SECURITIES AND EXCHANGE COMMISSION
Washington, D.C.

INVESTMENT ADVISERS ACT OF 1940
Release No. 6863 / March 13, 2025

Admin. Proc. File No. 3-21064

In the Matter of

RULESS PIERRE a/k/a RULES PIERRE

OPINION OF THE COMMISSION

INVESTMENT ADVISER PROCEEDING

Grounds for Remedial Action

Conviction

Respondent was convicted of securities fraud. *Held*, it is in the public interest to bar respondent from association with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

APPEARANCES:

Todd D. Brody for the Division of Enforcement.

On September 12, 2022, the Securities and Exchange Commission instituted an administrative proceeding against Ruless Pierre a/k/a Rules Pierre under Section 203(f) of the Investment Advisers Act of 1940.[1] We now find Pierre to be in default, deem the allegations against him to be true, and bar him from the securities industry.

I. Background

A. The Commission instituted this proceeding against Pierre.

The order instituting proceedings ("OIP") alleges that on May 27, 2021, a federal jury convicted Pierre of two counts of securities fraud in violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder,[2] wire fraud in violation of 18 U.S.C. §§ 2 and 1343, and structuring bank deposits related to a scheme to embezzle money from his former employer in violation of 31 U.S.C. §§ 5313(a), 5324(a), and 5325 and 18 U.S.C. § 2.[3] The OIP further alleges that the court sentenced Pierre to seven years in prison, followed by three years of supervised release, and ordered him to pay more than $1.7 million in restitution to the victims of the securities fraud, as well as to forfeit over $3.3 million.[4]

According to the OIP, from March 2017 to October 2019, Pierre, acting as an unregistered investment adviser, ran the "Amongst Friends Investment Group," which invested members' pooled funds in various equities and promised unrealistic returns of at least twenty percent every sixty days (the "Amongst Friends scheme").[5] The OIP also alleges that from approximately November 2018 to June 2019, Pierre sold partnership interests in a Planet Wings fast food franchise, promising returns of five percent per month and a portion of the gross operating profits (the "Planet Wings scheme").

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 Pierre to file an answer to the allegations contained therein within twenty days of service, as provided by Rule of Practice 220(b).[6] The OIP informed Pierre that if he failed to answer, he could be

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1 *Ruless Pierre*, Advisers Act Release No. 6122, 2022 WL 4181207 (Sept. 12, 2022).

2 15 U.S.C. § 78j(b); 17 C.F.R. § 240.10b-5.

3 *See also United States v. Pierre*, No. 19 Cr. 783 (SHS), ECF Nos. 62 (S.D.N.Y. May 27, 2021), 116 (S.D.N.Y. May 26, 2022) (verdict form and judgment).

4 *See also Pierre*, No. 19 Cr. 783 (SHS), ECF Nos. 113, 114, 116 (S.D.N.Y. May 26, 2022) (forfeiture order, restitution order, and judgment).

5 The OIP alleges that Pierre ran the Amongst Friends scheme from March 2017 to October 2019. *Pierre*, 2022 WL 4181207, at *1. In fact, however, Pierre operated this scheme from November 2016 to October 2019. *United States v. Pierre*, No. 19 Cr. 783 (SHS), 2021 WL 4150969, at *1 (S.D.N.Y. Sept. 13, 2021) (denying motion for a judgment of acquittal).

6 17 C.F.R. § 201.220(b).

deemed to be in default, the allegations in the OIP could be deemed to be true, and the proceeding could be determined against him upon consideration of the OIP.[7]

B. The Second Circuit affirmed Pierre's criminal conviction, and the Commission obtained a civil injunction against Pierre.

After the Commission issued the OIP, the Second Circuit affirmed Pierre's criminal conviction and sentence.[8] The court concluded, among other things, that the evidence introduced at trial was sufficient to show that Pierre's misconduct involved securities and that Pierre acted with fraudulent intent. The court also held that the evidence supported application of a sentencing enhancement for acting as an investment advisor.

The Commission also previously brought a related civil enforcement action against Pierre. The Commission's complaint alleged that Pierre violated the antifraud provisions of the securities laws based on the same misconduct at issue in the criminal proceeding—that is, the Amongst Friends and Planet Wings schemes.

