

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE
PROCEEDING File No.
3-21084

In the Matter of

ROBERT LEONARD BOOTH

a/k/a TREVOR NICHOLAS,

Respondent.

**DIVISION OF ENFORCEMENT’S MOTION
FOR ENTRY OF DEFAULT AND
MEMORANDUM OF LAW IN SUPPORT**

Pursuant to Rule 155(a) of the Securities and Exchange Commission’s (“SEC” or “Commission”) Rules of Practice, the Division of Enforcement (“Division”) respectfully moves for entry of default and the imposition of sanctions against Respondent Robert Leonard Booth a/k/a Trevor Nicholas (“Booth” or “Respondent”).

This proceeding follows the Booth’s criminal conviction in the United States District Court for the Southern District of New York for conspiracy to commit securities fraud, among other offenses. The sole issue in this proceeding concerns the appropriate sanction against Booth under Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”). Because Booth has not answered the Order Instituting Administrative Proceedings (“OIP”) against him and has not responded to the Commission’s November 29, 2022 Order to Show Cause why he should not be deemed to be in default, the Commission should grant this motion for entry of default and impose an associational bar against him.

I. Procedural History and Factual Background

A. Booth Operated a Boiler Room and Misappropriated Investor Money

As alleged in the OIP, from at least 2019 until 2021, Respondent operated and managed a

boiler room fraud that operated principally from Thailand. Booth acted as an associated person of an unregistered broker through his control of the boiler room, through which he and others acting at his direction solicited investors to buy securities. Booth directed that the investors' money be sent to bank accounts in the United States. The investors' funds were then misappropriated by money launderers working in concert with Booth, who sent Booth a portion of the stolen investor funds. OIP §II.B.2¹

B. The Criminal Case

On February 9, 2022, the United States Department of Justice filed a Superseding Criminal Indictment against Booth and others. **Exhibit 1**, Sealed Superseding Indictment in *United States v. Booth*, No. 21-cr-652-JSR (S.D.N.Y.) (“Superseding Indictment”). The Superseding Indictment charged that from at least June 2019 to at least August 2021, Booth and others “participated in a sophisticated international mass-marketing investment fraud scheme to defraud English-speaking investors from around the world of millions of dollars.” *Id.* ¶1.

The Superseding Indictment also charged that, from at least June 2019 to at least August 2021, Booth and others engaged in a conspiracy to commit securities fraud, a conspiracy to commit wire fraud, and a conspiracy to commit money laundering, in violation of Title 15, United States Code, Sections 78j(b) and 78ff; Title 18, United States Code, Section 1343; and Title 18, United States Code, Sections 1956(a)(1)(B)(i) and 1956(a)(2)(B)(i). *Id.* ¶¶ 9-19.

From April 18, 2022 through April 27, 2022, a criminal jury trial against Booth was conducted in the United States District Court for the Southern District of New York (the “Criminal Trial”). The jury convicted Booth of one count each of conspiracy to commit securities fraud,

¹ Finding Respondent to be in default would allow the Commission to deem the OIP's allegations to be true. *See* Commission Rules of Practice 155(a), 220(f), 17 C.F.R. §§ 201.155(a), 201.220(f).

conspiracy to commit wire fraud, and conspiracy to commit money laundering. OIP §II.B.3. On August 17, 2022, the Court sentenced Booth to a prison term of 120 months followed by three years of supervised release and ordered him to make restitution in the amount of \$2,003,883.00.

Id.

The following summarizes the testimony presented at the Criminal Trial:

CHRISTOPHER CHIOFALO, investor/victim

1. Victim Christopher Chiofalo of Australia testified that in about November 2020 he was contacted by phone by a “John Summers” who purportedly worked at “Beekman Securities” in New York.	Exhibit 2 , Criminal Trial Tr., Apr. 18, 2022 at 27:3-28:17.
2. Chiofalo testified that, after speaking with “John Summers,” he received a call from “Robert Miller” who claimed to be a senior broker at “Beekman Securities.” Miller pitched to Chiofalo that he buy Pfizer stock, and Chiofalo agreed. Chiofalo bought stock through “Miller” and “Beekman” from November 2020 until May 2021.	Exhibit 2 , Criminal Trial Tr., Apr. 18, 2022 at 35:4-36:8.
3. Chiofalo testified that “Miller” promised to protect Chiofalo against risk of loss, and provided Chiofalo a “stock loss guaranty agreement,” from which Chiofalo understood that he could not lose money on his trade.	Exhibit 2 , Criminal Trial Tr., Apr. 18, 2022 at 38:7-39:13.
4. Chiofalo testified that he believed he was purchasing real stocks through “Beekman Securities” but in fact he never received any stock in exchange for his money. He invested 18 times, contributing a total of \$520,000, using wire instructions provided to him by “Beekman.”	Exhibit 2 , Criminal Trial Tr., Apr. 18, 2022 at 41:22-42:18.
5. Chiofalo’s first six payments were to accounts located in New York.	Exhibit 2 , Criminal Trial Tr., Apr. 18, 2022 at 42:22-24.
6. Before each payment, Chiofalo spoke with “Robert Miller” about the stocks he was purchasing.	Exhibit 2 , Criminal Trial Tr., Apr. 18, 2022 at 43:10-12.
7. Chiofalo had spoken to “Miller” by phone and “Miller” had a New York number. In approximately May 2021, Chiofalo found another phone number for Beekman Securities. He called the number and spoke to Lynette at the real Beekman Securities, who informed him that her firm, Beekman Securities, Inc. was not selling securities and that he had been the victim of a scam.	Exhibit 2 , Criminal Trial Tr., Apr. 18, 2022 at 64:3-24.
8. Chiofalo was led to believe that he had purchased securities that were worth \$3 million but in fact they were worth zero. Chiofalo lost most of his net worth as a result of the fraud scheme.	Exhibit 2 , Criminal Trial Tr., Apr. 18, 2022 at 68:2-9.

ROBERT SOLOMON, investment banker at Beekman Securities Inc.

9. Robert Solomon, an investment banker at the real Beekman Securities Inc., testified that Beekman Securities Inc. has never sold stocks to individual investors. Beekman Securities Inc. is only allowed to privately place tax exempt bonds with institutions. Beekman Securities Inc. only has two employees (the two partners: himself and Lynette) and has no customer accounts, nor does it hold client funds.	Exhibit 3 , Criminal Trial Tr., Apr. 19, 2022 139:20-141:17.
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GREGORY SMITH, investor/victim

10. Victim Gregory Smith, an investor from Australia, testified that he was called on the phone by a “Robert Anderson” who purportedly worked for “Watermark Securities” in New York. Anderson pitched him to buy stock in Alipay. Smith invested about \$24,000.	Exhibit 3 , Criminal Trial Tr., Apr. 19, 2022 164:4-166:3.
11. Smith’s last contact with Watermark was in February or March of 2021, when he asked them to sell some shares in his account. He was told that he was not allowed to sell them and he never heard from Watermark again.	Exhibit 3 , Criminal Trial Tr., Apr. 19, 2022 167:5-21.
12. Smith sent about \$250,000 Australian Dollars in total to Watermark Securities.	Exhibit 3 , Criminal Trial Tr., Apr. 19, 2022 168:7-11.

PAVEL LAZARIDI, Special Agent, U.S. Dept. of Homeland Security Investigations

13. Special Agent Pavel Lazaridi of Homeland Security Investigations (“HSI”) testified he seized Booth’s cell phone and documents when Booth was arrested at JFK Airport in August 2021.	Exhibit 3 , Criminal Trial Tr., Apr. 19, 2022 210:22-215:17.
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SPECIAL AGENT STEVE TOWE, U.S. Dept. of Homeland Security Investigations

14. Special Agent Steve Towe of HSI (“Towe”) testified that he extracted information from Booth’s cell phone and two cell phones belonging to Daniel Wellcome. These included WhatsApp chats.	Exhibit 3 , Criminal Trial Tr., Apr. 19, 2022 228:10-18; 234:21-25.
15. Towe testified that photos of business cards for “Robert Miller” of “Beekman Securities” and “John Summers” of “Watermark Securities” were recovered from the phone seized from Booth.	Exhibit 3 , Criminal Trial Tr., Apr. 19, 2022 237:6-23.
16. Towe testified that WhatsApp chats discussing wires coming in from investor victim Chiofalo were recovered from Booth’s [phone].	Exhibit 3 , Criminal Trial Tr., Apr. 19, 2022 238:2-239:15.
17. Towe testified that an international wire transfer receipt showing a wire from Chiofalo in the amount of \$30,960.32 was recovered from Booth’s phone.	Exhibit 3 , Criminal Trial Tr., Apr. 19, 2022 239:18-240:4.
18. Towe testified that images of “Beekman Securities” and searches for Pfizer and Moderna stock were recovered from Booth’s phone.	Exhibit 3 , Criminal Trial Tr., Apr. 19, 2022 242:6-17.
19. Towe testified that an image showing a payment from BA Management Holders Corp. to “Trevor” was recovered from Booth’s phone and read a “Moderna Presentation” script from “John Anderson of Beekman Securities” [that was on Booth’s phone].	Exhibit 3 , Criminal Trial Tr., Apr. 19, 2022 243:9-16.

