SECURITIES AND EXCHANGE COMMISSION
Washington, D.C.

SECURITIES EXCHANGE ACT OF 1934
Release No. 96407 / November 30, 2022

INVESTMENT ADVISERS ACT OF 1940
Release No. 6193 / November 30, 2022

Admin. Proc. File No. 3-18960

In the Matter of

JOHN SHERMAN JUMPER

OPINION OF THE COMMISSION

BROKER-DEALER PROCEEDING

INVESTMENT ADVISER PROCEEDING

Grounds for Remedial Action

Injunction

Respondent was permanently enjoined from violations of the antifraud provisions of the federal securities laws. *Held*, it is in the public interest to bar respondent from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, and from participating in an offering of penny stock.

APPEARANCES:

M. Graham Loomis, Esq. and *W. Shawn Murnahan, Esq.* for the Division of Enforcement.

On December 26, 2018, we instituted an administrative proceeding against John Sherman Jumper pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Section 203(f) of the Investment Advisers Act of 1940.[1] We now find Jumper to be in default, deem the allegations of the OIP to be true, and bar him from associating in the securities industry in any capacity and from participating in any penny stock offering.

I. Background

The order instituting proceedings ("OIP") alleged that, from September 2007 through February 2017, Jumper was associated with Alluvion Securities, Inc., and Alluvion Investments, LLC.[2] The OIP also alleged that, in 2018, the Commission brought a civil action against Jumper alleging that, "between March 2015 and February 2016, Jumper misappropriated approximately $5,700,000 from an employee pension plan by forging documents that purported to give him authority over the plan's funds and their placement," and "used the funds for personal expenses and investments, as well as providing capital to other businesses he owned or co-owned."[3] The OIP alleged further that, in the civil action, a federal district court permanently enjoined Jumper on November 1, 2018, from violating Section 17(a) of the Securities Act of 1933, Exchange Act Section 10(b), and Exchange Act Rule 10b-5.[4]

The OIP initiated proceedings to determine whether the allegations contained therein were true and if any remedial action was appropriate in the public interest. It directed Jumper to file an answer to the allegations within 20 days after service, as provided by Rule of Practice 220(b).[5] The OIP informed Jumper that if he failed to answer, he could be deemed in default, the

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1 *John Sherman Jumper*, Exchange Act Release No. 84969, 2018 WL 6804047 (Dec. 26, 2018).

2 We take official notice of Alluvion Securities's BrokerCheck report, which shows that it was a broker-dealer. https://files.brokercheck.finra.org/firm/firm_143623.pdf; *Michael Albert DiPietro*, Exchange Act Release No. 77398, 2016 WL 1071562, at *1 n.1 (Mar. 17, 2016) (taking official notice of BrokerCheck records pursuant to Rule of Practice 323, 17 C.F.R. § 201.323). We also take official notice of Alluvion Investments's Form ADV, which shows that it was an investment adviser. https://reports.adviserinfo.sec.gov/reports/ADV/159468/PDF/159468.pdf; 17 C.F.R. § 201.323 (official notice may be taken of any matter in the Commission's public official records).

3 *Jumper*, 2018 WL 6804047, at *1.

4 *See* 15 U.S.C. § 77q(a); 15 U.S.C. § 78j(b), 17 C.F.R. § 240.10b-5.

5 17 C.F.R. § 201.220(b).

allegations in the OIP could be deemed to be true as provided in the Rules of Practice, and the proceeding could be determined against him upon consideration of the OIP.[6]

Jumper was properly served with the OIP on February 14, 2019, pursuant to Rule of Practice 141(a)(2)(i),[7] but did not respond. On June 14, 2019, more than 20 days after service, the Commission ordered Jumper to show cause by June 28, 2019, why it should not find him in default due to his failure to file an answer or otherwise defend this proceeding.[8] The show cause order cautioned Jumper that, if the Commission found him in default, the allegations in the OIP would be deemed to be true and the Commission could determine the proceeding against him upon consideration of the record. The order directed the Division of Enforcement to file a motion for entry of an order of default and the imposition of remedial sanctions by July 26, 2019, in the event that Jumper failed to respond to the show cause order.

After Jumper failed to answer the OIP or respond to the show cause order, the Division filed a motion requesting that the Commission find Jumper in default and bar him from associating in the securities industry and from participating in an offering of penny stock. The Division supported the motion by submitting the following evidence from its investigation: (i) a transcript of the sworn testimony of Brett C. Blair, the owner and managing member of Snow Shoe Refractories LLC ("Snow Shoe"), which had an employee pension plan called the Snow Shoe Refractories LLC Pension Plan for Hourly Employees ("Pension Plan"); (ii) forged documents on Snow Shoe letterhead authorizing the transfer of $5,700,000 from the Pension Plan's brokerage account; and (iii) brokerage statements showing the transfer of $5,700,000 from the Pension Plan's account. The Division also cited the complaint and default judgment from the underlying civil action against Jumper.[9] Jumper did not respond to the Division's motion.