On May 6, 2024, the district court granted the Commission's motion for summary judgment, concluding that Pierre was collaterally estopped from re-litigating his liability for the fraud violations as established in his criminal case.[9] The district court permanently enjoined Pierre from violating Section 17(a) of the Securities Act of 1933[10] and Exchange Act Section 10(b) and Rule 10b-5; and ordered him to disgorge over $1.7 million plus prejudgment interest, the payment of which was deemed satisfied by the restitution and forfeiture in his criminal case.

C. Pierre 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.

Pierre was properly served with the OIP on September 20, 2022,[11] but did not answer it. On December 4, 2023, more than twenty days after service, the Commission ordered Pierre to show cause, by January 18, 2024, why it should not find him in default due to his failure to file

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

8 *United States v. Pierre*, No. 22-1274, 2024 WL 676373, at *1 (2d Cir. Feb. 20, 2024). We take official notice of the criminal and civil federal court records cited herein pursuant to Rule of Practice 323. *See* 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"); *Akers v. Watts*, 589 F. Supp. 2d 12, 15 (D.D.C. 2008) (stating that a district court may take "judicial notice of the records of . . . federal courts").

9 *SEC v. Pierre*, 19 Civ. 10299 (JPC), 2024 WL 1994051 (S.D.N.Y. May 6, 2024).

10 15 U.S.C. § 77q(a).

11 *See* Rule of Practice 141(a)(2)(i), 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").

an answer or otherwise to defend this proceeding.[12] Pierre was warned that, if he was found to be in default, the allegations in the OIP could be deemed to be true and the Commission could determine the proceeding against him upon consideration of the record.[13] Pierre did not respond to the show cause order.

On April 17, 2024, the Division of Enforcement filed a motion requesting that the Commission find Pierre to be in default and bar him from the securities industry. The Division supported the motion with the allegations of the OIP and with documents from the criminal proceeding against Pierre, including the verdict form and judgment. Pierre did not respond to the Division's motion.

II. Analysis

A. We deem Pierre 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."[14] Because Pierre has failed to answer or 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 OIP's allegations to be true. We base the findings that follow on the record, including the OIP, the evidentiary materials that the Division submitted, and additional materials of which we take official notice.[15]

B. We find an industry bar to be in the public interest.

Advisers Act Section 203(f) authorizes the Commission to suspend or bar a person from the securities industry 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

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12 *Ruless Pierre*, Advisers Act Release No. 6494, 2023 WL 8469501, at *1 (Dec. 4, 2023).

13 *Id.* at *1 & n.5 (citing Rules of Practice 155, 180, 17 C.F.R. §§ 201.155, .180).

14 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)").

15 The OIP did not predicate this administrative proceeding on the injunction obtained against Pierre in the civil action, though we may consider it in determining whether it is appropriate to impose sanctions on him. *See Eric S. Butler*, Exchange Act Rel. No. 65204, 2011 WL 3792730, at *4 n.28 (Aug. 26, 2011) ("Although the conspiracy convictions fully justify the bars imposed here, the . . . district court's decision to impose civil anti-fraud injunctions based on Butler's convictions further demonstrates the public interest in administrative bars."); *Robert Bruce Lohmann*, Exchange Act Release No. 48092, 2003 WL 21468604, at *5 n.20 (June 26, 2003) (finding that matters "not charged in the OIP" may nevertheless be considered "in assessing sanctions").

offense involving the purchase or sale of any security; (2) the person was associated with an investment adviser at the time of the misconduct; and (3) such a sanction is in the public interest.[16]

The record establishes the first two elements. Pierre was convicted of offenses involving the purchase or sale of any security (*i.e.*, violating Exchange Act Section 10(b) and Rule 10b-5 thereunder)[17] within the applicable period.[18] The OIP's allegations (deemed true) and the Second Circuit's findings affirming Pierre's conviction[19] establish that Pierre acted as an unregistered investment adviser during his misconduct.[20] Because Pierre acted as an investment adviser, he necessarily also was associated with an investment adviser.[21]

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

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16 15 U.S.C. § 80b-3(f) (cross-referencing Advisers Act Section 203(e)(2), 15 U.S.C. § 80b-3(e)(2)); *see also id.* § 80b-3(e)(2)(A) (discussing convictions involving "the purchase or sale of any security").

