

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-20653

In the Matter of

ROBERT LOUIS CARVER
A/K/A DONALD HOWARD,

Respondent.

DIVISION OF ENFORCEMENT’S
MOTION FOR DEFAULT
JUDGMENT AND REMEDIAL
SANCTIONS

Pursuant to Rules 155(a) and 220(f) of the Commission’s Rules of Practice, the Division of Enforcement (the “Division”) respectfully requests that the Commission enter a default judgment and impose appropriate sanctions against Respondent Robert Louis Carver a/k/a Donald Howard (“Carver”). More specifically, the Division requests that the Commission bar Carver from: (a) association with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent or nationally recognized statistical ratings organization (“NRSRO”); and (b) from participation in any penny stock offering.

I. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

A. The OIP’s Allegations

The Commission initiated this matter against Carver (under his alias, Donald Howard) on November 17, 2021. *See* Exchange Act Release (“Release”) No. 93599, 2021 WL 5358757 (Nov. 17, 2021). On September 6, 2023, the Commission issued an Amended Order Instituting Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”) and Notice of Hearing (the “OIP”). *See* Release No. 98291, 2023 WL 5770175 (Sept. 6, 2023). The OIP alleged that, from October 2017 to May 2019, Carver “was

engaged in the business of effecting transactions in, or inducing or attempting to induce the purchase and sale of, securities and received transaction-based compensation,” yet “was neither registered with the Commission as either a broker or a dealer nor was he associated with a broker or dealer registered with the Commission.” (OIP at ¶ 1).

The OIP further alleged that on August 1, 2008, a judgment was entered against Carver, permanently enjoining him from future violations of Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933 (“Securities Act”), Section 10(b) and 15(a) of the Exchange Act and Rule 10b-5 thereunder, and Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 (“Advisers Act”) in *SEC v. Carver*, No. 8:08-CV-627 (C.D. Cal). (OIP at ¶ 2). The OIP also alleged that the Commission later barred Carver from associating with any broker, dealer, or investment adviser. (*Id.* (citing *Robert L. Carver*, Release No. 58423 (Aug. 25, 2008))).

The OIP further alleged that on November 12, 2021, a final judgment was entered against Carver, permanently enjoining him from future violations of Exchange Act Section 15(a)(1) in *SEC v. Graham*, No. 1:20-CV-02505 (N.D. Ohio). (OIP at ¶ 2). The OIP further alleged that the complaint in *SEC v. Graham* alleged that from at least October 2017 to May 2019, Carver effected transactions in, or induced or attempted to induce the purchase and sale of, securities and received commissions while he was not registered as a broker or dealer nor while he was associated with an entity registered as a broker or dealer. (OIP at ¶ 3).

In its Order Granting the Division’s Motion to Amend the original OIP in this matter, the Commission took “official notice that Carver recently pleaded guilty to aggravated identity theft in federal district court.” Release No. 98291, 2023 WL 5770175 at *1 (citing *United States v. Carver*, No. 8:23-CR-60, Information (Dkt. 1) at 4 (C.D. Cal. May 8, 2023); *United States v. Carver*, Minutes of Change of Plea Hearing (Dkt. 12) (C.D. Cal. June 30, 2023)). The

Commission also took “official notice that, in the factual basis for his plea agreement, Carver admitted to using the identity of a real person named ‘D.H.’ while acting as an ‘unlicensed stock broker’ from around November 2017 until around September 2018.” *Id.* at 2-3 (citing *United States v. Carver*, Plea Agreement for Defendant Robert Louis Carver (Dkt. 3) at 10 (C.D. Cal. May 8, 2023)).¹

B. Carver Fails to Answer the OIP

On November 3, 2023, the Division filed a Notice of Service,² which established that service of the OIP was made on Carver on September 19, 2023, pursuant to Rule of Practice 141(a)(2)(i). *See* Order to Show Cause, Release No. 99094, 2023 WL 8469445 (Dec. 6, 2023). After Carver failed to answer the OIP, the Commission ordered Carver, by January 22, 2024, to show cause “why he should not be deemed to be in default and why this proceeding should not be determined against him due to his failure to file an answer and to otherwise defend this proceeding.” *Id.*³ The Commission further held that if Carver did not respond to the Order to Show Cause, the Division shall file a default judgment motion. *Id.*⁴

¹ As part of his plea agreement, Carver further admitted that while acting as an unlicensed stock broker, he “knowingly and with the intent to defraud, devised and executed a scheme to defraud and obtain money from investors by means of materially false and fraudulent pretenses, representations, and promises, and the concealment of material facts in connection with a pump and dump stock manipulation scheme.” *United States v. Carver*, Plea Agreement (Dkt. 3) at 10 (C.D. Cal. May 8, 2023).