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6 *See* Rules of Practice 155(a), 220(f), 17 C.F.R. §§ 201.155(a), .220(f).

7 *See* 17 C.F.R. § 201.141(a)(2)(i) (providing that service of an OIP on an individual may be made by "handing a copy of the order to the individual").

8 *John Sherman Jumper*, Exchange Act Release No. 86116, 2019 WL 2490380 (June 14, 2019).

9 Complaint, *SEC v. Jumper*, No. 2:18-cv-02259 (W.D. Tenn.), ECF No. 1, https://www.sec.gov/litigation/complaints/2018/comp24116.pdf; Final Judgment, *SEC v. Jumper*, No. 2:18-cv-02259 (W.D. Tenn.), ECF No. 19, https://www.sec.gov/files/Judg18-cv-02259Jumper.pdf. We take official notice of this information pursuant to Rule of Practice 323, 17 C.F.R. § 201.323. Because the judgment in the civil action was by default, the facts alleged in the complaint have no preclusive effect in this proceeding. *Gary L. McDuff*, Exchange Act Release No. 74803, 2015 WL 1873119, at *2 (Apr. 23, 2015) (finding that because "'none of the issues is actually litigated'" in the case of a judgment entered by default, issue preclusion "'does not apply with respect to any issue in a subsequent action'" (quoting *Arizona v. California*, 530 U.S. 392, 414 (2000))).

II. Analysis

A. We hold Jumper in default and deem the OIP's allegations to be true.

Rule of Practice 155(a) provides that if a party fails to "answer, to respond to a dispositive motion within the time provided, or otherwise to defend the proceeding," we may deem the party in default and "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."[10] Because Jumper has failed to answer or respond to the show cause order or to the Division's motion, we find it appropriate to deem him in default and to deem the allegations of the OIP to be true. We base the findings that follow on the record, including the OIP and the evidentiary materials that the Division submitted with its motion for default and sanctions.

B. We find associational and penny stock bars to be in the public interest.

Exchange Act Section 15(b) authorizes the Commission to suspend or bar a person from associating in the securities industry and from participating in the offering of penny stock if it finds, on the record after notice and opportunity for hearing, that (1) the person was enjoined from any conduct or practice in connection with the purchase or sale of a security; (2) the person was associated with a broker or dealer at the time of the alleged misconduct; and (3) such a sanction is in the public interest.[11] Similarly, Advisers Act Section 203(f) authorizes the Commission to suspend or bar a person from associating in the securities industry if it finds, on the record after notice and opportunity for hearing, that (1) the person was enjoined from any conduct or practice in connection with the purchase or sale of a security; (2) the person was associated with an investment adviser at the time of the alleged misconduct; and (3) such a sanction is in the public interest.[12] The record establishes the first two of these elements. Jumper was enjoined from conduct in connection with the purchase or sale of securities.[13]

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[10] 17 C.F.R. § 201.155(a); *see also* Rule of Practice 220(f), 17 C.F.R. § 201.220(f) (providing that "[i]f a respondent fails to file an answer required by this section within the time provided, such respondent may be deemed in default pursuant to" Rule of Practice 155(a)).

[11] 15 U.S.C. § 78*o*(b)(6) (cross-referencing Exchange Act Section 15(b)(4), 15 U.S.C. § 78*o*(b)(4)); *see also* Exchange Act Section 15(b)(4), *id.* § 78*o*(b)(4)(C) (discussing injunctions from any conduct or practice in connection with the purchase or sale of a security).

[12] *Id.* § 80b-3(f) (cross-referencing Advisers Act Section 203(e), 15 U.S.C. § 80b-3(e)); *see also* Advisers Act Section 203(e)(4), *id.* § 80b-3(e)(4) (discussing injunctions from any conduct or practice in connection with the purchase or sale of a security).

[13] *See* Exchange Act Section 10(b), 15 U.S.C. § 78j(b) (applying to conduct "in connection with the purchase or sale of any security"); Exchange Act Rule 10b-5, 17 C.F.R. § 240.10b-5 (same).

Jumper was also a person associated with a broker-dealer and with an investment adviser at the time of his misconduct from 2015 to 2016. The allegations of the OIP deemed true establish that, at that time, Jumper was associated with Alluvion Securities, Inc., a registered broker-dealer, and Alluvion Investments, LLC, a registered investment adviser.