PAUL BOULANGER, investor/victim

20. Victim Paul Boulanger of Canada testified he received a call from “Robert Miller” at “Beekman Securities” who described it as a Manhattan securities company. The call was from a New York number.	Exhibit 4 , Criminal Trial Tr. Apr. 20, 2022 361:19-363:20.
21. Boulanger testified he believed “Miller” was licensed to sell stocks and that he spoke to “Miller” three to five times before eventually buying stocks from him. He also communicated with “Miller” by email.	Exhibit 4 , Criminal Trial Tr. Apr. 20, 2022 364:1-11.
22. Boulanger testified he filled out an application form for an account at “Beekman Securities” so that he could buy stocks through them.	Exhibit 4 , Criminal Trial Tr. Apr. 20, 2022 366:20-367:17.
23. Boulanger testified that “Robert Miller” pitched him to buy Moderna stock given the pandemic. Boulanger thought he was buying 200 shares of Moderna at \$87 per share.	Exhibit 4 , Criminal Trial Tr. Apr. 20, 2022 368:2-16.
24. Boulanger testified that he received a purported trade confirmation in November 2020 from “Beekman Securities” showing he had bought Moderna stock. After that, “Miller” contacted him again and pitched him to buy stock in Pfizer,	Exhibit 4 , Criminal Trial Tr. Apr. 20, 2022 369:19-371:20.

so Boulanger sent \$17,500 to buy 500 shares of Pfizer stock in December 2020.	
25. Boulanger testified that, in April 2021 he emailed “Beekman Securities” seeking to sell his stocks but they told him it was premature to do so. Instead “Miller” advised him to sell his Pfizer and Moderna stock and buy Stripe stock. The last time he spoke with “Miller” was after he bought Stripe stock in June 2021.	Exhibit 4 , Criminal Trial Tr. Apr. 20, 2022 377:23-380:9.
26. Boulanger testified that he was contacted by the Canadian RCMP and was told that “Beekman Securities” was a fraud. Boulanger called “Beekman” and asked to sell his Stripe holdings. Boulanger spoke with someone named “John Summers” who told him that “Miller” was away on extended leave.	Exhibit 4 , Criminal Trial Tr. Apr. 20, 2022 381:11-382:5.
27. Boulanger never received any money back from “Beekman Securities.”	Exhibit 4 , Criminal Trial Tr. Apr. 20, 2022 383:7-8.
28. Boulanger sent \$34,900 and never received any stock or any of his money back from “Beekman Securities.”	Exhibit 4 , Criminal Trial Tr. Apr. 20, 2022 392:16-393:1.

FRANCO CESTA, investor/victim

29. Victim Franco Cesta, a 62 year old disabled Canadian, testified that in late 2019 he was called by a “Robert Nolan” who purportedly worked at “Lyster Watson Securities.” Cesta made five payments totaling \$392,000 for stock in Moderna, Pfizer and Stripe.	Exhibit 5 , Criminal Trial Tr. Apr. 21, 2022 402:22-405:19.
30. “Nolan” told Cesta he worked at “Beekman Securities” and Cesta received emails from “Lyster Watson” and “Beekman Securities.”	Exhibit 5 , Criminal Trial Tr. Apr. 21, 2022 406:16-407:7.
31. After being solicited by “Nolan,” Cesta paid \$13,500 for Moderna stock and was able to see his securities purchases on a purported Lyster Watson website. When it stopped working, Cesta called “Nolan” and was told that “Lyster Watson” had merged with “Beekman Securities” after the death of its founder.	Exhibit 5 , Criminal Trial Tr. Apr. 21, 2022 408:9-411:1.
32. Cesta took out a line of credit on his property to buy \$110,000 of Moderna stock and told this to “Nolan.” Cesta asked to sell some of his securities but was not able to. He lost his entire investment of \$392,000.	Exhibit 5 , Criminal Trial Tr. Apr. 21, 2022 419:3-423:10.

