

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 5057 / October 18, 2018

ADMINISTRATIVE PROCEEDING
File No. 3-18870

In the Matter of

JOHN H. ROGICKI,

Respondent.

ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 203(f) OF THE
INVESTMENT ADVISERS ACT OF 1940,
MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against John H. Rogicki (“Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, Respondent admits the Commission’s jurisdiction over him and the subject matter of these proceedings, and the findings contained in paragraph III.2 and III.4 below, and consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 203(f) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions (“Order”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds that

1. Rogicki was a principal and an employee at Train, Babcock Advisors LLC (“TBA”), an investment adviser registered with the Commission. Rogicki, 67 years old, is a resident of Holmdel, New Jersey.

2. On January 26, 2018, a judgment was entered by consent against Rogicki, permanently enjoining him from future violations of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and Sections 206(1), 206(2), 206(4) and 207 of the Advisers Act and Rules 206(4)-2 and 206(4)-7 thereunder, in the civil action entitled Securities and Exchange Commission v. John H. Rogicki, Civil Action Number 17-cv-8071 (GHW), in the United States District Court for the Southern District of New York.

3. The Commission’s complaint alleged that, between 2004 and 2016, Rogicki perpetrated a fraudulent scheme in which Rogicki misappropriated approximately \$9 million from a charitable foundation advisory client for which Rogicki served as President, Trustee and investment adviser.

4. On October 3, 2017, Rogicki pled guilty to Grand Larceny in the First Degree in violation of New York Public Law § 155.42 before the Supreme Court of the State of New York, County of New York: Part 42, in The People of the State of New York v. John H. Rogicki, Case # SCI-03960-2017, and was ordered to forfeit \$2,500,000. On December 18, 2017, Rogicki was sentenced to 30 to 90 months of incarceration.

5. The counts of the criminal information to which Rogicki pled guilty alleged, inter alia, that Rogicki misappropriated assets from a client account for which he served as the investment adviser and trustee. Rogicki subsequently used his client’s funds to pay his personal expenses. Rogicki also improperly transferred assets from an account for which he served as the trustee to another account to which he had access, and then transferred the funds to his personal accounts or withdrew the funds.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent Rogicki’s Offer.

Accordingly, it is hereby ORDERED pursuant to Section 203(f) of the Advisers Act, that Respondent Rogicki be, and hereby is barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

Any reapplication for association by the Respondent will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served

as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

For the Commission, by its Secretary, pursuant to delegated authority.

Brent J. Fields
Secretary