

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-21064

In the Matter of

Rulless Pierre A/K/A Rules Pierre

Respondent.

**DIVISION OF ENFORCEMENT’S MOTION FOR ENTRY OF AN ORDER OF
DEFAULT AND IMPOSITION OF REMEDIAL SANCTIONS**

Pursuant to Commission Rules of Practice 154, 155(a) and 220(f) [17 C.F.R. §§ 201.154, 201.155(a) and 201.220(f)], the Division of Enforcement (“Division”) respectfully moves the Securities and Exchange Commission (the “Commission”) for an order finding Respondent Rulless Pierre a/k/a Rules Pierre (“Respondent” or “Pierre”) in default, and imposing remedial sanctions against him, and submits this memorandum of law, together with the April 17, 2024 Declaration of Todd D. Brody (“Brody Decl.”) and exhibits annexed thereto, in support.

I. INTRODUCTION

From approximately 2016 to 2019, Pierre engaged in two separate securities frauds and fraudulently raised at least \$1.7 million from over 118 investors, including family and friends from his own Haitian-American community, and misappropriated some of the funds. On September 12, 2022, after a jury in a criminal proceeding had convicted Pierre of two counts of securities fraud

for this conduct and a federal district court judge had sentenced him to 84 months of imprisonment, the Commission issued its Order Instituting Proceedings (“OIP”) in this matter. Earlier this year, in resolving his appeal from his criminal conviction, the United States Court of Appeals for the Second Circuit held that the district court did not err in concluding that Pierre was an investment adviser, within that term’s meaning in the Investment Advisers Act of 1940 (“Advisers Act”), when he committed securities fraud. Meanwhile, Pierre has not answered or otherwise responded to the OIP, nor has he responded to the Commission’s Order to Show Cause dated December 4, 2023. Accordingly, the Commission should deem Pierre to be in default, deem the OIP’s allegations against him to be true, and, under Advisers Act Section 203(f), permanently bar him from associating with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization to protect the investing public.

II. BACKGROUND: THIS PROCEEDING AND THE CRIMINAL PROCEEDING

A. Allegations in the OIP

On September 12, 2022, the Commission issued the OIP in this matter pursuant to Section 203(f) of the Advisers Act. *See Rules Pierre*, Investment Advisers Act Rel. No. 6122 (Sept. 12, 2022). The OIP alleges that, from approximately 2016 to 2019, Pierre ran an “investment club,” the Amongst Friends Investment Group (“Amongst Friends”), where he sold investments called “Investment Promissory Notes” with promises of unrealistically high rates of return of at least 20% every 60 days. OIP at ¶ II.A. The OIP also alleges that Pierre sold partnership interests in a Planet Wings fast food franchise, with agreements promising guaranteed returns of 5% per month plus profit sharing of 40% of the franchise’s gross operating profits. *Id.*

The OIP further alleges that on November 6, 2019, Pierre was indicted in the Southern District of New York, in a proceeding later captioned *United States v. Pierre*, 19-cr-783, (SDNY) (SHS). OIP at ¶ II.B.2; *see also* Brody Decl. Ex. A (Indictment). A Superseding Indictment charged two counts of securities fraud (in addition to two other counts): Count One in connection with the sale of the Investment Promissory Notes and Count Two in connection with the sale of the Planet Wings partnership interests. OIP at ¶ II.B.2; *see also* Brody Decl. Ex. B (Superseding Indictment). For these counts, the superseding indictment alleged, among other things, that Pierre defrauded investors and obtained money and property by means of materially false and misleading statements in connection with the fraudulent sale of the Investment Promissory Notes and partnership interests in the Planet Wings franchise. OIP at ¶ II.B.3.

The OIP also alleges that, on May 27, 2021, after a seven-day trial in the criminal proceeding, a jury found Pierre guilty on all counts. OIP at ¶ II.B.2; *see also* Brody Decl. Exs. C and D. On May 24, 2022, Pierre was sentenced to 84 months of imprisonment, followed by three years of supervised release, and ordered to pay restitution of over \$1.7 million to the victims of his securities frauds. OIP at ¶ II.B.2; *see also* Brody Decl. Ex. D.