DANIEL WELLCOME, witness/co-conspirator

33. A Booth co-conspirator, Daniel Wellcome, testified that he received money from overseas investors into the US and, after holding the funds for several days, sent the money to fake brokerages.	Exhibit 5 , Criminal Trial Tr. Apr. 21, 2022 435:14-436:1.
34. Wellcome testified that he worked with Michael D'Urso to launder money for multiple boiler rooms using companies that they created.	Exhibit 5 , Criminal Trial Tr. Apr. 21, 2022 437:2-438:21.
35. Wellcome testified that the boiler rooms sold stocks.	Exhibit 5 , Criminal Trial Tr. Apr. 21, 2022 438:22-24.
36. Wellcome worked with Booth, whom he knew as Trevor, or Mr. T, laundering money for him. Trevor had a boiler room in Thailand and another in Panama. When Trevor was in Thailand, Wellcome sent the laundered money from investors to a bank account in the name of Robert Lenard Booth.	Exhibit 5 , Criminal Trial Tr. Apr. 21, 2022 439:6-440:4.
37. Wellcome started money laundering around 2019, laundering money for illegal boiler room operations that sold fake securities to investors.	Exhibit 5 , Criminal Trial Tr. Apr. 21, 2022 443:5-25.
38. Wellcome testified that he started working with Trevor in 2019. Trevor called Wellcome, asking about the fundamentals of his money laundering business. Wellcome testified that he spoke with Booth a/k/a Trevor over 100 times. Wellcome laundered money for Trevor until the bank accounts were frozen in December 2020.	Exhibit 5 , Criminal Trial Tr. Apr. 21, 2022 464:15-468:23.
39. Trevor told Wellcome that he was moving to Thailand but stopping in New York to get a new passport. Trevor wanted to see how to open a new bank account in the name of Robert Lenard Booth.	Exhibit 5 , Criminal Trial Tr. Apr. 21, 2022 479:16-480:7.
40. Booth texted Wellcome that investor Chiofalo would be sending \$16,000 on November 20, 2020 and sending \$19,200 on December 2, 2020. Wellcome received wire transfers that confirmed this. The wire transfer receipts indicated that the money was for the purchase of securities.	Exhibit 5 , Criminal Trial Tr. Apr. 21, 2022 507:16-509.9.
41. Wellcome testified that Booth was the mastermind behind a boiler room in Thailand.	Exhibit 6 , Criminal Trial Tr. Apr. 25, 2022 551:5-7:

The following summarizes the closing statement of the prosecution in the Criminal Trial:

JANE CHONG, Assistant U.S. Attorney – Closing Statement (summary)

42. Robert Solomon, co-founder of the real Beekman Securities Inc., testified that his company does not sell stock to individual investors. From this, it follows that Booth stole his company’s name and other information to perpetuate a fraud.	Exhibit 7 , Criminal Trial Tr. Apr. 26, 2022 700:11-19.
43. Letterhead of the fake companies Beekman Securities, Lyster Watson Securities and Watermark Securities all appear similar.	Exhibit 7 , Criminal Trial Tr. Apr. 26, 2022 700:20-701:3
44. Victims received calls from individuals who claimed to work at one of these purported New York brokerages and researched online, finding a convincing but bogus website containing information stolen from the real Beekman Securities.	Exhibit 7 , Criminal Trial Tr. Apr. 26, 2022 701:4-10.
45. Victims received a follow up call from a person calling himself Robert Miller, Robert Nolan or Neil Matthews, who sent them seemingly legitimate paperwork including banking instructions, account statements and trade allocation forms. Eventually the caller manipulated the victims to wire money to companies supposedly based in New York.	Exhibit 7 , Criminal Trial Tr. Apr. 26, 2022 701:19-702:4.-
46. Documents sent by the purported Beekman to investors were forged, containing forged signatures.	Exhibit 7 , Criminal Trial Tr. Apr. 26, 2022 702:17-21.
47. In 2019, Booth changed his legal name from Trevor Nicholas to Robert Lenard Booth, as shown by his passport application and a court order granting the name change, proving that Booth and Trevor Nicholas are the same person.	Exhibit 7 , Criminal Trial Tr. Apr. 26, 2022 704:1-19.
48. Booth’s phone is full of personal information showing he is Trevor Nicholas: including his credit card in that name and his passport in the name of Robert Lenard Booth. It also has personal pictures and his voice.	Exhibit 7 , Criminal Trial Tr. Apr. 26, 2022 706:17-25.
49. Booth’s phone contains screenshots including images of the fake Beekman Securities website, an attempt to change the information on the website, fake business cards for “Robert Miller” and “John Summers” (who sold fake securities to investors Chiofalo, Boulanger and Cesta), banking instructions, and images of checks and online payments from the accounts the victims paid their money to.	Exhibit 7 , Criminal Trial Tr. Apr. 26, 2022 707:17-708:14.
50. Booth’s phone contains phone recordings indicating that Booth is Robert Miller or Robert Nolan or Neil Matthews, or at the very least that he was involved in the fraudulent scheme.	Exhibit 7 , Criminal Trial Tr. Apr. 26, 2022 715:5-8.
51. On December 1, 2020, “Beekman” instructed investor Paul Boulanger to pay \$17,500 to DT Holdings. The next day, it	Exhibit 7 , Criminal Trial Tr. Apr. 26, 2022 720:1-19.