² The November 3, 2023 Notice of Service advised that Carver was served with the OIP via Certified Mail on September 19, 2023, and attached as Exhibits 1 and 2 proof of that service.

³ The Division will include a copy of the Order to Show Cause when it serves Carver with this Motion.

⁴ The Order to Show Cause directed the Division to file its default judgment motion by February 20, 2024. The Division apologizes to the Commission for not filing its motion by that time.

C. Allegations and Evidence from *SEC v. Graham*

On November 6, 2020, the Commission filed *SEC v. Graham*, No. 1:20-cv-02505, Dkt. 1 (N.D. Ohio), and filed an Amended Complaint on April 13, 2021. *Id.*, Dkt. 16. The Amended Complaint alleged that between October 2017 and at least May 2019, Carver (again, under his alias, Donald Howard) solicited investors to purchase securities of U.S. Lighting Group, Inc. (“USLG”) while he was neither registered as a broker or dealer nor associated with a registered broker or dealer. *Id.*, ¶¶ 1-4. The Amended Complaint further alleged that Carver received approximately 40% of investor proceeds as commissions, totaling at least \$118,800. *Id.* ¶ 3. The Amended Complaint alleged that by engaging in this conduct, Carver violated Exchange Act Section 15(a). *Id.*, ¶¶ 5, 14-43.

After Carver failed to answer the Amended Complaint, the Commission moved for a default judgment. *SEC v. Graham*, Dkt. 26. In support of its default judgment motion, the Commission submitted a declaration from its counsel of record. *Id.*, Dkt. 26-1. That declaration described records in the Commission’s investigative files showing that: “From approximately October 2017 to September 2018, USLG and/or an affiliate paid Howard [Carver’s alias] \$118,800 in commission payments, representing Howard’s ill-gotten gains with respect to the conduct alleged in the First Amended Complaint.” *Id.*, ¶ 7.

On November 12, 2021, the court granted the Commission’s motion for default judgment, finding that Carver violated Exchange Act Section 15(a)(1) by effecting transactions in securities while not being registered as a broker or dealer. *See SEC v. Graham*, Dkt. No. 31 (Am. Mem. Op. and Order). The court then entered a judgment against Carver, permanently enjoining him from future violations of Section 15(a)(1) of the Exchange Act. *Id.* at 13-14; *see also SEC v. Graham*, Dkt. 32 (Am. Judgment Entry) (Nov. 12, 2021).

III. ARGUMENT

Carver has not filed an answer to the OIP, nor has he responded to the Commission's Order to Show Cause. The Commission should find Carver in default and enter judgment accordingly. Further, based on the record and the injunction entered against Carver (again, under his alias, Donald Howard) in *SEC v. Graham*, the Division requests that the Commission bar Carver from being associated with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or NRSRO, or from participating in an offering of penny stock.

A. Carver Is in Default, and the Factual Allegations of the OIP Should Be Deemed True.

Rule of Practice 220(f) provides that if a “respondent fails to file an answer . . . within the time provided, such person may be deemed in default pursuant to Rule 155(a).” In turn, Rule of Practice 155(a)(2) provides that “[a] party to a proceeding may be deemed to be in default and the Commission or the hearing officer may determine the proceeding against the party upon consideration of the record, including the order instituting proceedings, the allegations of which may be deemed to be true, if that party fails . . . [t]o answer, to respond to a dispositive motion within the time provided, or to otherwise defend the proceeding.” Carver was served with the OIP on September 19, 2023, but has not appeared or filed a response in this proceeding.

