

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 3329 / December 7, 2011

ADMINISTRATIVE PROCEEDING
File No. 3-14653

In the Matter of

**KENNETH E. MARSH,
BALDWIN ANDERSON,
ROBERT ANTHONY
BUDION, JEANNE M. LADA,
and JAMES T. LEVIER,**

Respondents.

**ORDER INSTITUTING ADMINISTRATIVE
PROCEEDINGS PURSUANT TO SECTION
203(f) OF THE INVESTMENT ADVISERS
ACT OF 1940 AND NOTICE OF HEARING**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against Kenneth E. Marsh, Baldwin Anderson, Robert Anthony Budion, Jeanne M. Lada, and James T. Levier (collectively, the “Respondents”).

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENTS

1. Respondent Marsh was the founder and owner of Gryphon Holdings, Inc. (“Gryphon”). Gryphon was an unregistered investment adviser, which from 2006 through April 2010, provided investment recommendations to the public through the sale of subscriptions. Until his incarceration in 2010, Respondent Marsh was a resident of Staten Island, New York. In 2007,

the National Association of Securities Dealers (“NASD”), the predecessor to the Financial Industry Regulatory Authority (“FINRA”), barred Respondent Marsh from associating in any capacity with any firm that is a member of the NASD.

2. Respondent Anderson worked at Gryphon as a marketing and sales representative from approximately January 2008 to April 2010.

3. Respondent Budion worked at Gryphon as a marketing and sales representative from approximately May 2008 to April 2010.

4. Respondent Lada worked at Gryphon as a marketing representative, editor, and content creator for Gryphon from approximately May 2008 to April 2010.

5. Respondent Levier worked at Gryphon as a marketing and sales representative from approximately May 2008 to April 2010.

B. RESPONDENTS’ CRIMINAL CASES

1. Respondent Anderson: On November 4, 2011, the Court in United States v. Marsh, et al., 10-cr-480 (E.D.N.Y.) (the “Criminal Action”) entered a judgment against Respondent Anderson finding him guilty of conspiracy to commit wire fraud and securities fraud (in violation of 18 U.S.C. §§ 1349, 1343, and 1348), a felony, by conspiring to defraud Gryphon’s customers. Anderson was sentenced to a prison term of 24 months followed by three years of supervised release and ordered to make restitution in the amount of \$3,024,333.

2. Respondent Budion: On November 7, 2011, the Court entered a judgment in the Criminal Action against Respondent Budion finding him guilty of conspiracy to commit wire fraud and securities fraud (in violation of 18 U.S.C. §§ 371, 1348, and 1349), a felony, by, inter alia, conspiring to defraud Gryphon customers. The Court sentenced Budion to a prison term of three months followed by three years of supervised release and ordered him to make restitution in the amount of \$2,839,834.

3. Respondent Lada: On October 31, 2011, the Court entered a judgment in the Criminal Action against Respondent Lada finding her guilty of conspiracy to commit investment advisors fraud (in violation of 18 U.S.C. § 371), a felony, by conspiring to use the mails and instrumentalities of interstate commerce to defraud clients and prospective clients of Gryphon. The Court sentenced Lada to a prison term of one year and one day followed by three years of supervised release and ordered her to make restitution in the amount of \$2,665,475.

4. Respondent Levier: On November 8, 2011, the Court entered a judgment in the Criminal Action against Respondent Levier finding him guilty, inter alia, of conspiracy to commit wire fraud and securities fraud (in violation 18 U.S.C. § 1349, 1343, 1348, and 371) by conspiring to defraud Gryphon customers. The Court sentenced Levier to a prison term of three months followed by three years of supervised release and ordered him to make restitution in the amount of \$1,631,252.

5. Respondent Marsh: On November 2, 2011, the Court entered a judgment in the Criminal Action against Respondent Marsh finding him guilty of securities fraud (in violation of 18 U.S.C. § 1348), a felony, by defrauding Gryphon clients. The Court sentenced Marsh to a prison term of 96 months followed by five years of supervised release and ordered him to make restitution in the amount of \$11,068,376.

C. THE CIVIL ACTION

1. On April 10, 2010, the Commission filed a civil enforcement action against Respondents, SEC v. Gryphon Holdings, Inc., et al., 10 civ. 1742 (E.D.N.Y.) (the “Civil Action”), arising out of the same conduct as the Criminal Action. The Commission’s complaint alleged, inter alia, that from at least 2007 through April 2010, Respondents marketed Gryphon as a publisher of financial and investment newsletters and investment manager by repeatedly making false statements on the internet and over the telephone about virtually every aspect of the firm’s business, including the scope of the firm’s investment management operations, the past performance of its trading recommendations, the credentials and qualifications of its staff, and the satisfaction of prior clients.

2. Respondent Anderson: On August 24, 2011, the Court granted the Commission partial summary judgment in the Civil Action against Respondent Anderson, permanently enjoining him from future violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and Sections 206(1) and 206(2) of the Advisers Act.

3. Respondent Budion: On December 13, 2010, the Court entered a judgment on consent against Respondent Budion, permanently enjoining him from future violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and Sections 206(1) and 206(2) of the Advisers Act.

4. Respondent Lada: On August 24, 2011, the Court granted the Commission partial summary judgment in the Civil Action against Respondent Lada, permanently enjoining her from future violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and Sections 206(1) and 206(2) of the Advisers Act.

5. Respondent Levier: On December 13, 2010, the Court entered a judgment on consent against Respondent Levier, permanently enjoining him from future violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and Sections 206(1) and 206(2) of the Advisers Act.

6. Respondent Marsh: On June 17, 2011, the Court granted the Commission partial summary judgment in the Civil Action against Respondent Marsh, permanently enjoining him from future violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and Sections 206(1) and 206(2) of the Advisers Act.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative proceedings be instituted to determine:

- A. Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford Respondents an opportunity to establish any defenses to such allegations; and
- B. What, if any, remedial action is appropriate in the public interest against Respondents pursuant to Section 203(f) of the Advisers Act.

IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that each Respondent shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If a Respondent fails to file the directed answer, or fails to appear at a hearing after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against him/her upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f) and 201.310.

This Order shall be served forthwith upon Respondents personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 210 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice, 17 C.F.R. § 201.360(a)(2).

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not “rule making” within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

For the Commission, by its Secretary, pursuant to delegated authority.

Elizabeth M. Murphy
Secretary