instructed investor Chiofalo to pay \$19,200, also to DT Holdings. A WhatsApp chat from Wellcome's phone shows that Booth's assistant confirmed to Wellcome that Boulanger would be sending \$17,500. Wellcome's phone also shows Chiofalo's wire confirmation.	
52. Booth's own phone contains WhatsApp chats referring to these payments from investors Chiofalo and Boulanger. It also contains texts referring to a \$95,985 payment from investor Franco Cesta.	Exhibit 7 , Criminal Trial Tr. Apr. 26, 2022 720:22-721:16.
53. Booth's phone also contains texts regarding a \$110,000 payment from Franco Cesta.	Exhibit 7 , Criminal Trial Tr. Apr. 26, 2022 722:1-21.
54. IRS Special Agent John Rauso explained that investor money was sent to shell companies, and then sent to several bank accounts in the name of Trevor Nicholas and Robert Lenard Booth.	Exhibit 7 , Criminal Trial Tr. Apr. 26, 2022 723:5-14.
55. Agent Rauso confirmed Wellcome's testimony about how he would keep about 20% of what investors sent, and send the remaining 80% to Booth.	Exhibit 7 , Criminal Trial Tr. Apr. 26, 2022 723:24-724:8.
56. Government exhibit charts show how an April 2020 payment of \$94,485 from investor-victim Franco Cesta went to ATC Holdings' account and that about 80% of that amount was sent from that account to Booth's bank account in Thailand.	Exhibit 7 , Criminal Trial Tr. Apr. 26, 2022 723:9-12.
57. Government exhibit charts show how November 2020 payments from Boulanger and Chiofalo were made to DT Holdings' account, and that Wellcome then sent 80 percent of the total to Booth's Thailand bank account.	Exhibit 7 , Criminal Trial Tr. Apr. 26, 2022 724:12-16.
58. When he was arrested, Booth carried a notebook containing the information for his Thailand bank account.	Exhibit 7 , Criminal Trial Tr. Apr. 26, 2022 724:4-24.
59. Daniel Wellcome's phone contains WhatsApp chats where he sent Booth screenshots of payments he made from shell company accounts to Booth's Thailand bank account.	Exhibit 7 , Criminal Trial Tr. Apr. 26, 2022 724:24-725:2.

At the conclusion of the Criminal Trial, on April 27, 2022, the jury found Booth guilty on all counts. OIP §II.B.3. *See also* **Exhibit 8**, Criminal Trial Jury Verdict Form. In a Memorandum Order of August 4, 2022 denying Booth's motion for a new trial, attached hereto as **Exhibit 9**, the Court rejected Booth's argument that the evidence adduced at trial was insufficient to sustain a conviction, explaining:

The Government introduced accounting logs maintained by Mr. Wellcome that specifically identify Booth by name as the responsible person for transactions involving specific victims, Gov't Exs. 15-19, 401-

05, as well as voicemails Booth left on Wellcome's phone discussing their participation in the scheme and directing Wellcome to send money that Booth needed to pay others, Gov't Exs. 303A, 302K, 302L, 302N. Mr. Wellcome aside, moreover, Booth's cellphone contained further evidence of his role in the scheme, including screenshots of the website used to deceive investors, Gov't Ex. 102P, audio recordings of sale pitches to potential victims, Gov't Exs. 103E, 103F, 103G, 104C, 104G, 104M, 104P, 104Q, 104T, 104Z, 104BB, confirmations of wire transfers between victims and members of the conspiracy, Gov't Ex.102C, 102D, phony business cards for the putative employees of the fraudulent investment firms described to victims, Gov't Ex. 105J, a sales script used by a co-conspirator to defraud investors, and text messages that identified testifying victims by names and by the amount of money they lost, GX 1051. There was therefore ample evidence before the jury that would support both a guilty verdict and the government's contentions that Booth played a leadership role in the scheme.

Exhibit 9, at 9.

The following presents several excerpts from victim impact statements presented to the Court prior to sentencing:

<p>60. Victim Gregory Smith wrote to the court: “the financial loss, whilst bitter, takes second place to the unrest and loss of sleep we have both suffered... I wouldn’t want this to happen to anyone else.”</p>	<p>Exhibit 10, Victim impact statements, Criminal Trial Dkt. 112-1, at 2.</p>
<p>61. Another victim wrote the court: “When I learned my money was lost due to the trap I fell into, I suffered a depression... We even had a crisis in our marriage... Worst was when I had to face my two daughters and had to confess that I have ‘failed them and my grandchildren.’ [T]his wound is still open and has not yet closed...as I am still not sleeping well and am thinking how could I fail my grandchildren. Hope this information ... does help better to understand the suffering which the scheme of Robert Lenard Booth has caused us.”</p>	<p>Exhibit 10, Victim impact statements, Criminal Trial Dkt. 112-1, at 4.</p>
<p>62. Another victim wrote to the court: “Robert Booth did not just steal my life savings, he stole 30 years of my life that I have lived and the next 20 years of the life I will live.... When I think about the emotional impact of this crime, the invasion of my past and indeed the theft of my future, is and will be, something I have to confront every single day.”</p>	<p>Exhibit 10, Victim impact statements, Criminal Trial Dkt. 112-1, at 5.</p>
<p>63. “Criminals such as Nicholas threaten to undermine investor confidence in our financial system. In our opinion, as heinous as was his theft of \$8.4 million, the threat posed to our financial system by such bad actors is even worse.”</p>	<p>Exhibit 10, Victim impact statements, Criminal Trial Dkt. 112-1, at 7.</p>

