

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

INVESTMENT ADVISERS ACT OF 1940
Release No. 3551/February 7, 2013

ADMINISTRATIVE PROCEEDING
File No. 3-15153

In the Matter of

JAMES S. WARD,	:	ORDER MAKING FINDINGS AND
EDWARD G. LOCKER,	:	IMPOSING SANCTIONS BY DEFAULT
RICHARD F. TIPTON, and	:	AS TO JAMES S. WARD
DAVID C. LIN	:	

SUMMARY

This Order bars James S. Ward (Ward) from the securities industry.

I. BACKGROUND

The Securities and Exchange Commission (Commission) instituted this proceeding with an Order Instituting Proceedings (OIP) on December 21, 2012, pursuant to Section 203(f) of the Investment Advisers Act of 1940 (Advisers Act). The OIP alleges that Ward was convicted of conspiracy to commit mail and wire fraud while associated with an investment adviser. Ward was served with the OIP in accordance with 17 C.F.R. § 201.141(a)(2)(i) on January 14, 2013, and his Answer to the OIP was due within twenty days of service of the OIP on him. See OIP at 3; 17 C.F.R. § 201.220(b). He has not filed an Answer to date. Accordingly, he has failed to answer or otherwise to defend the proceeding within the meaning of 17 C.F.R. § 201.155(a)(2). Therefore, Ward is in default, and the undersigned finds that the allegations in the OIP are true as to him.¹ See OIP at 4; 17 C.F.R. §§ 201.155(a), .220(f).

II. FINDINGS OF FACT

Ward, 66, formerly of Ohio, was convicted of conspiracy to commit mail and wire fraud in violation of 18 U.S.C. § 1349. United States v. Ward, No. 3:11-cr-00393 (N.D. Cal. Aug. 23, 2012). He was sentenced to sixty months imprisonment followed by three years of supervised

¹ The undersigned previously ruled that if Ward failed to file an Answer within the time provided, he would be deemed to be in default, and the undersigned would enter an order barring him from the securities industry. See James S. Ward, Admin. Proc. No. 3-15153 (A.L.J. Jan. 17, 2013) (unpublished).

release. Id. He was also ordered to pay restitution of \$8,628,963.44, jointly and severally with Edward George Locker, Richard Ferguson Tipton, and David Ching Hsiu Lin, based on losses sustained by ninety-three victims. United States v. Ward, No. 3:11-cr-00393 (N.D. Cal. Jan. 14, 2013). The wrongdoing underlying his conviction took place during 2005 through 2008, when he and others raised money from investors in two funds. He and others represented that the money would be used to make loans secured by deeds of trust on real estate, but most of the money was used to make purported interest payments to earlier investors and for other business expenses. These activities were conducted through Jim Ward & Associates and JSW Financial Inc., which were investment advisers to the two funds and in which Ward was a principal.

III. CONCLUSIONS OF LAW

The wrongdoing for which Ward was convicted “ar[ose] out of the conduct of the business of a[n] . . . investment adviser” within the meaning of Sections 203(e)(2)(A) and 203(f) of the Advisers Act.

IV. SANCTIONS

Ward will be barred from the securities industry.² This sanction will serve the public interest and the protection of investors, pursuant to Section 203(f) of the Advisers Act, and accord with Commission precedent and the sanction considerations set forth in Steadman v. SEC, 603 F.2d 1126, 1140 (5th Cir. 1979). Ward’s unlawful conduct was recurring and egregious. Extending over a period of several years, it involved millions of dollars.

V. ORDER

IT IS ORDERED that, pursuant to Section 203(f) of the Investment Advisers Act of 1940, 15 U.S.C. § 80b-3(f), JAMES S. WARD IS BARRED from associating with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

Carol Fox Foelak
Administrative Law Judge

² This sanction includes a collateral bar pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act). While Ward’s misconduct antedates the July 22, 2010, effective date of the Dodd-Frank Act, the Commission has determined that sanctioning a respondent with a collateral bar for pre-Dodd-Frank wrongdoing is not impermissibly retroactive, but rather provides prospective relief from harm to investors and the markets. John W. Lawton, Advisers Act Release No. 3513 (Dec. 13, 2012).