As the Commission noted in its Order to Show Cause, the OIP directed Carver to file an answer within twenty days after he was served on September 19, 2023. Release No. 99094, 2023 WL 8469445 at *1 (Dec. 6, 2023). That Order further directed Carver to show cause, by January 22, 2024, “why he should not be deemed to be in default and why this proceeding should not be determined against him due to his failure to file an answer and to otherwise defend this proceeding.” *Id.* That Order additionally advised that: “When a party defaults, the allegations in

the OIP will be deemed to be true and the Commission may determine the proceeding against that party upon consideration of the record without holding a public hearing.” *Id.* at *1 (citing Rules of Practice 155, 180).

Carver has still not filed an answer to the OIP or a response to the Order to Show Cause. Accordingly, Carver is in default and the allegations against him should be deemed true. *See Paul Hanson*, Release No. 99159, 2023 WL 8648841, at *2 (Dec. 13, 2023) (“Because Hanson has failed to answer or respond to the show cause order or to the Division’s motion, we find it appropriate to hold him in default and to deem the allegations of the OIP to be true.”); *see also Sonya D. Camarco*, Release No. 99148, 2023 WL 8613941, at *2 (Dec. 12, 2023) (same).

Accordingly, the following allegations from the OIP should be deemed true: *First*, that Carver “was engaged in the business of effecting transactions in, or inducing or attempting to induce the purchase and sale of, securities and received transaction-based compensation” despite not being registered or associated with a registered broker or dealer. *See* OIP, ¶ 1. *Second*, that in *SEC v. Carver*, the court permanently enjoined Carver from future violations of Sections 5(a), 5(c), and 17(a) of the Securities Act, Sections 10(b) and 15(a) of the Exchange Act and Rule 10b-5 thereunder, and Sections 206(1) and 206(2) of the Advisers Act; and that the Commission later barred Carver from association with any broker, dealer, or investment adviser. *Id.*, ¶ 2. *Third*, that in *SEC v. Graham*, the court enjoined Carver from violating Exchange Act Section 15(a)(1) based on allegations that Carver acted as an unregistered broker-dealer. *Id.*, ¶¶ 3-4.

B. The Division Has Submitted Evidence of Carver’s Misconduct.

The Division acknowledges that a district court default judgment generally lacks preclusive effect because the allegations and underlying merits of the case were not litigated. *See Gary L. McDuff*, Release No. 74803, 2015 WL 1873119, at *2-3 (April 23, 2015). However,

the Commission may consider other evidence supporting the allegations of the OIP, including documents from the Division’s investigation files. *See John Sherman Jumper*, Release No. 96407, 2022 WL 17346044, at *2 (Nov. 30, 2022) (relying on investigative transcript and other documents).

Here, the Division cites the same evidentiary declaration the court in *SEC v. Graham* relied upon in granting a default judgment against Carver. *SEC v. Graham*, Dkt. 26-1. That declaration establishes that, from approximately October 2017 to September 2018, Carver received \$118,800 in commission payments for his unregistered solicitation efforts on behalf of US Lighting Group, Inc. *Id.* ¶ 7. Moreover, the Commission has also taken “official notice that, in the factual basis for his plea agreement, Carver admitted to using the identity of a real person named ‘D.H.’ while acting as an ‘unlicensed stock broker’ from around November 2017 until around September 2018.” Release No. 98291, 2023 WL 5770175 at *1 (citing *United States v. Carver*, Plea Agreement for Defendant Robert Louis Carver (Dkt. 3) at 10 (C.D. Cal. May 8, 2023)). The Commission can also take official notice that, in the same plea agreement, Carver further admitted that while acting as an unlicensed stock broker, he “knowingly and with the intent to defraud, devised and executed a scheme to defraud and obtain money from investors by means of materially false and fraudulent pretenses, representations, and promises, and the concealment of material facts in connection with a pump and dump stock manipulation scheme.” *United States v. Carver*, Dkt. 3 at 10 (C.D. Cal. May 8, 2023).

