

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C.

SECURITIES EXCHANGE ACT OF 1934
Release No. 102102 / January 3, 2025

Admin. Proc. File No. 3-21001

In the Matter of

MATTHEW J. SKINNER

OPINION OF THE COMMISSION

BROKER-DEALER PROCEEDING

Grounds for Remedial Action

Injunction

Respondent was permanently enjoined from violations of the antifraud and registration 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:

Matthew J. Skinner, pro se.

Donald Searles and Lynn M. Dean for the Division of Enforcement.

On August 25, 2022, the Securities and Exchange Commission instituted an administrative proceeding against Matthew J. Skinner under Section 15(b) of the Securities Exchange Act of 1934.¹ After Skinner filed an answer, the Division of Enforcement filed a motion for summary disposition. Skinner has not responded to the Division's motion. Based on our review of the record, we grant the Division's motion and find that it is in the public interest to bar Skinner from the securities industry and from participating in an offering of penny stock.

I. Background

A. Skinner was enjoined under antifraud and registration provisions of the securities laws and convicted of securities fraud.

In June 2021, the Commission filed a civil action against Skinner in federal district court.² In June 2022, the court granted the Commission's motion for summary judgment, finding Skinner liable for violating Sections 5 and 17(a) of the Securities Act of 1933,³ Exchange Act Sections 10(b) and 15(a),⁴ and Exchange Act Rule 10b-5,⁵ while raising money for four real estate companies. The court enjoined Skinner from future violations of each of these provisions and ordered that he disgorge \$4,795,163.51 and pay a third-tier civil penalty in the same amount.⁶

Meanwhile, on May 3, 2022, Skinner was charged in a federal criminal information for a single count of securities fraud under Exchange Act Sections 10(b) and 32 and Exchange Act Rule 10b-5,⁷ regarding misconduct involving Simple Growth, LLC, one of the four real estate companies that was at issue in the civil proceeding. On June 1, 2022, Skinner pleaded guilty to this single count of securities fraud. On November 21, 2022, he was sentenced to 77 months of

¹ *Matthew J. Skinner*, Exchange Act Release No. 95608, 2022 WL 3703828 (Aug. 25, 2022).

² The civil action was also brought against several corporate codefendants.

³ 15 U.S.C. §§ 77e, 77q(a).

⁴ 15 U.S.C. §§ 78j(b), 78o(a).

⁵ 17 C.F.R. § 240.10b-5.

⁶ We take official notice of the final judgment against Skinner in the civil case. *See* Final Judgment as to Defendant Matthew J. Skinner, *SEC v. Skinner*, No. 2:21-cv-05273-SB-KS (C.D. Cal. June 17, 2022), ECF No. 48; Rule of Practice 323, 17 C.F.R. § 201.323 (providing that official notice may be taken “of any material fact which might be judicially noticed by a district court of the United States”). Skinner's liability for disgorgement was joint and several with his corporate codefendants.

⁷ 15 U.S.C. §§ 78j(b), 78ff; 17 C.F.R. § 240.10b-5.

imprisonment and three years of supervised release and ordered to pay restitution of \$1,744,945.74.⁸

B. The Commission instituted this proceeding, Skinner filed an answer, and the Division filed a motion for summary disposition.

The order instituting proceedings (“OIP”) alleges that Skinner was civilly enjoined from future violations of Securities Act Sections 5 and 17(a), Exchange Act Sections 10(b) and 15(a), and Exchange Act Rule 10b-5, and that he was acting as an unregistered broker during a portion of the time of his misconduct.⁹ The OIP initiated proceedings to determine whether the allegations contained therein are true and if any remedial action is appropriate in the public interest.

On August 29, 2023, Skinner submitted a filing that we construed to be his answer, which asserted that the Division attorney was personally biased against him and that investors in Bayside Equity (one of the four real estate companies involved in the civil action) are likely to recoup and profit from their investments.¹⁰ The Division filed a motion for summary disposition on June 28, 2024. The Division supported its motion with documents from the civil and criminal proceedings against Skinner. Although we warned Skinner that failing to file a brief in opposition could result in the adverse determination of a particular claim or claims at issue, he did not respond to the Division’s motion for summary disposition.¹¹

II. Analysis

A. Summary disposition is appropriate here.

Under Rule of Practice 250, a motion for summary disposition may be granted if there is “no genuine issue with regard to any material fact” and the movant is “entitled to summary

⁸ We take official notice of the final judgment against Skinner in the criminal case. *See* Sentencing Judgment and Probation/Commitment Order, *United States v. Skinner*, No. CR 22-00183-PA (C.D. Ca. Nov. 22, 2022). We note that Skinner filed a motion to vacate, set aside, or correct his sentence in the criminal case, which the district court denied on October 31, 2024.

⁹ The OIP additionally erroneously alleges that Skinner pleaded guilty to a single count of wire fraud, rather than a single count of securities fraud, on June 1, 2022. *See Skinner*, 2022 WL 3703828, at *2.

¹⁰ *See Matthew J. Skinner*, Exchange Act Release No. 99506, 2024 WL 517503, at *2 (Feb. 9, 2024) (construing Skinner’s filing to be his answer after noting that the filing “responded to some of the allegations raised by the OIP”).