17 *See supra* note 2 and accompanying text; 15 U.S.C. § 78j(b) (applying to conduct "in connection with the purchase or sale of any security"); 17 C.F.R. § 240.10b-5 (same); *SEC v. Zandford*, 535 U.S. 813, 820-22 (2002) (explaining that the phrase "in connection with the purchase or sale of any security" includes lying about whether funds will be used to purchase securities).

18 The Division does not rely on Pierre's convictions for wire fraud and structuring deposits, and we do not consider them, because his securities fraud violations are by themselves sufficient to justify the imposition of sanctions.

19 *See Lopez v. Pompeo*, 923 F.3d 444, 446 (5th Cir. 2019) ("If an appeal is taken, preclusion should attach to every ground that is in fact reviewed and affirmed by an appellate court . . . ." (cleaned up)); Restatement (Second) of Judgments § 27 cmt. o.

20 *Pierre*, 2022 WL 4181207, at *1 (alleging that Pierre invested Amongst Friends investors' funds in equities with the expectation of receiving compensation for his services); *Pierre*, 2024 WL 676373, at *3 (finding that Pierre's misconduct occurred while he was acting as an investment adviser (citing 15 U.S.C. § 80b-2(a)(11))).

21 *See Shreyans Desai*, Exchange Act Release No. 80129, 2017 WL 782152, at *3 (Mar. 1, 2017) ("[T]he finding that Desai acted as an unregistered investment adviser establishes that he was associated with an investment adviser for purposes of Advisers Act Section 203(f)."); *Anthony J. Benincasa*, Advisers Act Release No. 1923, 2001 WL 99813, at *2 (Feb. 7, 2001) (explaining that a person who acts "as an investment adviser in an individual capacity" is "in a position of control with respect to the investment adviser" and thus "meets the definition of a 'person associated with an investment adviser'" (quoting Advisers Act Section 202(a)(17), 15 U.S.C. § 80b-2(a)(17))).

likelihood that the respondent's occupation will present opportunities for future violations.[22] Our public interest inquiry is flexible, and no one factor is dispositive.[23] The remedy is intended to protect the trading public from further harm, not to punish the respondent.[24]

We have weighed these factors and find that an industry bar is warranted to protect the investing public. Pierre's misconduct was egregious and recurrent. Over several years, Pierre abused his position of trust as an investment advisor by operating two separate fraudulent investment schemes, which solicited funds from hundreds of investors by guaranteeing that they would receive unrealistically high returns—such as a twenty percent return on investments in Amongst Friends notes every sixty days.[25] Based on his fraudulent misrepresentations, Pierre also obtained approximately $5 million from investment adviser clients.[26] Rather than investing their money as he promised, however, he knowingly diverted nearly $2 million to fund his own personal expenses[27] and repay prior investors.[28] The district court's $1.7 million restitution order entered against Pierre for the securities fraud violations confirms that his misconduct caused substantial financial losses for his investment adviser clients.[29]

Pierre also acted with a high degree of scienter.[30] His conviction for securities fraud required that the jury find a specific intent to defraud, and the Second Circuit subsequently found that Pierre "intended to defraud investors" when he misrepresented that he was making

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

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

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

25 *Pierre*, 2024 WL 1994051, at *2–3, 8–9.

26 *Pierre*, 2021 WL 4150969, at *2.

27 *See e.g.*, *Stephen Condon Peters*, Advisers Act Release No. 6556, 2024 WL 624010, at *3 (Feb. 14, 2024) (finding that respondent's conduct "was all the more egregious because he defrauded his investment advisor clients and, in so doing, violated his fiduciary duty and exploited the trust of his clients"); *Dean Mustaphalli*, Advisers Act Release No. 6348, 2023 WL 4533808, at *3 (July 13, 2023) (finding diversion of clients' funds to pay for personal expenses to be egregious).

