1; Complaint at 12-13.

The allegations, which Thoennes did not contest, are that she made materially false and misleading statements to investors in connection with a Ponzi scheme orchestrated by Nelson from approximately August 2005 through July 2010, through JCN, Inc., JCN Capital, LLC, JCN International, LLC, and ProStar Capital, LLC (the Nelson Companies), and that Nelson and his associates, including Thoennes, solicited at least $16 million from more than 100 people to invest in promissory notes offered by the Nelson Companies. OIP at 2; Complaint at 6-8, 10-12.

According to Thoennes, in 2009, Nelson offered her a job on her terms - $120,000 in salary, a car (Escalade), health insurance for her and her three children, and flexible working hours to do what she had been doing with other properties.[2] Declaration, Ex. 1 at 92-98, 101. The formal written offer had an August 24, 2009, start date and included performance bonuses of "2% of total money raised for portfolios" and "10% on sale of portfolio." Declaration, Ex. 2. In fact, according to Thoennes, JCN, Inc., paid her a total of $45,000. Declaration, Ex. 1 at 246. Thoennes worked from Massachusetts while Nelson and a few other people were in Utah, which she visited only once or twice, and she met Nelson and others in Arizona, San Diego, and Las Vegas. Declaration, Ex. 1 at 223-24, 279. According to Thoennes, "it took me about 45 to 60 days to figure out what the game was, and then by that point my friend had already invested money. So now I'm hanging around to try to get him his money back." Declaration, Ex. 1 at 177. She also testified that around October 5, 2009, or right before Thanksgiving, she realized that no one was doing any work and she had doubts about the business, but when she asked Nelson questions she received what seemed to be legitimate responses. Declaration, Ex. 1 at 223, 277-79.

Additional allegations, which collectively resulted in the Final Judgment, include the following. Thoennes participated in, and aided and abetted, the scheme by raising and helping to raise at least $1.5 million from at least four people, and she solicited investments from at least fifteen other individuals who did not invest with Nelson. OIP at 2; Complaint at 6. Thoennes made materially false and misleading statements to investors including, among other things, that Nelson and the Nelson Companies: (i) were engaged in the business of purchasing and selling merchant credit card portfolios; (ii) owned merchant credit card portfolios; (iii) earned monthly residual fees generated by the merchant credit card portfolios they owned; and (iv) would use investor funds to purchase additional portfolios. OIP at 2; Complaint at 7. Thoennes falsely represented that as part

[2] JCN International's letterhead shows an address of 1785 E. 1450 South, Suite 360, Clearfield, Utah, 84015. Declaration, Ex. 2.

owners of the merchant credit card portfolios, investors would earn a portion of the monthly residual fees generated by the portfolios. Id. Thoennes lured investors by offering extraordinary rates of return. Id. Three e-mails from Thoennes in September 2009 to prospective investors describe investments that would pay monthly interest of either 3% or 5% with a balloon payment of 10%, 30%, 33% when the note matured, typically in one year. Declaration, Exs. 3-5. According to the OIP and Complaint, Thoennes sent e-mails to prospective investors promising "guaranteed returns of 66% per year." OIP at 2; Complaint at 7. Also, most investors were given promissory notes, the majority of which ranged from thirty days to one year, and had annualized interest rates ranging from 14% to 60%; and the notes called for the payment of additional premium at maturity, the majority of which ranged from 20% to 60% of the principal amount invested. Id.

In October, November, and December 2009, Thoennes executed promissory installment notes for JCN Capital Management, LLC, in amounts of $50,000 and $100,000, and where the use of money was described as "[b]orrower hereby warrants that the principal amount listed above shall be used exclusively and solely for merchant portfolio acquisition." Declaration, Ex. 6. Thoennes lulled and helped Nelson lull investors by providing them with false assurances about Nelson and the Nelson Companies. OIP at 2; Complaint at 10. For example, Thoennes arranged for Nelson to obtain an account statement from a third party reflecting that Nelson had $2 million. Id. Thoennes knew that Nelson did not actually have access to these funds, nor could he use them as collateral, yet she nevertheless arranged for Nelson to obtain this deceptive account statement knowing or being reckless in not knowing that Nelson intended to and did use the account statement to deceive investors into believing he had $2 million. Id. Thoennes also drafted an email for Nelson to send to investors in which she pretended to be a third-party broker for certain "assurity bonds," suggesting that a transaction in these bonds was imminent, thereby deceiving investors into believing that their investment would be repaid. OIP at 2; Complaint at 10.

