SECURITIES AND EXCHANGE COMMISSION
Washington, D.C.

SECURITIES EXCHANGE ACT OF 1934
Release No. 101622 / November 14, 2024

Admin. Proc. File No. 3-20503

In the Matter of
ALEXANDER GOLDSCHMIDT

OPINION OF THE COMMISSION

SECTION 15(b) PROCEEDING

Grounds for Remedial Action

Conviction

Participant in penny stock offering was convicted of securities fraud, conspiracy to commit securities fraud, conspiracy to commit extortion, and conspiracy to commit money laundering. *Held*, it is in the public interest to bar respondent from participation in any penny stock offering.

APPEARANCES:

Paul G. Gizzi and *Rhonda L. Jung* for the Division of Enforcement.

On August 30, 2021, the Securities and Exchange Commission instituted proceedings against Alexander Goldschmidt pursuant to Section 15(b) of the Securities Exchange Act of 1934.[1] We now find Goldschmidt to be in default, deem the allegations against him to be true, and bar him from participating in any penny stock offering.

I. Background

A. The Commission instituted these proceedings against Goldschmidt.

The order instituting proceedings ("OIP") alleges that, from about 2012 to at least March 2013, Goldschmidt participated in an offering of Face Up Entertainment Group, Inc. stock, which was a penny stock. The OIP alleges that, on October 13, 2015, Goldschmidt pleaded guilty in federal district court to two counts of securities fraud in violation of 15 U.S.C. § 78j(b), three counts of conspiracy to commit securities fraud in violation of 18 U.S.C. § 371, one count of conspiracy to commit extortion in violation of 18 U.S.C. § 1951, and one count of conspiracy to commit money laundering in violation of 18 U.S.C. § 1956.[2] The OIP alleges that, in connection with his guilty plea, Goldschmidt admitted that he was involved in a scheme to manipulate the price of Face Up stock so the individuals involved in the scheme would profit. The OIP alleges further that, on March 5, 2019, the court entered a judgment of conviction against Goldschmidt.

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 Goldschmidt to file an answer to the allegations within 20 days after service, as provided by Rule of Practice 220(b).[3] The OIP informed Goldschmidt that if he failed to answer, he could be deemed to be 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.[4]

B. Goldschmidt 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 default and sanctions.

Goldschmidt was properly served with the OIP on October 13, 2021, pursuant to Rule of Practice 141(a)(2)(i),[5] but did not respond. On April 4, 2022, more than 20 days after service, the Commission ordered Goldschmidt to show cause by April 18, 2022, why it should not find him in default due to his failure to file an answer or otherwise defend this proceeding.[6] The

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1 *Alexander Goldschmidt*, Exchange Act Release No. 92817, 2021 WL 3893952 (Aug. 30, 2021).

2 *United States v. Goldschmidt*, No. 13-cr-410 (NRB) (S.D.N.Y.).

3 17 C.F.R. § 201.220(b).

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

5 17 C.F.R. § 201.141(a)(2)(i).

6 *Alexander Goldschmidt*, Exchange Act Release No. 94602, 2022 WL 1014875 (Apr. 4, 2022).

show cause order warned Goldschmidt that if the Commission found him to be 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. Goldschmidt did not respond to the show cause order.

On May 16, 2022, the Division of Enforcement filed a motion requesting that the Commission find Goldschmidt in default and bar him from participation in any penny stock offering. The Division supported the motion with the allegations of the OIP and materials from the criminal action, including the complaint, superseding indictment [redacted]. Goldschmidt did not respond to the Division's motion.

On August 15, 2024, the Commission issued an order requesting that the Division provide additional briefing and materials in support of its motion for default and remedial sanctions.[7] On September 16, 2024, the Division filed a supplemental brief along with additional materials from the criminal action [redacted]. Goldschmidt did not respond to the Division's supplemental brief, nor has he otherwise participated in this proceeding.

II. Analysis

A. We deem Goldschmidt to be 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 to be 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."[8] Because Goldschmidt has failed to answer or to respond to the show cause order or the Division's motion, we find it appropriate to deem him to be in default and 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 that barring Goldschmidt from participation in any penny stock offering is in the public interest.