28 *Pierre*, 2021 WL 4150969, at *2; *see also Paul Horton Smith, Sr.*, Advisers Act Release No. 6637, 2024 WL 3413642, at *4 (July 15, 2024) (finding egregious respondent's use of investor funds to repay earlier investors).

29 *See, e.g., Eldrick E. Woodley*, Advisers Act Release No. 5981, 2022 WL 836849, at *3 (Mar. 21, 2022) (finding investment adviser's conduct to be egregious where he fraudulently misappropriated over $147,000 in client funds).

30 *See SEC v. Steadman*, 967 F.2d 636, 641 (D.C. Cir. 1992) (scienter is an "intent to deceive, manipulate, or defraud" (citations omitted)).

investments on their behalf.[31] The Second Circuit further found that Pierre asked investors to lie to investigators about how much they had invested with him.[32] And, in granting the Division's motion for summary judgment as to multiple scienter-based antifraud violations, the district court in the civil action observed that "the evidence of Pierre's scienter is overwhelming."[33]

Because Pierre failed to answer the OIP or respond to the show cause order or the Division's motion, he has made no assurances in this proceeding that he will not commit future violations or that he recognizes the wrongful nature of his conduct. Although in the criminal proceeding he expressed "remorse for [his] actions" and acknowledged that his conduct was "wrong,"[34] that does not outweigh the overwhelming evidence that he poses a risk to the investing public.[35]

Pierre's occupation also presents opportunities for future violations because he acted as an investment adviser during the nearly three-year period of his misconduct and offers no assurances about his future plans. While Pierre is currently incarcerated, he has made no assurances that he will not reenter the securities industry after he is released from custody. His perpetration of two separate fraudulent investment schemes further evidences a fundamental lack of honesty and integrity, creating a serious risk that he would commit another violation of the securities laws if given the chance.[36] Accordingly, should Pierre reenter the industry upon his release, his occupation will present opportunities for future violations.

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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

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31 *Pierre*, 2024 WL 676373, at *3; *see also Michael Joseph Clarke*, Exchange Act Release No. 97860, 2023 WL 4422304, at *12 (July 10, 2023) (finding respondent's "affirmative misrepresentations to obtain funds were intentional because he knew his own intended use of the money when he asked for it yet deliberately and repeatedly misstated his intended use so that he could obtain it").

32 *Pierre*, 2024 WL 676373, at *3; *see also Toby G. Scammell*, Exchange Act Release No. 3961, 2014 WL 5493265, at *6 (Oct. 29, 2014) ("[A]cts of concealment . . . provide further evidence that [respondent] acted with a high degree of scienter."), *vacated in part on other grounds*, Advisers Act Release No. 5272, 2019 WL 2775920 (July 2, 2019).

33 *Pierre*, 2024 WL 1994051, at *8.

34 *Id.* at *9.

35 *See James S. Tagliaferri*, Exchange Act Release No. 80047, 2017 WL 632134, at *6 (Feb. 15, 2017) (finding the "egregious and recurrent nature of the fraud in which [respondent] violated his fiduciary duties and harmed his clients outweigh any acceptance of responsibility").

36 *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 violation).

establishes that Pierre is unfit to participate in the securities industry and that allowing him to do so would pose a risk to investors. While acting as a fiduciary, Pierre defrauded numerous investors by misappropriating millions of dollars for his own use and attempted to conceal his misconduct by asking his clients to lie to investigators. And given that Pierre has defaulted in this proceeding, he has not opposed the imposition of an industry bar. We thus conclude that it is in the public interest to bar him from association with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.[37]

An appropriate order will issue.

By the Commission (Acting Chairman UYEDA and Commissioners PEIRCE and CRENSHAW).

Vanessa A. Countryman
Secretary

[37] *See Tagliaferri*, 2017 WL 632134, at *6 (imposing associational bars where they were necessary to protect the public).

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 6863 / March 13, 2025

Admin. Proc. File No. 3-21064

In the Matter of

RULESS PIERRE a/k/a RULES PIERRE

ORDER IMPOSING REMEDIAL SANCTIONS

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

ORDERED that Ruless Pierre a/k/a Rules Pierre is barred from association with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

By the Commission.

Vanessa A. Countryman
Secretary