C. The Commission Should Impose Industry and Penny Stock Bars

“Exchange Act Section 15(b)(6)(A) authorizes the Commission to suspend or bar a person from associating in the securities industry and from participating in any offering of a penny stock if it finds, on the record after notice and opportunity for hearing, that: (1) the person was enjoined

from engaging in or continuing any conduct or practice in connection with activity as a broker or dealer or in connection with the purchase or sale of a security; (2) the person was associated with a broker or dealer at the time of the misconduct; and (3) such a sanction is in the public interest.” *Hanson*, 2023 WL 8648841, at *2; *see also David Michael*, Release No. 99263, 2024 WL 49075 at *3 (Jan. 2, 2024) (same holding). For the purposes of Section 15(b)(6)(A), where “the OIP, taken as true, states that [respondent] was acting as an unregistered broker at the time of his misconduct, he was a person associated with a broker.” *Hanson*, 2023 WL 8648841, at *2 (citations omitted); *see also Michael*, 2024 WL 49075 at *3 (same holding).

Here, both the OIP’s allegations and the court filings cited herein show Carver was enjoined from violating Exchange Act Section 15(a) and acted as unregistered broker.

In considering whether remedial action is in the public interest, the Commission considers “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.” *David Michael*, 2024 WL 49075 at *5 (citing *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979), *aff’d on other grounds*, 450 U.S. 91 (1981)). Each of these factors supports industry and penny stock bars. *See Michael*, 2024 WL 49075 at *3-5 (imposing industry and penny stock bars); *Hanson*, 2023 WL 8648841 at *2-4 (same).

Carver’s conduct was egregious and recurrent because, for more than one and a half years, he acted as an unregistered broker and received more than \$118,800 for his efforts. *See, e.g., Hanson*, 2023 WL 8648841, at *3 (unregistered broker’s conduct was egregious and recurrent when he received \$281,000 in commissions over three years); *Michael J. Healey*,

Release No. 53698, 2006 WL 1071161, at *1 (Apr. 21, 2006) (same finding for unregistered broker receiving \$151,000 in commissions over less than 2.5 years); *Michael*, 2024 WL 49075 at *4 (same finding for unregistered broker receiving 30-34% commissions over 1.5 years).

Carver's conduct was all the more egregious given that in 2008 he was enjoined from violating Exchange Act 15(a) and barred by the Commission from associating with a broker, dealer, or investment adviser.

Carver acted with a high degree of scienter, as evidenced by his guilty plea admission to acting "knowingly and with the intent to defraud." *See Camarco*, 2023 WL 8613941, at *4 ("Camarco was convicted of criminal offenses for which specific intent is a required element. We conclude that Camarco's misconduct was committed with scienter.") (citations omitted); *Michael*, 2024 WL 49075 at *4 (respondent acted with scienter when he "must have known" his statements were untrue). Because Carver failed to answer the OIP or respond to the show cause order or the Division's motion, "he has made no assurances in this proceeding that he will not commit future violations or that he recognizes the wrongful nature of his conduct." *Hanson*, 2023 WL 8648841 at *3. Finally, given Carver's recent employment as an unregistered broker, "his occupation presents opportunities for future violations." *Id.*; *see also Healey*, 2006 WL 1071161, at *4; *Michael*, 2024 WL 49075 at *5 ("it appears that Michael's occupation presents opportunities for future violations because he acted as a broker and investment adviser during the period of his misconduct").

IV. CONCLUSION

Wherefore, for all of the foregoing reasons, the Division of Enforcement respectfully requests that the Commission enter a default judgment against Respondent Robert Louis Carver a/k/a Donald Howard pursuant to Rules 155(a) and 220(f) of the Rules of Practice. The

Division further requests that the Commission bar Carver from: (a) association with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent or NRSRO; and (b) participation in any penny stock offering.

Dated: April 8, 2024

By: /s/ Benjamin J. Hanauer

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CERTIFICATE OF SERVICE

Pursuant to Rules 150 and 151 of the Commission's Rules of Practice, I hereby certify that a true and correct copy of the foregoing was served on each of the following, on April 8, 2024, in the manner indicated below.

Vanessa Countryman, Secretary
Office of the Secretary
100 F. Street, N.E.
Washington, DC 20549
Via eFAP

Mr. Robert Louis Carver



Via First Class U.S. Mail

/s/Benjamin Hanauer_____