

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-21364**

**In the Matter of**

**MARCUS BEAM**

**Respondent.**

**DIVISION OF ENFORCEMENT'S MOTION  
FOR DEFAULT AND IMPOSITION OF  
SANCTIONS AND MEMORANDUM OF  
LAW IN SUPPORT**

Pursuant to Rules 155(a) and 220(f) of the Commission's Rules of Practice, the Division of Enforcement respectfully moves for entry of default and imposition of sanctions against Respondent Marcus Beam ("Beam") for failure to answer or otherwise defend this follow-on proceeding.

**I. Introduction**

This proceeding arises from Beam's guilty plea on March 16, 2023 to one count of wire fraud in violation of Title 18, United States Code, Section 1343, and an order accepting the plea and adjudging Beam guilty by the United States District Court for the Northern District of Illinois, in the matter styled as *US v. Beam*, Crim. No. 1:19-cr-00698. The criminal indictment charged Beam with 10 counts of mail and wire fraud stemming from his illegal solicitation and receipt of client funds from no later than March 2015 through at least October 2019 in connection with Chase Private Equity a/k/a New World Capital ("CPE"), a fund that Beam advised as to the value of securities and as to the advisability of investing in, purchasing, or selling securities. During that

same time period, Beam also advised individual clients as to the value of securities and as to the advisability of investing in, purchasing, or selling securities.<sup>1</sup>

## **II. Factual Background**

As detailed at length in the Indictment and Plea Agreement (Exhibits 2-3), beginning in or around March of 2015 and continuing through at least October 2019, Beam devised, intended to devise, and participated in a scheme to defraud investors and others and to obtain money and property from those investors by means of materially false and fraudulent pretenses, representations, and promises.<sup>2</sup>

Beam held himself out as an investment adviser and as the chief executive officer, president, manager, and owner of CPE. He solicited investors through CPE and represented that their funds would be invested in pre-IPO shares and in shares of other public companies, such as

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<sup>1</sup> Under Rule 323 of the Commission's Rules of Practice, notice may be taken in this proceeding of "any material fact which might be judicially noticed by a district court of the United States . . . ." The Commission therefore may take notice of the docket report, pleadings, court orders, and other filings in the criminal case. Accordingly, the Division respectfully requests judicial notice be taken of the following exhibits to this motion:

- Exhibit 1 – Docket Sheet in *US v. Beam*, Crim. No. 1:19-cr-00698;
- Exhibit 2 – Indictment;
- Exhibit 3 – Plea Agreement;
- Exhibit 4 – Transcript of the Plea Hearing;
- Exhibit 5 – Order Entering Judgment of Guilt;
- Exhibit 6 – Division of Enforcement's Rule 230 letter; and
- Exhibit 7 – Declaration of Patrick R. Costello

<sup>2</sup> The criminal proceeding largely mirrored a companion action the Commission filed against Beam in the Northern District of Illinois styled as *SEC v. Beam*, Case No. 19-cv-6458. The Commission's action resulted in entry of a default judgment against him for violations of Section 17(a) of the Securities Act of 1933, 15 U.S.C. § 77q(a); Section 10(b) and Rule 10b-5 of the Securities Exchange Act of 1934, 15 U.S.C. § 78j(b), 17 C.F.R. § 240.10b-5; and Sections 206(1), 206(2), 206(4) and Rule 206(4)-8 of the Investment Advisers Act of 1940, 15 U.S.C. §§ 80b-6(1), (2) (4), 17 C.F.R. § 275.206(4)-8. The district court also entered a judgment for disgorgement, prejudgment interest, and a civil penalty in an amount of approximately \$427,000.

Uber and Lyft, as well as precious metals, art, and real estate. Those representations were false, however, because Beam never invested the funds as he promised. Instead, he misappropriated a significant portion of the funds for his own personal benefit. To conceal the fraud, he produced fictitious account statements to investors, falsely showing the funds had been invested as he promised and falsely showing inflated account balances. Beam also falsely told investors that CPE had assets under management of over \$95 million and that investors would be able to withdraw their funds at any time.

Among the investors that Beam solicited were women that he had met through online dating sites, family members, and employees, many of whom lost most if not all of their retirement savings entrusting funds to Beam. In addition, Beam hired a group of telemarketers in an overseas call center to make cold calls to solicit additional investors. In doing so, he caused the telemarketers to fraudulently represent to prospective investors that they would earn profits by investing with CPE. Beam commingled investors' funds with funds belonging to CPE and then proceeded to use the funds for his own personal expenditures, including, among other things, cash, rent, retail purchases, credit card debt, and auto loans.

