SECURITIES AND EXCHANGE COMMISSION
Washington, D.C.

SECURITIES EXCHANGE ACT OF 1934
Release No. 98990 / November 20, 2023

Admin. Proc. File No. 3-20147

In the Matter of

JOSHUA STEPHENS-ANSELM

OPINION OF THE COMMISSION

BROKER-DEALER PROCEEDING

Grounds for Remedial Action

Conviction

Respondent was convicted of grand larceny. *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:

Todd D. Brody and *Sheldon Mui* for the Division of Enforcement.

On November 9, 2020, the Securities and Exchange Commission instituted an administrative proceeding against Joshua Stephens-Anselm, pursuant to Section 15(b) of the Securities Exchange Act of 1934.[1] We now find Stephens-Anselm to be in default, deem the allegations against him to be true, and bar him from associating in the securities industry in any capacity and from participating in an offering of penny stock.

I. Background

A. The Commission instituted the proceeding against Stephens-Anselm.

The order instituting proceedings ("OIP") alleged that, between October 2014 and January 2018, Stephens-Anselm was a registered representative associated with a broker-dealer registered with the Commission. According to the OIP, on October 31, 2018, Stephens-Anselm pleaded guilty to one count of grand larceny in the second degree in violation of New York law.[2] The OIP further alleged that the criminal information had alleged that Stephens-Anselm "stole property having an aggregate value exceeding fifty thousand dollars" between June 2016 and July 2017.[3] The OIP alleged that Stephens-Anselm was sentenced to six months in prison and ordered to make restitution of $662,465.

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 Stephens-Anselm to file an answer to the allegations within 20 days after service, as provided by Rule of Practice 220(b).[4] The OIP informed Stephens-Anselm that if he failed to answer, he could be deemed in default, the 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.[5]

B. Stephens-Anselm failed to answer the OIP, respond to an order to show cause why he should not be found in default, or respond to a motion for a default and sanctions.

Stephens-Anselm was properly served with the OIP on November 12, 2020, pursuant to Rule of Practice 141(a)(2)(i),[6] but did not answer it. On March 5, 2021, the Division of Enforcement filed a motion for entry of default and for leave to submit a motion for summary disposition on the issue of remedial sanctions.

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1 *Joshua Stephens-Anselm*, Exchange Act Release No. 90374, 2020 WL 6581203 (Nov. 9, 2020).

2 N.Y.P.L. § 155.40(1).

3 *Stephens-Anselm*, 2020 WL 6581203 at *1.

4 17 C.F.R. § 201.220(b).

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

6 17 C.F.R. § 201.141(a)(2)(i) (providing that service of an OIP on an individual may be made by "sending a copy . . . addressed to the individual by U.S. Postal Service certified, registered or Express Mail and obtaining a confirmation of receipt").

On August 8, 2023, the Commission ordered Stephens-Anselm to show cause by August 22, 2023, why it should not find him in default due to his failure to file an answer, respond to the Division's motion, or otherwise defend this proceeding.[7] The show cause order warned Stephens-Anselm that if he was found 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 to file a motion for entry of an order of default and the imposition of remedial sanctions by September 19, 2023, in the event that Stephens-Anselm failed to respond to the show cause order.

After Stephens-Anselm failed to respond to the show cause order, the Division filed a motion requesting that the Commission find Stephens-Anselm in default and bar him from associating in the securities industry and from participating in the offering of penny stock. Stephens-Anselm did not respond.

The Division supported the motion with filings from the underlying criminal proceeding and a related civil proceeding in which Stephens-Anselm agreed to repay JPMorgan Chase Bank, N.A., which in turn had made whole the underlying victims. Those filings included a law enforcement officer's sworn affidavit,[8] the criminal information against Stephens-Anselm, the plea transcript, an affidavit of confession of judgment executed by Stephens-Anselm in the civil proceeding, the judgment in the civil proceeding, and the certificate of disposition from the criminal proceeding.

II. Analysis

A. We hold Stephens-Anselm 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."[9] Because Stephens-Anselm has failed to answer or respond to the order to show cause or the Division's motion, we find it appropriate to hold him in default and to deem the OIP's allegations 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 default motion.

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[7] *Joshua Stephens-Anselm*, Exchange Act Release No. 98083, 2023 WL 5089766 (Aug. 8, 2023).