Exchange Act Section 15(b)(6)(A) authorizes the Commission to suspend or bar a person from participating in an offering of penny stock if it finds, on the record after notice and opportunity for hearing, that (1) within ten years of the commencement of the proceeding, the person was convicted of an offense involving the purchase or sale of a security, or conspiracy to

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7 *Alexander Goldschmidt*, Exchange Act Release No. 100729, 2024 WL 3833476 (Aug. 15, 2024).

8 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)).

commit such an offense; (2) the person was participating in a penny stock offering at the time of the alleged misconduct; and (3) such a sanction is in the public interest.[9]

The record establishes the first two of these elements. First, Goldschmidt's convictions for securities fraud and conspiracy to commit securities fraud necessarily involved the purchase or sale of a security[10] and were within ten years of the commencement of this proceeding. Second, the OIP alleges that Goldschmidt participated in an offering of Face Up stock—a penny stock—at the time of the misconduct.

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 the conduct, and the likelihood that the respondent's occupation will present opportunities for future violations.[11] Our public interest inquiry is flexible, and no one factor is dispositive.[12] The remedy is intended to protect the trading public from further harm, not to punish the respondent.[13]

We have weighed these factors and conclude that a penny stock bar is warranted to protect the investing public. Goldschmidt's misconduct was egregious and recurrent. [redacted]

[redacted]

9 15 U.S.C. § 78*o*(b)(6)(A) (cross-referencing Exchange Act Section 15(b)(4)(B)); 15 U.S.C. § 78*o*(b)(4)(B) (discussing offenses involving the purchase or sale of a security).

10 *See* 15 U.S.C. § 78j(b) (prohibiting fraud "in connection with the purchase or sale of any security").

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

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

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

[redacted]

[redacted]

Goldschmidt also profited from his crimes. When the district court entered a judgment of conviction against Goldschmidt, it ordered that he forfeit $1,768,032.[22]

Further, Goldschmidt acted with a high degree of scienter.[23] All the counts to which he pleaded guilty require specific intent.[24] [redacted]

[redacted]

[22] The court also sentenced Goldschmidt to time served and one-year supervised release for each count (to run concurrently).

[23] *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); *see also McCarthy v. United States*, 394 U.S. 459, 466 (1969) ("[A] guilty plea is an admission of all the elements of a formal criminal charge.").

[24] *See United States v. Ausbie*, 782 F. App'x 525 (9th Cir. 2019) (explaining that conspiracy to commit extortion requires proof of "the specific intent to obtain money from" the victims); *United States v. Garcia*, 587 F.3d 509, 515 (2d Cir. 2009) ("Conspiring to launder money requires . . . that the defendant knowingly engaged in the conspiracy with the specific intent to commit the offenses that [are] the objects of the conspiracy.") (internal quotation marks omitted); *United States v. Downing*, 297 F.3d 52, 57 (2d Cir. 2002) (holding that conspiracy to commit securities fraud requires that "the defendant knowingly participated in the conspiracy with the specific intent to commit the offenses that were the objects of the conspiracy") (citation omitted); *United States v. DeSantis*, 134 F.3d 760, 764 (6th Cir. 1998) (explaining that criminal securities fraud requires proof of specific intent to defraud).

Because Goldschmidt 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 recognizes the wrongful nature of his conduct. [redacted] And Goldschmidt's fifteen years of manipulating securities, including penny stocks, and his failure to offer assurances about his future plans, show that his occupation presents opportunities for future violations.[26]

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 Goldschmidt is unfit to participate in any penny stock offering.[27] [redacted] Given that Goldschmidt has defaulted in this proceeding, he has not opposed the imposition of a penny stock bar. Because Goldschmidt poses a continuing threat to investors, we conclude that it is in the public interest to bar him from participation in any penny stock offering.[28]

An appropriate order will issue.

By the Commission (Chair GENSLER and Commissioners PEIRCE, CRENSHAW, UYEDA and LIZÁRRAGA).

Vanessa A. Countryman
Secretary

[redacted]

[26] *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).

[27] *See James S. Tagliaferri*, Advisers 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).

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

UNITED STATES OF AMERICA
before the
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ALEXANDER GOLDSCHMIDT

ORDER IMPOSING REMEDIAL SANCTIONS

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

ORDERED that Alexander Goldschmidt 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