On August 17, 2022, the Court entered its Judgment against Booth. Booth was sentenced to a prison term of 120 months followed by three years of supervised release and ordered to make restitution in the amount of \$2,003,883.00. **Exhibit 11**, Judgment, Criminal Trial Dkt. 119; OIP §II.B.3.

C. Jerome Austin’s Statements Against Booth

On April 20, 2022, in a related criminal case, *United States v. Austin*, No. 21-cr-652-JSR (S.D.N.Y.), Booth’s former boiler room employee Jerome Austin pled guilty to participating as a co-conspirator in Booth’s Beekman Securities scheme. In his Sentencing Memorandum statement to the Court, Austin made the following statements about his work for Booth and his association with Booth’s boiler room:

<p>64. Austin started as proofreader and drafter of material on the websites used in Booth’s scheme, and then became the “opener” in making cold calls to potential investors.”</p>	<p>Exhibit 12, Jerome Austin Sentencing Memorandum, <i>United States v. Austin</i>, No. 21-cr-652-JSR (S.D.N.Y.) Dkt. 132, at 9.</p>
<p>65. Austin proofread the fake websites and edited texts for informational pamphlets used as part of Booth’s scheme. Booth paid Austin on a task-by-task basis for his efforts.</p>	<p>Exhibit 12, Jerome Austin Sentencing Memorandum, <i>United States v. Austin</i>, No. 21-cr-652-JSR (S.D.N.Y.) Dkt. 132, at 9.</p>
<p>66. Booth convinced Austin to start making calls to solicit potential investors, and gave him a desk phone that made him appear on the recipient’s caller ID to be in New York.</p>	<p>Exhibit 12, Jerome Austin Sentencing Memorandum, <i>United States v. Austin</i>, No. 21-cr-652-JSR (S.D.N.Y.) Dkt. 132, at 10.</p>
<p>67. Booth and his colleague/wife gave Austin a list of phone numbers with leads, and scripts to make calls to them and solicit investments.</p>	<p>Exhibit 12, Jerome Austin Sentencing Memorandum, <i>United States v. Austin</i>, No. 21-cr-652-JSR (S.D.N.Y.) Dkt. 132, at 10.</p>
<p>68. Austin became the “opener” for the scheme, making initial calls to potential investors using a fake name and business title. If an investor expressed interest in the stock Austin was selling, he passed the information back to Booth so that Booth could close the deal.</p>	<p>Exhibit 12, Jerome Austin Sentencing Memorandum, <i>United States v. Austin</i>, No. 21-cr-652-JSR (S.D.N.Y.) Dkt. 132, at 10.</p>

69. Booth agreed to pay Austin a 10% commission for every victim payment he brought into the scheme.	Exhibit 12 , Jerome Austin Sentencing Memorandum, <i>United States v. Austin</i> , No. 21-cr-652-JSR (S.D.N.Y.) Dkt. 132, at 10.
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D. The Follow-on Proceeding

On September 15, 2022, the Commission initiated this follow-on proceeding against Respondent pursuant to Section 15(b) of the Exchange Act. The Office of the Secretary served Respondent with the OIP on September 26, 2022. *See* Proof of Service, previously filed. Booth never filed an answer to the OIP. *See*, Order to Show Cause, issued November 29, 2022.

II. Argument

a. The Commission Should Enter Default against Booth

Commission Rule of Practice 155(a) 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 period, or to otherwise defend the proceeding.” Here, because Booth has failed to “answer... or otherwise defend the proceeding,” the Division submits that the Commission should deem him in default, as is specifically contemplated by the Commission’s Rules of Practice. *See* Rules 155(a) and 220(f).