¹¹ *Matthew J. Skinner*, Exchange Act Release No. 100267, 2024 WL 2844717, at *2 (June 4, 2024) (scheduling briefs for the Division’s motion for summary disposition).

disposition as a matter of law.”¹² Skinner has not responded to the Division’s motion for summary disposition and therefore has forfeited any argument against resolving this proceeding on summary disposition.¹³ In addition, although Skinner alleged in his answer that the Division attorney involved in this case was personally biased against him, we find that he has forfeited this argument, both because he only raised it skeletally in his answer and because he failed to respond to the Division’s motion for summary disposition.¹⁴ For these reasons and those provided below, we find that the Division has satisfied its burden under the summary disposition standard, that summary disposition is appropriate, and that an in-person hearing is unnecessary in this case.

B. The threshold requirements for imposing industry and penny stock bars are satisfied.

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 any offering of a penny stock if it finds, on the record after notice and opportunity for hearing, that: (1) the person was enjoined from engaging in or continuing any conduct or practice in connection with activity as a broker or dealer or 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 misconduct; and (3) such a sanction is in the public interest.¹⁵

No genuine issue of material fact exists as to the first two elements. Skinner was enjoined from violating Securities Act Sections 5 and 17(a), Exchange Act Sections 10(b) and 15(a), and Exchange Act Rule 10b-5, and therefore he is enjoined from conduct in connection

¹² 17 C.F.R. § 201.250(b); *see also ERHC Energy, Inc.*, Exchange Act Release No. 90517, 2020 WL 6891409, at *2 (Nov. 24, 2020) (discussing summary disposition standard).

¹³ *See, e.g., Albert K. Hu*, Advisers Act Release No. 6497, 2023 WL 8469447, at *2 (Dec. 6, 2023) (finding forfeiture where the respondent did not “argue that summary disposition is inappropriate or that an in-person hearing is necessary”); *cf. Adkins v. Marathon Petroleum Co.*, 105 F.4th 841, 854 (6th Cir. 2024) (“Generally, at the summary judgment stage, the non-moving party can forfeit an argument if they fail to respond to the moving party’s arguments.” (quoting *Palma v. Johns*, 27 F.4th 419, 429 n.1 (6th Cir. 2022))).

¹⁴ *See* Rule of Practice 180(c), 17 C.F.R. § 201.180(c) (providing that, if a person fails to make a required filing, the Commission may “decide the particular claim(s) at issue against that person”); *Skinner*, 2024 WL 2844717, at *2 (warning the parties of this potential consequence of failing to file a brief).

¹⁵ 15 U.S.C. § 78o(b)(6)(A) (cross-referencing Exchange Act Section 15(b)(4)(C), 15 U.S.C. § 78o(b)(4)(C)); *see also id.* § 78o(b)(4)(C) (specifying injunctions against various actions, conduct, and practices).

with activity as a broker or dealer and in connection with the purchase or sale of a security.¹⁶ According to the district court's order granting summary judgment, to which we give preclusive effect in this proceeding,¹⁷ Skinner was acting as an unregistered broker at the time of his misconduct. Thus, he was a person associated with a broker at that time.¹⁸

C. We find that barring Skinner from the securities industry and from participating in penny stock offerings is in the public interest.

In analyzing whether any remedial action is in the public interest, 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.¹⁹ Our public interest inquiry is flexible, and no one factor is dispositive.²⁰ The remedy is intended to protect the

¹⁶ See Exchange Act Section 15(a), 15 U.S.C. § 78o(a) (prohibiting unregistered brokers and dealers from effecting, inducing, or attempting to induce securities purchases and sales); Securities Act Section 5, 15 U.S.C. §§ 77e (prohibiting sale of unregistered securities); Securities Act Section 17(a), 15 U.S.C. § 77q(a) (prohibiting fraudulent conduct "in the offer or sale of any securities"); Exchange Act Section 10(b) 15 U.S.C. § 78j(b) (prohibiting fraudulent conduct "in connection with the purchase or sale of any security"); 17 C.F.R. § 240.10b-5 (same).

As noted above, the OIP incorrectly alleges that Skinner pleaded guilty to wire fraud rather than securities fraud. We therefore decline to rely on his conviction for securities fraud as a predicate for this follow-on action. Nonetheless, we can and do consider his plea agreement below when assessing the public interest. See, e.g., *Paul Horton Smith*, Advisers Act Release No. 6637, 2024 WL 3413642, at *4 n.21 (July 15, 2024) ("We may consider the plea agreement in assessing the public interest, even though the OIP does not contain any allegations concerning the criminal case or the plea agreement.").

¹⁷ See, e.g., *Casimer Anthony Polanchek*, Exchange Act Release No. 100231, 2024 WL 2746096, at *2 (May 28, 2024) (giving "preclusive effect to the district court's summary judgment findings supporting the injunction").