[8] Although the Rules of Practice permit the admission of hearsay evidence under certain circumstances, *see* Rule of Practice 320(b), 17 C.F.R. § 201.320(b), we need not and do not consider further this affidavit, which contains factual allegations that Stephens-Anselm has not admitted and that a court has not found to be true.

[9] 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 [rule] within the time provided, such respondent may be deemed in default pursuant to" Rule 155(a)).

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

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 an offense involving the larceny of funds; (2) the person was associated with a broker or dealer at the time of the misconduct; and (3) such a sanction is in the public interest.[10]

The record establishes the first two of these elements. Upon pleading guilty, Stephens-Anselm was convicted of grand larceny in the second degree under New York Penal Law 155.40(1), which prohibits stealing property with a "value . . . exceed[ing] fifty thousand dollars."[11] He was convicted within ten years of commencement of this proceeding.[12] Through his plea, Stephens-Anselm admitted that he stole money from the Estate of Edith and Marjorie Thompson between June 2016 and July 2017.[13] And the allegations of the OIP, deemed true, establish that between October 2014 and January 2018—a timeframe that includes when he committed larceny—Stephens-Anselm was a registered representative associated with a registered broker-dealer.[14]

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

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10 15 U.S.C. § 78*o*(b)(6)(A) (cross-referencing Exchange Act Section 15(b)(4), 15 U.S.C. § 78*o*(b)(4)); *id.* § 78*o*(b)(4)(B)(iii) (discussing convictions that "involve . . . larceny").

11 N.Y.P.L. § 155.40(1).

12 *See* Advisers Act Section 202(a)(6), 15 U.S.C. § 80b-2(a)(6) (defining "convicted" to include a "plea of guilty"); *Gregory Bartko*, Exchange Act Release No. 71666, 2014 WL 896758, at *8 (Mar. 7, 2014) (concluding that "there is no reason for ascribing a different meaning to the word 'convicted' in the Exchange Act to the meaning given to that term in the Advisers Act") (internal quotations and citation omitted), *petition granted in part on other grounds*, 845 F.3d 1217 (D.C. Cir. 2017); *Alexander Smith*, Exchange Act Release No. 3785, 1946 WL 24891, at *6 (Feb. 5, 1946) (stating that when a court has accepted a guilty plea, "there is the 'conviction' contemplated by [Exchange Act Section 15(b)] as the starting point for an inquiry into the fitness of the person involved to engage in the securities business"); *cf.* N.Y. Crim. Proc. § 1.20(13) (defining "conviction" as "the entry of a plea of guilty to, or a verdict of guilty upon, an accusatory instrument").

13 Stephens-Anselm's affidavit of confession by judgment in the related civil proceeding recites a slightly different range of dates during which he committed larceny—"[f]rom approximately June 1, 2014 to July 31, 2017"—but in either case, Stephens-Anselm was associated with a broker-dealer at the time of the misconduct.

14 *See* 15 U.S.C. § 78c(a)(18) (defining "person associated with a broker or dealer" to include "any person directly or indirectly . . . controlled by[] . . . [a] broker or dealer, or any employee of such broker or dealer").

future violations, the respondent's recognition of the wrongful nature of the conduct, and the likelihood that the respondent's occupation will present opportunities for future violations.[15] Our public interest inquiry is flexible, and no one factor is dispositive.[16] The remedy is intended to protect the trading public from further harm, not to punish the respondent.[17]

We have weighed all these factors and find associational and penny bars are warranted to protect the investing public. Stephens-Anselm's misconduct was egregious, recurrent, and involved a high degree of scienter.[18] Larceny under New York law requires a specific intent to permanently deprive another person of property or to appropriate property to oneself or a third person.[19] Stephens-Anselm admitted that he, "without permission or authority[,] did steal $662,465.91 from the Estates of Edith and Marjorie Thompson."[20] Stephens-Anselm's theft occurred over the course of more than a year, while he was a registered representative of a broker-dealer. And although the affidavit of confession by judgment that Stephens-Anselm executed in favor of JPMorgan Chase in the related civil proceeding averred that *JPMorgan Chase* repaid the stolen money to the estates, Stephens-Anselm has provided no evidence regarding whether *he* has repaid the debt that he owes to JPMorgan Chase for reimbursing the estates.