In that judgment, the Commission should permanently bar Booth from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, and also should permanently bar him from participating in an offering of penny stock.

b. The Commission Should Impose Remedial Sanctions

Section 15(b)(4) of the Exchange Act authorizes the imposition of associational and penny stock bars on any broker or dealer who has been convicted of a felony in the preceding 10 years that “involves the purchase or sale of any security,” “arises out of the conduct of the business of a broker [or] dealer,” or involves larceny , theft...forgery... or misappropriation of funds... or substantially equivalent activity.” 15 U.S.C. §§ 78o(4)(b)(i), (ii) and (iii), (6)(A)(iii); *Tzemach David Netzer Korem*, Exchange Act Release No. 70044, 2013 SEC LEXIS 2155, at *32 (July 26, 2013) (holding that it is “well established that [the Commission is] authorized to sanction an associated person of an unregistered broker-dealer or investment adviser in a follow-on administrative proceeding”).

i. Respondent Has Been Convicted

Respondent was convicted in the Criminal Trial of three felonies: (1) conspiracy to commit securities fraud, (2) conspiracy to commit wire fraud, and (3) conspiracy to commit money laundering. *United States v. Booth*, No. 21-cr-652-JSR (S.D.N.Y.); OIP §II.B.3. Each of these offenses, as proved through the testimony of multiple witnesses, involved the purchase or sale of a security, arose out of the conduct of a broker or dealer (Booth’s boiler room, posing as various legitimate broker dealers), and involved theft, counterfeiting and misappropriation of funds.

Further, Booth, while neither a registered broker-dealer nor an associated person of a registered broker-dealer, acted as an unregistered broker by operating a boiler room wherein he supervised a securities sales force i.e., Jerome Austin. *See, e.g., SEC v. Art Intellect, Inc.*, No. 2:11- CV-357, 2013 WL 840048, at *20, 2013 U.S. Dist. LEXIS 32132, at *62-64 (D. Utah Mar. 6, 2013) (indicating that supervising a securities sales force is a characteristic of a broker); *In re*

Carol J. Wayland et al., Lit. Rel. No. 23876 (July 7, 2017) (Wayland and Mueller violated Securities Act Section 15(a) by setting up and supervising boiler room); *In re Fred Golt*, Exchange Act Rel. No. 72827 (Aug. 12, 2014) (Golt violated Section 15(a) by participating in the solicitation of investors by hiring, training and supervising sales people, and received transaction-based compensation related to the offer and sale of securities). Operating a boiler room is one indicia that a person is engaged in a brokerage business. See *SEC v. Interlink Data Network of L.A., Inc.*, Civ. A. No. 93-3703 R, 1993 WL 603274 at *11 (C.D.Cal. Nov. 15, 1993), 1993 U.S. Dist. LEXIS 20163 (C.D.Cal. Nov. 15, 1993).

Both Booth and his employee Jerome Austin held themselves out as belonging to investment firms, solicited investors, provided investment advice and sold fake securities to investors. Booth also provided investors information on where to send their money.

ii. **An Associational Bar and Penny Stock Bar Are in the Public Interest**

In assessing whether associational and penny stock bars are in the public interest, the Commission considers several factors including:

the egregiousness of the defendant's actions, the isolated or recurrent nature of the infraction, the degree of scienter involved, the sincerity of the defendant's assurances against future violations, the defendant's recognition of the wrongful nature of his conduct, and the likelihood that the defendant's occupation will present opportunities for future violations.

Steadman v. SEC, 603 F.2d 1126, 1140 (5th Cir. 1979) (quoting *SEC v. Blatt*, 583 F.2d 1325, 1334 n.29 (5th Cir. 1978)).

Additionally, the Commission considers the age of the violation and the degree of harm to investors and the marketplace resulting from the violation. *Marshall E. Melton*, Exchange Act Release No. 48228, 2003 SEC LEXIS 1767, at *5-6 (July 25, 2003).

The Commission has often emphasized, however, that the public interest determination

extends beyond consideration of the particular investors affected by a respondent's conduct to the public at large, the welfare of investors as a class, and standards of conduct in the securities business generally. *See Christopher A. Lowry*, 55 S.E.C. 1133, 1145 (2002), *aff'd*, 340 F.3d 501 (8th Cir. 2003); *Arthur Lipper Corp.*, 46 S.E.C. 78, 100 (1975). Moreover, the public interest requires a severe sanction when a respondent's past misconduct involves fraud because opportunities for dishonesty recur constantly in the securities business. *See Richard C. Spangler, Inc.*, 46 S.E.C. 238, 252 (1976). Here, the *Steadman* factors weigh in favor of an associational industry bar.²

First, Respondent's actions were egregious. Respondent was a boiler room operator who created fictitious brokerage firms – one a counterfeit of a real securities firm – and victimized mostly retired and elderly investors by selling them fake securities. Section 1, *supra*. Booth stole millions of dollars, destroying lives of investors who put liens on their houses and invested substantial portions of their retirement savings in his scheme. *Id.*