B. Other Relevant Background About the Criminal Proceeding

The Superseding Indictment, whose two securities fraud counts Pierre was convicted of, alleged that Pierre ran two separate fraudulent schemes, as noted above. In the Amongst Friends fraud, which occurred over a three-year period from 2016 through 2019, the Superseding Indictment alleged that Pierre fraudulently obtained more than \$2 million from over 100 investors. Brody Decl. Ex. B at ¶ 4. Despite generating approximately \$1.4 million in losses, Pierre “repeatedly and falsely represented to investors including in investment statements containing fictitious balances, that the trading was profitable and that their investments were

growing as promised.” *Id.* at ¶ 6. Moreover, Pierre misappropriated investor funds, including using them to purchase a BMW and a Range Rover for a separate car service business he operated. *Id.* at ¶ 9. In the Planet Wings fraud, which occurred from November 2018 through at least June 2019, the Superseding Indictment alleged that Pierre fraudulently obtained at least \$200,000 from at least 18 investors. *Id.* at ¶¶ 13, 16. Pierre used funds from these investors to pay investors in the Amongst Friends fraud. *Id.* at ¶ 16.

At Pierre’s trial, the prosecutor explained that Pierre “stole from his own friends and family. People from the same Haitian community that he is from in Rockland County, people who didn't know much about the stock market but they thought they knew Pierre. They thought they could trust him and he used that trust against them.” Brody Decl. Ex. E; *see also* Brody Decl. Ex. F (victim statements from Pierre’s sentencing hearing).

C. Pierre Has Not Answered the OIP.

As described above, the Commission issued the OIP on September 12, 2022. On September 13, 2022, the Commission’s Office of the Secretary (“Secretary”) sent the service package to Pierre by certified U.S. Mail to United States Penitentiary Canaan (“USP Canaan”), where Pierre is currently incarcerated, at 3507 Eric J. Williams Memorial Drive, Waymart, PA 18472. *See* Decl. of Todd D. Brody, dated Oct. 5, 2023 (previously filed with the Commission). U.S. Mail records indicate the service package was received at USP Canaan on September 20, 2022, and the Secretary received the return receipt on October 4, 2022. *Id.*

The OIP directed Pierre to file an answer within twenty days after service of the OIP. OIP at ¶ IV; *see also* Commission Rules of Practice 150(d), 151(a), 160(b) & 220(b) [17 C.F.R. §§ 201.150(d), 201.151(a), 201.160(b) & 201.220(b)]. Consequently, Pierre was required to file his answer by October 10, 2022.

As reflected in the docket of this proceeding, Pierre never filed an answer to the OIP. The Division has never received any response to the OIP from Pierre or any other communication from Pierre since the OIP's issuance. Brody Decl. at ¶¶ 2-3.

D. Pierre Has Not Responded to the Order to Show Cause.

On December 4, 2023, the Commission issued the Order to Show Cause, finding that Pierre's answer "was required to be filed within 20 days of service of the OIP," and that as of the date of the Order, he had not done so. Order to Show Cause at 1. The Order required Pierre to show cause by January 18, 2024, why he should not be deemed in default, and why this proceeding should not be determined against him. *Id.* The Order noted that on default, "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 public hearing." *Id.* at 2.

E. Pierre's Criminal Appeal

On February 20, 2024, following Pierre's appeal from his criminal conviction, the Second Circuit affirmed the district court's judgment. *United States v. Pierre*, No. 22-1274, 2024 WL 676373, at *4 (2d Cir. Feb. 20, 2024). In its decision, the Second Circuit considered and rejected Pierre's arguments (among others) that (1) there was insufficient evidence for the jury to conclude that Pierre's Amongst Friends scheme involved "securities," as defined in the Securities Exchange Act of 1934 ("Exchange Act"); (2) there was insufficient evidence for the jury to conclude that Pierre had fraudulent intent for purposes of his securities fraud convictions; and (3) the district court had erred in applying a sentencing enhancement based on Pierre's role as an "investment adviser," as defined in the Advisers Act, during his fraud. *Id.* at *1-3. First, the Second Circuit concluded that there was sufficient evidence for the jury to conclude that the Investment Promissory Notes that Pierre sold to the Amongst Friends investors were securities

under the Exchange Act, as “their substance evinces an investment contract, not a loan.” *Id.* at *2. Second, the court held that there was sufficient evidence to demonstrate Pierre’s fraudulent intent and found that “[t]he evidence established that Pierre, *inter alia*, deposited investor money from the Amongst Friends scheme into his personal accounts and paid personal bills shortly thereafter; lied to investors about how many Planet Wings stores he had purchased; and asked investors to lie to the authorities about how much they had invested with him after Pierre learned he was being investigated by law enforcement agents.” *Id.* at *3. Third, the court held that Pierre’s conduct occurred while he was acting as an investment adviser. *Id.* Specifically, the court found that Pierre (1) gave investment advice; (2) was compensated for that advice; and (3) “represented himself out to investors as a compensated investment adviser.” *Id.*