Thus, we need determine only if any remedial action is in the public interest. In doing so, we consider the egregiousness of the respondent's actions, the isolated or recurrent nature of the infraction, the degree of scienter involved, the sincerity of the respondent's assurances against future violations, the respondent's recognition of the wrongful nature of his conduct, and the likelihood that the respondent's occupation will present opportunities for future violations.[14] Our public interest inquiry is flexible, and no one factor is dispositive.[15] The remedy is intended to "protect[] the trading public from further harm," not to punish the respondent.[16]

We have weighed all of these factors, and find associational and penny stock bars are warranted to protect the investing public. Jumper, who had been engaged to find a buyer for Snow Shoe, misappropriated $5,700,000 from its Pension Plan by providing its broker-dealer with documents that he forged using Snow Shoe letterhead and fake signatures for Blair and another director. The documents misrepresented that Snow Shoe had authorized the transfer of the funds and that Jumper was a Vice President of Snow Shoe and a trustee of the Pension Plan.

Jumper misappropriated the funds on three occasions: $3,000,000 based on forged documents dated March 12, 2015; $2,000,000 based on forged documents dated November 20, 2015; and $700,000 based on forged documents dated February 18, 2016. Jumper then used these funds for his personal expenses and investments. We conclude that Jumper's misconduct was egregious, recurrent, and involved a high degree of scienter.[17]

Because Jumper failed to answer the OIP or respond to the show cause order or the Division's motion, he has made no assurances that he will not commit future violations or that he

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[14] *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979), *aff'd on other grounds*, 450 U.S. 91 (1981).

[15] *Tzemach David Netzer Korem*, Exchange Act Release No. 70044, 2013 WL 3864511, at *4 (July 26, 2013).

[16] *McCarthy v. SEC*, 406 F.3d 179, 188 (2d Cir. 2005).

[17] *See Aaron v. SEC*, 446 U.S. 680, 701 (1980) (stating that the "degree of intentional wrongdoing evident in a defendant's past conduct" is an "important factor" indicating a risk of future harm); *SEC v. Steadman*, 967 F.2d 636, 641-42 (D.C. Cir. 1992) (stating that scienter is "an intent to deceive, manipulate, or defraud"); *Brendan E. Murray*, Advisers Act Release No. 2809, 2008 WL 4964110, at *5-6 (Nov. 21, 2008) (finding that respondent "acted knowingly, and thus with scienter," where he admitted to preparing faked invoices on faked letterhead).

recognizes the wrongful nature of his conduct. Jumper also has worked for more than nineteen years in the securities industry associated with broker-dealers and an investment adviser.[18] Jumper's occupation therefore presents opportunities for future violations.

The Commission may impose bars to protect the investing public from a respondent's future actions by restricting access to areas of the securities industry where a demonstrated propensity to engage in violative conduct may cause further investor harm. Here, the record establishes that Jumper is unfit to participate in the securities industry and that his participation in it in any capacity would pose a risk to investors.[19] Given that Jumper has defaulted in this proceeding, he has not opposed the imposition of any particular associational bar or a bar from participating in an offering of penny stock. We conclude that it is in the public interest to bar him from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, and from participation in an offering of penny stock.[20]

An appropriate order will issue.

By the Commission (Chair GENSLER and Commissioners CRENSHAW, UYEDA, and LIZÁRRAGA; Commissioner PEIRCE concurring in part and dissenting with respect to the imposition of a bar from participating in an offering of penny stock).

Vanessa A. Countryman
Secretary

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[18] *See* BrokerCheck, https://files.brokercheck.finra.org/individual/individual_2809649.pdf. We take official notice of this information pursuant to Rule of Practice 323, 17 C.F.R. § 201.323.

[19] *George Charles Cody Price*, Advisers Act Release No. 4631, 2017 WL 405511, at *5 (Jan. 30, 2017) (finding that the misconduct underlying the respondent's injunction demonstrated that respondent was unfit to participate in the securities industry and posed a risk to investors).

[20] *Id.* (imposing associational bars where they were necessary to protect the public).

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
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Admin. Proc. File No. 3-18960

In the Matter of

JOHN SHERMAN JUMPER

ORDER IMPOSING REMEDIAL SANCTIONS

On the basis of the Commission's opinion issued this day, it is

ORDERED that John Sherman Jumper is barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; and it is further

ORDERED that John Sherman Jumper is barred from participating in any offering of a penny stock, including acting as a promoter, finder, consultant, agent, or other person who engages in activities with a broker, dealer, or issuer for purposes of the issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock.

By the Commission.

Vanessa A. Countryman
Secretary