

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-20659

In the Matter of

**HUGHE DUWAYNE
GRAHAM,**

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 Hughe Duwayne Graham (“Graham”). More specifically, the Division requests that the Commission bar Graham 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 Graham on November 19, 2021. *See* Exchange Act Release (“Release”) No. 93619, 2021 WL 11112211 (Nov. 19, 2021). On July 21, 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. 97963, 2023 WL 4686242 (July 21, 2023). The OIP alleged that, from October 2017 to May 2019, Graham “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 November 12, 2021, a final judgment was entered against Graham, 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, Graham 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. (*Id.* at ¶ 3).

The OIP additionally alleged that on March 11, 2022, Graham pleaded guilty, to one count of conspiracy to commit securities fraud in violation of 18 U.S.C. § 371, in *United States v. Hughe Duwayne Graham*, Case No. 1:20-cr-00842-3 (N.D. Ohio). (OIP at ¶ 4). The OIP alleged that, on October 25, 2022, the court in *United States v. Graham* sentenced Graham to one year and one day in federal prison followed by three years of supervised release, and ordered him to pay \$824,500.49 in restitution, jointly and severally with Graham’s co-defendants. (OIP at ¶ 4).

The OIP further alleged that the count of the indictment to which Graham pleaded guilty alleged, among other things, that, from around February 2014 through August 2020, Graham engaged in a conspiracy to violate 15 U.S.C. §§ 78j(b), 78(ff), and 78i(a)(1), and Title 17 C.F.R. § 240.10b-5, the objects of which included (1) defrauding investors; (2) obtaining investor monies and paying and receiving undisclosed commissions; (3) inflating the value of the

common stock of Global Resource Energy, Inc., whose stock traded over-the-counter under the ticker “GBEN”; and (4) enriching the conspirators. (OIP at ¶ 5). The OIP alleged that according to the Indictment, Graham solicited investors to purchase restricted and free trading GBEN stock, made material misrepresentations to investors concerning the GBEN stock and the use of investors’ proceeds, and paid undisclosed commissions and kickbacks to himself and his co-conspirators for facilitating the sale of GBEN stock. (*Id.*)

B. Graham Fails to Answer the OIP

On September 29, 2023, the Division filed a Notice of Service,¹ which established that service of the OIP was made on Graham on September 27, 2023, pursuant to Rule of Practice 141(a)(2)(i). *See* Order to Show Cause, Release No. 99233, 2023 WL 8991940 (Dec. 22, 2023). After Graham failed to answer the OIP, the Commission ordered Graham, by January 5, 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.*² The Commission further held that if Graham did not respond to the Order to Show Cause, the Division shall file a default judgment motion. *Id.*³ On March 11, 2024, the Commission noted Graham still had not responded to the show-cause order, and ordered the Division to file the present default judgment motion by April 8, 2024. *See* Order Directing Submission, Release No. 99702.

¹ The September 29, 2023 Notice of Service advised that a process server personally served Graham with the OIP on September 27, 2023, and attached as Exhibit 1 a signed Return of Service.

² The Division will include a copy of the Order to Show Cause when it serves Graham with this Motion.

³ The Order to Show Cause directed the Division to file its default judgment motion by February 2, 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, Graham 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 Graham received approximately 40% of investor proceeds as commissions, totaling at least \$443,127. *Id.* ¶ 3. The Amended Complaint alleged that by engaging in this conduct, Graham violated Exchange Act Section 15(a). *Id.*, ¶¶ 5, 14-43.

After Graham 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 November 2017 to January 2019, USLG and/or an affiliate paid Graham and/or HDG Global Marketing, LLC, an entity Graham is believed to own and control, \$443,127 in transaction-based compensation, representing Graham’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 Graham 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 Graham, 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).

D. Indictment, Plea Agreement, and Sentencing in *United States v. Graham*

On August 14, 2020, Graham was charged in *United States v. Graham*, No. 1:20-cr-842 (N.D. Ohio). The Indictment alleged that Graham engaged in conspiracy to commit securities fraud (in violation of 18 U.S.C. § 371) and securities fraud (in violation of 15 U.S.C. §§78j(b) and 78ff, and 17 C.F.R. § 240.10b-5), in addition to other violations. *Id.*, Dkt. 21.

On March 11, 2022, Graham pleaded guilty to one count of conspiracy to commit securities fraud. *United States v. Graham*, Dkt. 193. As part of his Plea Agreement, Graham admitted that he “worked as an unlicensed stockbroker and solicited potential investors and assisted others to solicit potential investors to purchase shares in GBEN [Global Resource Energy, Inc.],” “received kickbacks or undisclosed commissions for the sale of restricted shares of GBEN to investors,” “received and paid kickbacks to other unlicensed stockbrokers for soliciting and selling shares of GBEN to investors,” “made material misrepresentations to investors including statements regarding the company, the structure of the [restricted] stock investment, the timing of the restricted hold period, and the use of the proceeds of the investment,” and “caused victim-investors to spend over \$250,000 on shares of GBEN stock all the while concealing and not providing information that was material to the victim’s decision to invest.” *Id.* at 9-12, ¶¶ 23(f), 23(j)(v), and 23(k).

