UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 4021 / February 4, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-15850

In the Matter of the Application Filed Under Rule 193 of the Commission's Rules of Practice on behalf of

MATTHEW D. SAMPLE

For Consent to Associate with Kingsroad Financial Insurance Services

ORDER DENYING APPLICATION FOR CONSENT TO ASSOCIATE

I.

Pursuant to a consent order entered on April 22, 2014, Matthew D. Sample ("Sample") is barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, and is barred from participating in any offering of a penny stock, including acting as a promoter, finder, consultant, agent or other person who engages 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. In the Matter of Matthew D. Sample, Investment Advisers Act Release No. 3820 (Apr. 22, 2014). On June 5, 2014, Sample filed an application, since supplemented, pursuant to Rule 193 of the Commission's Rules of Practice, 17 C.F.R. § 201.193, by which he seeks consent to associate with one of his prior employers, Kingsroad Financial Insurance Services, Inc. ("Kingsroad"), a registered investment adviser.[1]

The Commission's administrative proceedings were based upon a civil judgment, entered against Sample by consent, SEC v. Matthew D. Sample, Case Number 3:14-CV-01218-B (N.D. Tex. Apr. 7, 2014). The Commission's Complaint alleged, among other things, that from October 2009 through June 2012, Sample managed an unregistered hedge fund that raised approximately $1 million from five investors, misrepresented his intended use of investor funds, misappropriated investor funds from the hedge fund for personal use and to repay prior investors, and intentionally concealed trading losses from investors. During this period, Sample was associated with broker dealer and investment adviser firms, including Kingsroad. The Court's

[1] At the time Sample's application was filed, Kingsroad was a state-registered investment adviser. On August 14, 2014, it became registered with the Commission, and its state registrations were subsequently withdrawn.

judgment enjoins Sample from future violations of Section 17(a) of the Securities Act of 1933, Section l0(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and Sections 206(1), (2) and (4) of the Investment Advisers Act of 1940 and Rule 206(4)-8, thereunder. The judgment further provides that the Court, upon motion of the Commission, shall determine whether it is appropriate to order disgorgement of ill-gotten gains or a civil penalty. No monetary sanctions have yet been imposed.

The application represents that Sample seeks employment so that he can make "full and complete restitution to all of his investors." To this end, Sample represents that one of his friends has agreed to lend him $200,000, to be placed in escrow for the benefit of harmed investors and to be re-paid from his earnings after becoming re-associated. Sample also represents that he will deposit all of his after-tax, annual income over $60,000 into the escrow account, and that he will make his harmed investors the beneficiaries of his $2,000,000 life insurance policy until they have been fully reimbursed.

The application further represents that Sample would be supervised by the principals of Kingsroad. A statement from the proposed employer, signed by one of the principals, represents that:

> [Sample] would be a solicitor for our firm and would call exclusively on other [registered investment advisers] as well as broker dealers and their investment advisor representatives in order to explain our money management strategy and try to secure solicitation or sub-advisory arrangements. [Sample] would work strictly with advisors and not with the general public. Our firm will have other employees who will be able to host or attend events where the general public will be present. [Sample] will not have access to client accounts and will play no role in the day to day operations or trading decisions in our firm. He will be located in our office so that we are able to overhear his conversations with other advisors. His email will be monitored. My business partner or I will periodically make joint visits with [Sample] or follow up calls to outside advisors to insure that [Sample's] communications are consistent with our strategies.

The employer's statement represents that the firm has not had any disciplinary events during the past two years, other than the proceedings against Sample, and that no other associated persons are subject to bars.

II.

Rule 193(c) requires that the applicant make a showing that the proposed association would be consistent with the public interest. Where, as in this case, a bar order is unqualified – that is, it does not contain a provision allowing the barred individual to apply for consent to associate after a specified time – the applicant must demonstrate "extraordinary circumstances" to make the required public interest showing.[2]

---

[2] See Victor Teicher, Securities Exchange Act Release No. 58789 (Oct. 15, 2008). In Teicher, the Commission stated: "[W]e have made clear that, when an unqualified bar has been imposed, as is the case here, this 'evidences [our] conclusion that the public interest is served by

Sample represents that he will be able to repay harmed investors only if he is allowed to associate with Kingsroad. This is not, however, an extraordinary circumstance supporting a grant of relief. A bar from association necessarily removes at least one potential source of income from which the respondent might repay injured investors. But that is a natural and predictable consequence of the sanction.[3] And while the bar may to some degree also limit employment in non-securities related fields, it does not preclude all employment from which a barred individual may earn funds to repay those injured by his conduct. In any event, that a barred individual will be able to earn more employed in the securities field than elsewhere (and so may be more likely to generate funds from which to repay injured investors) will be true for almost any respondent, and hence is not an "extraordinary" circumstance.

As described above, Sample engaged in serious misconduct, for which the Commission imposed an unqualified bar. In denying a request for consent to associate that was submitted two years after entry of an unqualified bar order, the Commission stated:

> We are unable to conclude that issuance of the requested order is in the public interest given the seriousness of [respondent's] prior conduct and sanction and the short period of time that has elapsed since we imposed that sanction. We are concerned that this application does not accord sufficient deference to the sanction imposed on [respondent] by our previous decision. Moreover, the record in this case does not disclose any extraordinary or changed circumstances which might justify permitting a person who was barred, unqualifiedly, from the securities industry based on serious misconduct in violation of the federal securities laws to re-enter the business as a salesperson so soon after the imposition of that bar.

Stephanie J. Hibler, Securities Exchange Act Release No. 22067, 48 S.E.C. 169, 171 (May 23, 1985) (footnotes omitted).

In the present case, Sample's application was filed less than two months after entry of the unqualified bar order. To permit reentry at this point, without the requisite showing of

---

permanently excluding the barred person from the securities industry . . . [and that], absent extraordinary circumstances, a person subject to an unqualified bar will be unable to establish that it is in the public interest to permit reentry to the securities industry'" (citing Unqualified Bar Orders, Exchange Act Rel. No. 34720, 57 SEC Docket 1941 (Sept. 13, 1994)).

[3] See William H. Pike, Investment Company Act Release No. 20417 (July 20, 1994) ("Pike's difficulties in obtaining employment do not render our Order inequitable. They are simply a natural consequence of the action taken against him"). In Jesse M. Townsley, Securities Exchange Act Release No. 52161, 58 S.E.C. 743 (July 29, 2005), the respondent asked for relief from a Commission bar, claiming, among other things, that he had been denied registration as a commodity trading advisor by the National Futures Association, based on the bar. The Commission denied relief, finding that "Townsley's inability to become registered as a commodities trading investor was a consequence of the bar that he should have anticipated." Id. at 747.

extraordinary circumstances, would be inconsistent with the Commission's recent conclusion that Sample should be permanently excluded from the securities industry.

Moreover, Rule 193 requires an applicant to "demonstrate that the proposed supervision, procedures, or terms and conditions of employment are reasonably designed to prevent a recurrence of the conduct that led to imposition of the bar." In this case, Sample asks that he be allowed to return to work with Kingsroad, his employer at the time he engaged in at least some of the misconduct that resulted in the bar. The supervision proposed in the application appears to be no different from that exercised over Sample during his prior association with Kingsroad.

Accordingly, it is ORDERED that the application submitted on behalf of Matthew D. Sample be, and hereby is, denied.

For the Commission, by the Division of Enforcement, pursuant to delegated authority.[4]

Brent J. Fields
Secretary

---

[4] 17 CFR § 200.30-4(a)(5).