III. ARGUMENT

A. The Court Should Deem Pierre To Be in Default and the OIP’s Allegations To Be True.

Rule 220(f) of the Commission’s Rules of Practice 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).” 17 C.F.R. § 201.220(f). In turn, Rule 155(a) allows the Commission to “determine the proceeding against [a respondent] upon consideration of the record, including the order instituting proceedings, the allegations of which may be deemed to be true, if that party fails...to answer...or otherwise to defend the proceeding.” 17 C.F.R. § 201.155(a); *see also Michelle Morton*, Investment Advisers Act Rel. No. 6094, 2022 WL 3587990, at *3 (Aug. 22, 2022) (“Because [respondent] has failed to answer or to respond to the show cause order or the Division’s motion, we find it appropriate to deem her in default and to deem the allegations of the OIP to be true.”); *Medpro Safety Prod., Inc.*, Exchange Act Rel. No. 87042, 2019 WL 4596705, at *2 (Sept.

20, 2019) (“We find [r]espondent in default and deem the OIP’s allegations against it to be true.”).

Because Pierre has not answered the OIP, responded to the Order to Show Cause, or otherwise defended himself in this proceeding, the Commission should deem him to be in default and deem the OIP’s allegations to be true.

B. The Commission Should Impose Permanent Collateral Bars.

The Commission may impose remedial sanctions under Advisers Act Section 203(f) if it finds that (i) a respondent was convicted of a felony involving the purchase or sale of a security, within ten years of the proceeding; (ii) he was associated with an investment adviser at the time of the alleged misconduct; and (iii) such a sanction is in the public interest. 15 U.S.C. § 80b-3(f); *see also Lawrence Allen DeShetler*, Investment Company Act Rel. No. 5411, 2019 WL 6221492, at *2 & n.9 (Nov. 21, 2019) (citing 15 U.S.C. § 80b-3(f)). Each of these requirements is satisfied here by the imposition of permanent collateral bars against Pierre.

First, as alleged in the OIP and shown above, Pierre was convicted of two felony counts of securities fraud within the last ten years.

Second, as set forth in Section II.D above, the Second Circuit has affirmed that his fraud occurred while he was acting as an investment adviser.

Third, permanent collateral bars against Pierre are in the public interest. In determining the appropriate public-interest remedies, the Commission considers the factors enumerated in *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979), *aff’d on other grounds*, 450 U.S. 91 (1981). Those factors are: (1) the egregiousness of the Respondent’s actions; (2) the isolated or recurrent nature of the infractions; (3) the degree of scienter involved; (4) the sincerity of the Respondent’s assurances against future violations; (5) the Respondent’s recognition of the wrongful nature of his conduct; and (6) the likelihood that the Respondent’s occupation will

present opportunities for future violations. *Id.*; see also *Mark Morrow*, Exchange Act Rel. No. 90472, 2020 WL 6867614, at *3 & n.12 (Nov. 20, 2020) (citing *Steadman*). The inquiry is flexible, “and no one factor is dispositive.” *Allan Michael Roth*, Exchange Act Rel. No. 90343, 2020 WL 6488283, at *4 (Nov. 4, 2020) (citations omitted). The Commission also considers the age of the violations, the degree of harm to investors resulting from the violations, and the deterrent effect of administrative sanctions. *Lonny S. Bernath*, Initial Decision Rel. No. 993, 2016 WL 1319539, at *4 (Apr. 4, 2016). Here, all of the relevant factors show that full collateral bars are appropriate and in the public interest.