Because Stephens-Anselm failed to answer the OIP or respond to the show cause order or to the Division's motion, he has made no assurances that he will not commit future violations or that he recognizes the wrongful nature of his conduct. Although his guilty plea indicates that Stephens-Anselm might have some appreciation for the wrongfulness of his conduct, it does not outweigh the evidence that he poses a risk to the investing public.[21] Stephens-Anselm also

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

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

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

18 *See Aaron v. SEC*, 446 U.S. 680, 701 (1980) (the "degree of intentional wrongdoing evident in a defendant's past conduct" is an "important factor" indicating a risk of future harm).

19 *See* N.Y.P.L. § 155.05(1) (defining "larceny" as "when, with intent to deprive another of property or to appropriate the same to himself or to a third person, he wrongfully takes obtains or withholds such property from an owner thereof"); *People v. Medina*, 960 N.E.2d 377, 382 (N.Y. 2011) (explaining that "larcenous intent" means the "purpose . . . to exert permanent or virtually permanent control over the property taken, or to cause permanent or virtually permanent loss to the owner").

20 *See, e.g.*, *Conrad A. Coggeshall*, Exchange Act Release No. 97474, 2023 WL 3433398, at *3 (May 10, 2023) (characterizing as "egregious" misconduct that involved using $700,000 raised from elderly investors to pay for personal expenses).

21 *See Lawrence Allen DeShetler*, Advisers Act Release No. 5411, 2019 WL 6221492, at *3 (Nov. 21, 2019) ("Although his guilty plea indicates that DeShetler might have some appreciation for the wrongfulness of his conduct, it does not outweigh the evidence that DeShetler poses a risk to the investing public."); *Korem*, 2013 WL 3864511, at *6 (finding that,

worked for more than three years in the securities industry, and he has provided no evidence of his current occupation or assurances about his future plans.[22] Because Stephens-Anselm received a six-month sentence, it appears that he has been released and that he has the opportunity to re-enter the securities industry and commit further violations.[23]

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 Stephens-Anselm is unfit to participate in the securities industry and that his participation in it in any capacity would pose a risk to investors.[24] Stephens-Anselm admittedly stole more than $660,000 from two individuals' estates while associated with a broker-dealer. And given that Stephens-Anselm has defaulted in this proceeding, he has not opposed the imposition of an associational bar or a bar from participating in an offering of penny stock. Because Stephens-Anselm poses a continuing threat to investors, we conclude that it is in the public interest to bar him from association with any investment adviser, broker, dealer, municipal

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although respondent acknowledged his wrongdoing by pleading guilty in the underlying criminal case, "the degree of scienter involved in the misconduct at issue . . . cause[s] us concern").

[22] *See George Charles Cody Price*, Advisers Act Release No. 4631, 2017 WL 405511, at *3 (Jan. 30, 2017) (expressing concern that respondent's occupation would present opportunities for future violations where he did not indicate that he planned to leave the securities industry); *cf. Ralph Calabro*, Exchange Act Release No. 75076, 2015 WL 3439152, at *41 (May 29, 2015) (explaining that respondent offered "no assurance against future violations other than to assert that he has left the industry voluntarily, which provides no guarantee that he will not seek to return at some point in the future," and concluding that "[a]bsent a bar, nothing would prevent [respondent] from reentering the industry").

[23] *See, e.g.*, *Martin A. Armstrong*, Advisers Act Release No. 2926, 2009 WL 2972498, at *4 (Sept. 17, 2009) (finding that "there is a likelihood that Armstrong would, after his release from prison, be able and inclined to re-enter the securities industry where he would confront opportunities to violate the law again").

[24] *James S. Tagliaferri*, Exchange Act Release No. 80047, 2017 WL 632134, at *6 (Feb. 15, 2017) (finding that the misconduct underlying the respondent's conviction demonstrated that respondent was unfit to participate in the securities industry and posed a risk to investors).

securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization and from participating in an offering of penny stock.[25]

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

[25] *Id.* (imposing associational and penny stock bars where necessary to protect the public).

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 98990 / November 20, 2023

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In the Matter of

JOSHUA STEPHENS-ANSELM

ORDER IMPOSING REMEDIAL SANCTIONS

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

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

ORDERED that Joshua Stephens-Anselm is barred from participating in an offering of 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