### **III. Procedural History**

#### **A. Beam's Guilty Plea and Judgment of Guilt**

Beam was arrested in September 2019 on the basis of a criminal complaint and released shortly thereafter on bond at his initial appearance. (Exhibit 1). On January 16, 2020, he was indicted on one count of mail fraud and nine counts of wire fraud, in violation of Title 18, United States Code, Sections 1341 and 1343. (Exhibit 2). The arraignment was scheduled for January 30, 2020, and re-scheduled for February 5, 2020. Beam failed to appear at the arraignment, however, and a bench warrant was issued for his arrest.

The U.S. Marshals Service subsequently located Beam in Bali, Indonesia, and he was detained there in July 2020. He was returned in custody to the Northern District of Illinois on January 27, 2021 and arraigned the same day. On March 16, 2023, Beam pleaded guilty to one count of wire fraud in violation of Title 18, United States Code, Section 1343. (Exhibit 3). That same day, the court entered judgment of guilt against him. (Exhibit 5).

As part of his guilty plea, Beam admitted, among other things, that during the relevant time period, he was associated with CPE; CPE purported to be a fund that he advised as to the value of securities and as to the advisability of investing in, purchasing, or selling securities; he advised individual clients as to the value of securities and as to the advisability of investing in, purchasing, or selling securities; he illegally solicited and received funds from individuals in connection with CPE and promised to invest the funds in pre-IPO shares and other securities; despite that promise, he instead misappropriated a significant portion of the funds for his own benefit; he concealed the misappropriation by fabricating periodic account statements and other documents falsely showing the funds had been invested as he represented and that investors were earning returns; and that when investors sought to redeem their investments, he failed to return the funds. (Exhibit 4).

#### **B. The Follow-on Proceeding**

As a result of the criminal conviction, the Commission initiated this follow-on proceeding against Beam on April 11, 2023, pursuant to Section 203(f) of the Investment Advisers Act of 1940, 15 U.S.C. § 80b-3(f). The Office of the Secretary served Beam with the Order Instituting Proceedings (“OIP”) on April 26, 2023, by certified mail in accordance with Rule 141 of the Commission’s Rules of Practice. (Exhibit 7).<sup>3</sup>

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<sup>3</sup> The Office of the Secretary also served a separate copy of the OIP to Beam’s criminal counsel on or about April 12, 2023. (Exhibit 7). As described in the Proof of Service filed in this proceeding on April 28, 2023, Beam’s counsel contacted the Division by email on April 25, 2023

In accordance with Section IV of the OIP and Rule 220(b) of the Commission's Rules of Practice, Beam was required to file an answer within 20 days of service. That period ran on May 16, 2023. (*Id.*) Because service of the OIP was made by mail, the period was extended by three days to May 19, 2023, pursuant to Rule 160(b) of the Commission's Rules of Practice. (*Id.*) To date, however, Beam has failed to file an answer or otherwise defend this follow-on proceeding.

Counsel for the Division provided a letter to Beam pursuant to Rule 230 of the Commission's Rules of Practice offering him access to the investigative file. (*Id.*)

#### **IV. Standard for Default Judgment**

Rule 155(a) of the Commission's Rules of Practices provides in pertinent part: "A party to a proceeding may be deemed to be in default and the Commission or the hearing officer may determine the proceeding against that 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 otherwise to defend the proceeding." *See also* Rule 220(f) of the Commission's Rules of Practice.

Accordingly, because Beam has failed to file an answer or otherwise defend this follow-on proceeding, the Commission may proceed to determine the sanction against him.

#### **V. The Commission Should Enter an Associational Bar**

The Commission should bar Beam from association with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

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to inform the Division that counsel is not representing Beam in this proceeding. (*Id.*) To date, no other counsel have contacted the Division on Beam's behalf and no counsel have entered an appearance. (*Id.*)

Section 203(f) of the Advisers Act authorizes the Commission to impose such an associational bar on any person associated, seeking to become associated, or, at the time of the alleged misconduct, associated or seeking to become associated, with an investment adviser, if such a bar is in the public interest and if the person, among others things, has been convicted of violating any offense specified in Section 203(e) of the Advisers Act within ten years of the commencement of proceedings before the Commission. *See* 15 U.S.C. § 80b-3(f); *see also 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”). Both of these elements are met here.