On October 27, 2022, the court entered a Judgment against Graham sentencing him to one year and one day in federal prison followed by three years of supervised release, and ordered him to pay restitution in the amount of \$824,500.49, jointly and severally with Graham’s co-defendants. *United States v. Graham*, Dkt. 323 (Judgment).

III. ARGUMENT

Graham has not filed an answer to the OIP, nor has he responded to the Commission's Order to Show Cause. The Commission should find Graham in default and enter judgment accordingly. Further, based on the record and Graham's criminal conviction and injunction, the Division requests that the Commission bar Graham 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. Graham 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." Graham was served with the OIP on September 27, 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 Graham to file an answer within twenty days after he was served on September 27, 2023. Release No. 99233, 2023 WL 8991940 (Dec. 22, 2023). That Order further directed Graham to show cause, by January 5, 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.* (citing Rules of Practice 155, 180). Graham has still not filed an answer to the OIP or a response to the Order to Show Cause. Accordingly, Graham 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 Graham “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. Graham*, the court enjoined Graham from violating Exchange Act Section 15(a)(1) based on allegations that Graham acted as an unregistered broker-dealer. *Id.*, ¶¶ 2-3. *Third*, that he pleaded guilty to conspiracy to commit securities fraud in *United States v. Graham* after being charged in an Indictment alleging that Graham “solicited investors to purchase restricted and free trading GBEN stock, made material misrepresentations to investors concerning the GBEN stock and the use of investors’ proceeds, and paid undisclosed commissions and kickbacks to himself and his co-conspirators for facilitating the sale of GBEN stock.” *Id.*, ¶¶ 4-5.

B. The Division Has Submitted Evidence of Graham’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 findings in a related criminal case involving the same respondent. *See Don Warner Reinhard*, Release No. 63720, 2011 WL 121451, at *5-7 (Jan. 14, 2011) (citing plea agreement and related documents for criminal conviction not referenced in the OIP); *Hanson*, 2023 WL 8648841, at *3 (citing respondent’s prior criminal conviction); *Camarco*, 2023 WL 8613941, at *4 (same). Such evidence may also include 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 relied upon in granting a default judgment against Graham. *SEC v. Graham*, Dkt. 26-1. That declaration establishes that, from approximately November 2017 to January 2019, Graham received approximately \$443,127 in transaction-based compensation for his unregistered solicitation efforts on behalf of US Lighting Group, Inc. *Id.* ¶ 7. The Division has also cited Graham’s plea agreement which establishes that, from 2018 through August 2020, he “worked as an unlicensed stockbroker and solicited potential investors and assisted others to solicit potential investors to purchase shares in GBEN [Global Resource Energy, Inc.],” “received kickbacks or undisclosed commissions for the sale of restricted shares of GBEN to investors,” and “made material misrepresentations to investors.” *United States v. Graham*, Dkt. 193; at 9-12, ¶¶ 23(f), 23(j)(v), and 23(k). The Division has also cited the Judgment from *United States v. Graham*, which established Graham’s guilt for conspiracy to commit securities fraud and ordered him to serve more than a year in prison and to pay \$824,500 in restitution. *Id.*, Dkt. 323.

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 an offering of penny stock if it finds, on the record after notice and opportunity for hearing, that (1) the person...was convicted within ten years of the commencement of the proceeding of any offense involving the “purchase or sale of any security” []; (2) the person was associated with a broker or dealer at the time of the alleged misconduct; and (3) such a sanction is in the public interest.” *Camarco*, 2023 WL 8613941, at *2. Such a bar is likewise appropriate if, rather than being criminally convicted, the respondent “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.” *Hanson*, 2023 WL 8648841, at *2 (citations omitted). 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.” *Id.*

Here, both the OIP’s allegations and the court filings cited herein show that Graham was convicted for conspiracy to commit securities fraud, 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 her conduct, and the likelihood that the respondent’s occupation will present opportunities for future violations.” *Camarco*, 2023 WL 8613941 at *3 (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 Camarco* at *2-4 (imposing industry and penny stock bars); *Hanson*, 2023 WL 864881 at *2-4 (same).

Graham's conduct was egregious and recurrent because, for more than two years, he acted as an unregistered broker and received more than \$443,000 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); *In re Michael J. Healy*, 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). Graham acted with a high degree of scienter, as evidenced by his guilty plea to conspiracy to commit securities fraud. *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). Because Graham 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*, at *3. Finally, given Graham's recent employment as an unregistered broker selling the securities of at least two issuers, "his occupation presents opportunities for future violations." *Id.* at *3; *see also Healy* at *4.

IV. CONCLUSION

Wherefore, the Division of Enforcement respectfully requests that the Commission enter a default judgment against Respondent Graham pursuant to Rules 155(a) and 220(f) of the Rules of Practice. The Division further requests that the Commission bar Graham 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.

Respectfully submitted,

Dated: April 4, 2024

By: /s/ Benjamin J. Hanauer

Benjamin J. Hanauer (hanauerb@sec.gov)
U.S. Securities and Exchange Commission
Chicago Regional Office
175 West Jackson Boulevard, Suite 1450
Chicago, IL 60604
Telephone: (312) 353-7390

Counsel for the Division of Enforcement

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 4, 2024, in the manner indicated below.

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

Mr. Hughe Duwayne Graham


Via First Class U.S. Mail

/s/ Benjamin J. Hanauer