With respect to the first and second factors, the conduct in this case was egregious and recurring. Pierre defrauded over 118 investors of over \$1.7 million in two separate securities frauds over a three-year period and misappropriated some of those proceeds, as demonstrated by the OIP’s allegations, the jury’s conviction on the two securities fraud counts alleged in the Superseding Indictment, the district court’s restitution order, and the Second Circuit’s decision on appeal. With respect to the third factor, Pierre had a high level of scienter. Indeed, the Second Circuit outlined the evidence supporting the jury’s finding that Pierre had fraudulent intent sufficient to sustain his criminal conviction on two counts of securities fraud. *Pierre*, 2024 WL 676373, at *3. As for the fourth and fifth factors, Pierre offers no assurances that he will not engage in future violations and has not come forward to defend himself in this administrative proceeding. . With respect to the sixth factor, Pierre’s fraud while acting as an investment adviser renders it likely that he will once again commit fraud. Finally, the three additional factors the Commission can consider are all met: the fraudulent schemes ended less than five years ago, investors lost more than \$1.7 million, and the deterrent effect of administrative sanctions should be high given Pierre’s repeated, egregious conduct.

CONCLUSION

For the foregoing reasons, the Division respectfully requests that Pierre be deemed in default, that the OIP's allegations be deemed true, and that Pierre be barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

Dated: April 17, 2023

Respectfully submitted,

s/ Todd D. Brody
Todd D. Brody, Esq.
Attorney for the Division of Enforcement
Securities and Exchange Commission
100 Pearl Street, Suite 20-100
New York, NY 10004
brodyt@sec.gov
212-336-0080

CERTIFICATE OF SERVICE

On April 17, 2024, I have caused the Motion For Entry Of An Order Of Default And Imposition Of Remedial Sanctions, and the accompanying Declaration of Todd D. Brody dated April 17, 2024, to be served on the following parties and other persons entitled to notice by delivery as listed below and addressed as follows:

VIA eFAP

Vanessa A. Countryman
Office of the Secretary
Securities and Exchange Commission
100 F. Street, N.S.
Washington, D.C. 20549

VIA CERTIFIED US MAIL

Rules Pierre/Reg. No. 87408-054



Dated: April 17, 2024
New York, New York

/s Todd D. Brody
Todd D. Brody

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-21064

In the Matter of

Rules Pierre A/K/A Rules Pierre

Respondent.

DECLARATION OF
TODD D. BRODY

I, Todd D. Brody pursuant to 28 U.S.C. § 1746, declare as follows under penalty of perjury:

1. I am employed as a Senior Trial Counsel by Plaintiff Securities and Exchange Commission (the “Commission”) in the Commission’s New York Regional Office of the Division of Enforcement (the “Division”) and am the Division’s lead counsel in this proceeding. I submit this declaration in support of the Division’s motion for entry of an order of default and imposition of remedial sanctions against Respondent Rules Pierre a/k/a Rules Pierre (“Pierre”).

2. As of the filing of this declaration, to my knowledge the Division has not received any response to either the Order Instituting Administrative Proceedings Pursuant to Section 203(f) of the Investment Advisers Act of 1940 and Notice of Hearing (“OIP”) issued on September 12, 2022, or the Commission’s December 4, 2023 Order to Show Cause.

3. The docket of this proceeding does not reflect any filing by Pierre.

4. Attached hereto as Exhibit A is a true and correct copy of an Indictment against Pierre that was filed in the United States District Court for the Southern District of New York on November 4, 2019, in the matter *United States v. Pierre*, 19 Cr. 783 (S.D.N.Y.) (the “Criminal Proceeding”).

5. Attached hereto as Exhibit B is a true and correct copy of a Superseding Indictment in the Criminal Proceeding.

6. Attached hereto as Exhibit C is a true and correct copy of the May 27, 2021 Verdict Form in the Criminal Proceeding.

7. Attached hereto as Exhibit D is a true and correct copy of the May 26, 2022 Criminal Judgment in the Criminal Proceeding.

8. Attached hereto as Exhibit E is a true and correct copy of excerpts from the transcript from Pierre’s May 17, 2021 trial in the Criminal Proceeding.

9. Attached hereto as Exhibit F is a true and correct copy of excerpts from Pierre’s May 23, 2022 sentencing hearing in the Criminal Proceeding.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 17, 2024
New York, New York

/s/ Todd D. Brody
Todd D. Brody