**A. Beam has been Convicted of the Requisite Violation**

As noted above, Beam pleaded guilty on March 16, 2023 to one count of wire fraud in violation of Title 18, United States Code, Section 1343. (Exhibit 3). That same day, the court entered judgment of guilt against him. (Exhibit 5). A conviction for that offense is one of the offenses set forth in Section 203(e) of the Advisers Act that triggers the associational bar described in Section 203(f) of the Advisers Act. *See* 15 U.S.C. §§ 80b-3(e)(2)(D), 80b-3(f).<sup>4</sup> The Advisers Act defines “conviction” as a verdict, judgment, or plea of guilty, or a finding of guilt on a plea of nolo

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<sup>4</sup> Section 203(f) also authorizes an associational bar if the conviction results from a crime (i) involving the purchase or sale of a security, the making of a false report, or misappropriation of funds; (ii) arising out of the conduct of the business of an investment adviser; or (iii) punishable in general by imprisonment for one or more years. *See* 15 U.S.C. §§ 80b-3(e)(2)-(3), 80b-3(f). Under any of these iterations, or the violation of Title 18, United States Code, Section 1343 delineated above, the criminal conduct at issue in this proceeding for which Beam was convicted would amount to qualifying conduct sufficient to justify imposition of the associational bar.

contendere, if such verdict, judgment, plea, or finding has not been reversed, set aside, or withdrawn, whether or not sentence has been imposed. *See* 15 U.S.C. § 80b-2(a)(6).<sup>5</sup>

**B. An Associational Bar is in the Public Interest**

In assessing the public interest, the Commission considers such factors as: (i) the egregiousness of the respondent's actions; (ii) the isolated or recurrent nature of the infraction; (iii) the degree of scienter involved; (iv) the sincerity of the respondent's assurances against future violations; (v) the respondent's recognition of the wrongful nature of his or her conduct; and (vi) the likelihood the respondent'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).

But the Commission often has emphasized the public interest determination extends beyond consideration of the particular investors affected by the 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 strong sanction when the respondent's past misconduct involves fraud because opportunities for dishonesty frequently recur in the securities business. *See Richard C. Spangler, Inc.*, 46 S.E.C. 238, 252 (1976). Here, the factors weigh heavily in favor of an associational bar against Beam.

First, as discussed above, Beam's clients have lost most, if not all, of their retirement savings by entrusting the funds to him. The severity of this loss cannot be overstated. Second, Beam acted

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<sup>5</sup> Beam's sentencing in the criminal proceeding was reset for August 17, 2023. (Exhibit 1).

with a high degree of scienter, falsely aggrandizing himself as an experienced adviser with non-existent funds under management, and then even going so far as to fabricate account statements to conceal the fact he had used his clients' hard-earned retirement savings for his own personal enjoyment. Third, Beam's misconduct was not isolated – indeed, it lasted for years and encompassed repeated instances of fraud on numerous clients. Fourth, given that Beam's purported advisory business spanned multiple funds, involved a call center overseas, and was financially beneficial to him, he is likely to exploit similar opportunities to commit fraud in the future unless barred from the industry. And lastly, given that Beam has defaulted and in effect ignored the gravity of this proceeding, the Commission does not have any assurances he will not violate the federal securities laws again or that he has recognized the culpability of his actions. These factors, coupled with the recency of the offense and the impact on the public-at-large, should lead the Commission to conclude that an associational bar is necessary. Such a bar “will prevent [Beam] from putting investors at further risk and serve as a deterrent to others from engaging in similar misconduct.” *Montford & Co.*, Advisers Act Release No. 3829, 2014 SEC LEXIS 1529, at \*51 (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*, Investment Adviser Act Rel. No. 3513, 2012 WL 6208750, at \*11 (Dec. 13, 2012). Beam's pattern of blatant misconduct demonstrates that he is incapable of such fairness and integrity. He 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.”).

**V. Conclusion**

For the foregoing reasons, the Division of Enforcement respectfully requests the Commission grant this Motion for Default, and impose an associational bar against Beam under Section 203(f) of the Advisers Act.

Date: May 22, 2023

Respectfully submitted,

By: /s/ Patrick R. Costello  
Patrick R. Costello  
DIVISION OF ENFORCEMENT

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Counsel for Division of Enforcement

**CERTIFICATE OF SERVICE**

I certify that on May 22, 2023, I caused to be served the foregoing DIVISION OF ENFORCEMENT'S MOTION FOR DEFAULT AND IMPOSITION OF SANCTIONS AND MEMORANDUM OF LAW IN SUPPORT on the following persons in the manner indicated:

**By US Mail:**

Mr. Marcus Beam (Inmate Register No. [REDACTED])  
MCC Chicago  
Metropolitan Correctional Center  
71 West Van Buren St.  
Chicago, IL 60605

/s/ Patrick R. Costello  
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Patrick R. Costello