¹⁸ See, e.g., Exchange Act Section 3(a)(18), 15 U.S.C. § 78c(a)(18) (defining a "person associated with a broker" to include "any person directly or indirectly controlling" such broker); *Allen M. Perres*, Exchange Act Release No. 79858, 2017 WL 280080, at *3 (Jan. 23, 2017) (explaining that an individual who acts as an unregistered broker meets the definition of a "person associated with a broker" in Exchange Act Section 3(a)(18)).

¹⁹ *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979), *aff'd on other grounds*, 450 U.S. 91 (1981).

²⁰ *Tzemach David Netzer Korem*, Exchange Act Release No. 70044, 2013 WL 3864511, at *4 (July 26, 2013).

trading public from further harm, not to punish the respondent.²¹ We have weighed all these factors and find industry and penny stock bars are warranted to protect the investing public.

Skinner's misconduct was egregious and recurrent. The district court's order granting summary judgment found that Skinner, while raising money for four real estate companies whose funds he controlled, falsely told investors that he would use their invested funds for real estate projects. In reality, he used substantial portions of the money for other purposes, such as paying his personal expenses, paying his management company's operational expenses, and paying earlier investors.²² Skinner's fraudulent misconduct occurred repeatedly over the course of five years.²³ The disgorgement order of \$4,795,163.51 in the civil proceeding also demonstrates that Skinner profited substantially from his misconduct.²⁴ The restitution order of \$1,744,945.74 in the criminal proceeding also shows that Skinner caused substantial harm to investors in Simple Growth (one of the four real estate companies at issue in the civil proceeding).

Skinner also acted with a high degree of scienter. He admitted in his plea agreement that he acted "with intent to deceive and cheat" while raising funds for Simple Growth. And the district court's summary judgment order similarly found that Skinner knowingly made misrepresentations to investors.²⁵

²¹ *McCarthy v. SEC*, 406 F.3d 179, 188 (2d Cir. 2005).

²² *See, e.g., Jeffrey L. Gibson*, Exchange Act Release No. 57266, 2008 WL 294717, at *3 (Feb. 4, 2008) (imposing bar where the respondent misappropriated funds from multiple clients over a three-year period), *petition denied*, 561 F.3d 548 (6th Cir. 2009); *see also SEC v. Merkin*, No. 11-23585-CIV, 2012 WL 5245561, at *8 (S.D. Fla. Oct. 3, 2012) (finding that conduct was "intentional and that [the defendant] acted with scienter" because, among other things, he "repeated the false statements on at least four occasions"), *aff'd*, 628 F. App'x 741 (11th Cir. 2016) (per curiam).

²³ *See Brett Hamburger*, Exchange Act Release No. 93844, 2021 WL 6062981, at *4 (Dec. 21, 2021) (finding conduct recurrent where respondent defrauded investors over the course of around two years).

²⁴ *See Emilio Barrera, Jr.*, Exchange Act Release No. 101639, 2024 WL 4802533, at *3 (Nov. 15, 2024) (imposing bar where respondent's fraudulent scheme resulted in net profits of over \$3.5 million); *Hughe Duwayne Graham*, Exchange Act Release No. 100540, 2024 WL 3444131, at *3 (July 16, 2024) (imposing bar where overall conspiracy caused nine victims to lose over \$800,000).

²⁵ *See, e.g., SEC v. Weintraub*, No. 11-21549-CIV, 2011 WL 6935280, at *8 (S.D. Fla. Dec. 30, 2011) ("Given that all of these false or misleading statements and omissions involve information within [the defendant's] personal knowledge, the Court finds that his misconduct could not have been inadvertent or the result of a mistake.").

Skinner has made no assurances in this proceeding that he will not commit future violations or that he recognizes the wrongful nature of his conduct. We recognize that Skinner's guilty plea suggests that he may recognize the wrongfulness of his misconduct regarding one of the funds—Simple Growth—but he has not admitted the wrongful nature of the actions he took to defraud investors through the schemes related to his other three other real estate companies. We thus find that any recognition of the wrongfulness of Skinner's misconduct related to that one fund is outweighed by the other factors discussed herein.

It further appears that Skinner's occupation presents opportunities for future violations. As the district court noted, he "appears to have no occupation beyond soliciting real estate investments." Skinner also acted as a broker during the five-year period of his misconduct, and he offers no assurances about his future plans.²⁶ Although Skinner is currently incarcerated, he has made no assurances that he will not reenter the securities industry after he is released from custody. Accordingly, should Skinner reenter the industry upon his release, his occupation will present opportunities for future violations.²⁷

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 Skinner is unfit to participate in the securities industry and that his participation in it in any capacity would pose a risk to investors.²⁸ Skinner was involved in a five-year scheme to defraud investors that resulted in over \$4.7 million of profits for him and over \$1.7 million in harm to investors in Simple Growth, and 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 Skinner from association with any broker, dealer, investment adviser,

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, 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").

²⁸ *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 that his participation in it in any capacity would pose a risk to investors).

municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization and from participating in an offering of penny stock.²⁹

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

²⁹ *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. 102102 / January 3, 2025

Admin. Proc. File No. 3-21001

In the Matter of

MATTHEW J. SKINNER

ORDER IMPOSING REMEDIAL SANCTIONS

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

ORDERED that Matthew J. Skinner, 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 Matthew J. Skinner, 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