Second, Respondent's violations were recurrent. His misconduct was not an isolated incident. The evidence presented in the Criminal Trial shows that he successfully solicited the same investors multiple times, essentially trying to bleed them dry. His scheme went on over several years and duped multiple investors. *Id.*

Third, Respondent acted with a high degree of scienter. Booth knew he was selling fake securities. He knew that the investors would be sending their money, not to purchase

² Even though Respondent's misconduct did not involve a penny stock *per se*, this kind of collateral relief is appropriate and in the public interest in this proceeding because where, as here, a party engages in misconduct that warrants a suspension or bar to protect investors in one part of the industry regulated by the Commission, it is in the public interest to protect investors in all parts of the industry the Commission regulates. Investors should not bear the risk the Commission is not able to accurately predict what business Respondent may choose to undertake during the associational bar. Therefore, because a penny stock bar is not disproportionate in these circumstances, the Commission should include it as part of its order.

securities as they believed, but to co-conspirators' bank accounts, which would skim 20% off the top and send Booth 80% of the money. He created a fake Beekman Securities website to convince investors that the fraud was a legitimate operation. Daniel Wellcome testified that Booth was the mastermind of the scheme. *Id.*

Finally, Respondent has given no assurances against future violations and has failed to recognize the wrongful nature of her conduct. Although he knew his conduct was unlawful, Respondent never accepted responsibility for her actions. That, coupled with the impact on the public at large, demonstrates that an associational bar is necessary. Such a bar “will prevent [Respondent] from putting investors at further risk.” *Montford & Co.*, Advisers Act Release No. 3829, 2014 SEC LEXIS 1529, at *86-87 (May 2, 2014), *pet. denied*, 793 F.3d 76 (D.C. Cir. 2015).

Ultimately, the securities industry “relies on the fairness and integrity of all persons associated with each of the professions covered by the collateral bar to forgo opportunities to defraud and abuse other market participants.” *John W. Lawton*, 2012 WL 6208750, at *11. Respondent’s pattern of blatant misconduct demonstrates he is incapable of such fairness and integrity. Respondent presents a significant risk to the securities market and should be sanctioned accordingly. *See Bartko v. SEC*, 845 F.3d 1217, 1220-21 (D.C. Cir. 2017) (“Under Dodd-Frank, then, the Commission is now able to bar a securities market participant from the six listed classes—broker-dealers, investment advisers, municipal securities dealers, transfers agents, municipal advisors and NRSROs—based on misconduct in only one class.”).

III. Conclusion

For the foregoing reasons, the Division of Enforcement respectfully requests the Commission grant this Motion for Entry of Default, and impose a permanent associational bar and penny stock bar against Respondent under Section 15(b) of the Exchange Act.

Dated: May 24, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on May 24, 2023, I caused a copy of the forgoing to be mailed by first class mail to Respondent Robert Lenard Booth.

/s/ Stephen T. Kaiser
Stephen T. Kaiser

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

**ADMINISTRATIVE
PROCEEDING File No.
3-21084**

In the Matter of

ROBERT LEONARD BOOTH

a/k/a TREVOR NICHOLAS,

Respondent.

**DIVISION OF ENFORCEMENT'S INDEX OF
ATTACHMENTS TO DIVISION OF
ENFORCEMENT'S MOTION FOR ENTRY OF
DEFAULT AND MEMORANDUM OF LAW IN
SUPPORT**

Attachment

Description

Exhibit 1	Sealed Superseding Indictment in <i>United States v. Booth</i> , No. 21-cr-652-JSR (S.D.N.Y.) (the "Criminal Trial")
Exhibit 2	Criminal Trial Transcript, <i>United States v. Booth</i> , Apr. 18, 2022
Exhibit 3	Criminal Trial Transcript, <i>United States v. Booth</i> , Apr. 19, 2022
Exhibit 4	Criminal Trial Transcript, <i>United States v. Booth</i> , Apr. 20, 2022
Exhibit 5	Criminal Trial Transcript, <i>United States v. Booth</i> , Apr. 21, 2022
Exhibit 6	Criminal Trial Transcript, <i>United States v. Booth</i> , Apr. 25, 2022
Exhibit 7	Criminal Trial Transcript, <i>United States v. Booth</i> , Apr. 26, 2022

- Exhibit 8 Criminal Trial Verdict Form, *United States v. Booth*
- Exhibit 9 Criminal Trial Memorandum Order, *United States v. Booth*, Aug. 4, 2022
- Exhibit 10 Criminal Trial Victim Impact Letters, *United States v. Booth*
- Exhibit 11 Criminal Trial Judgment, *United States v. Booth*
- Exhibit 12 Jerome Austin Sentencing Memorandum, *United States v. Austin*, No. 21-cr-652-JSR (S.D.N.Y.)