The OIP's allegation that a Final Judgment as to Thoennes was entered in Wilcox is true. See 17 C.F.R. 201.323. The Final Judgment noted that the clerk had entered a default against Thoennes on October 18, 2012, and "[a]fter a careful review of the record and the Court being otherwise fully advised," the Court permanently enjoined Thoennes from future violations of Sections 5 and 17(a) of the Securities Act, Sections 10(b) and 15(a) of the Exchange Act, and Exchange Act Rule 10b-5, and aiding and abetting violations of Section 5 of the Securities Act, Section 10(b) of the Exchange Act, and Exchange Act Rule 10b-5. The Final Judgment ordered Thoennes to pay disgorgement of $45,000, plus prejudgment interest of $4,791 for a total of $49,791, and to pay a $45,000 civil penalty. See Wilcox.

Conclusions of Law

This proceeding was instituted pursuant to Section 15(b) of the Exchange Act, which provides that the Commission shall censure, place limitations on the activities of any person, suspend for a period of up to twelve months, or bar a person, from association with specified entities authorized to operate in the securities industry where the person is associated, or seeking to become associated, or engaged in misconduct while associated or seeking to become associated with a broker-dealer, where the sanction is in the public interest and the person has willfully violated a provision of the Exchange Act, an Exchange Act regulation, or has been enjoined from engaging in or continuing any conduct or practice in connection with acting as a broker or dealer or in connection with the purchase or sale of any security. 15 U.S.C. § 78o(b)(4).

Thoennes meets the statutory requirement for a sanction pursuant to Section 15(b) of the Exchange Act in that she has been enjoined from future violations. See Vladislav Steven Zubkis, Exchange Act Release No. 52876 (Dec. 2, 2005), 86 SEC Docket 2618, 2627 ("It is well established, however, that Exchange Act Section 15(b) . . . applies to natural persons who are, like Zubkis, acting as a broker or dealer or associated with a broker or dealer . . . .") The issue then is whether in these peculiar circumstances - a default following a default - there is sufficient evidence on which to make a public interest determination. My judgment is that the evidence is sufficient to show that it is in the public interest to bar Thoennes from participating in the securities industry. I reach that determination for the following reasons.

The criteria for making a public interest determination are set out in Steadman v. SEC, 603 F.2d 1126 (5th Cir. 1979), aff'd on other grounds, 450 U.S. 91 (1981). Thoennes has not responded to charges of egregious and recurrent conduct, involving numerous fraudulent misrepresentations to investors for approximately five months that a Court found resulted in illegal profits to her of $45,000. Thoennes's investigative testimony describes accompanying Nelson and others on gambling trips to Las Vegas, she requested but never received financial information about the business, which Nelson told her was collecting $500,000 to $750,000 a month, Thoennes admitted believing that Nelson did not have any business but was spending client money, and this record has emails in which Thoennes solicited investments in the Nelson Companies and copies of Promissory Installment Notes Thoennes signed for the Nelson Companies that contain false representations. Declaration Ex. 1 at 226-29, 249, 277, Exs. 3-6. Thoennes has been enjoined from future violations of antifraud provisions that require, at a minimum, knowing or reckless conduct.

> The fact that a person has been 'permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction' from violating the antifraud provisions has especially serious implications for the public interest. Based on our experience enforcing the federal securities laws, we believe that ordinarily, and in the absence of evidence to the contrary, it will be in the public interest to revoke the registration of, or suspend or bar from participation in the securities industry, or prohibit from participating in an offering of penny stock, a respondent who is enjoined from violating the antifraud provisions.

Marshall E. Melton, Investment Advisers Act of 1940 Release No. 2151 (July 25, 2003), 80 SEC Docket 2812, 2825-26. Finally, by defaulting in this administrative proceeding and in the underlying civil action, Thoennes forfeited an opportunity to show that she appreciates the wrongful nature of her conduct and to represent that her future conduct will conform to legal standards.

Order

I ORDER, pursuant to Section 15(b) of the Securities Exchange Act of 1934, that Jennifer E. Thoennes is barred 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.

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Brenda P. Murray

Chief Administrative Law Judge