

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 4964 / July 10, 2018

ADMINISTRATIVE PROCEEDING
File No. 3-18589

In the Matter of

Leonard S. Schwartz,

Respondent.

ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 203(k) OF THE INVESTMENT ADVISERS ACT OF 1940, MAKING FINDINGS, AND IMPOSING REMEDIAL SANCTIONS AND A CEASE-AND-DESIST ORDER

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”) against Leonard S. Schwartz (“Schwartz” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over him and the subject matter of these proceedings, which are admitted, and except as provided in Section V, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds¹ that:

¹ The findings herein are made pursuant to Respondent’s Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

Summary

1. These proceedings arise out of Schwartz's role in causing violations of the testimonial rule under the Advisers Act, which states that it shall constitute a fraudulent, deceptive, or manipulative act, practice, or course of business for any investment adviser registered with the Commission to publish, circulate or distribute any advertisement which refers to, among other things, any testimonial of any kind concerning the investment adviser. Between March 2015 and March 2016, Schwartz was a cause of four registered investment advisers' violations of the testimonial rule under the Advisers Act when he collected and published on the internet on behalf of each of them advertisements containing testimonials concerning the investment advisers and the investment advice and services they rendered. The testimonials were available to the public on various websites, including YouTube.com, Google.com, Facebook.com, Twitter.com, and Yelp.com. By publishing client testimonials on the internet, the investment advisers violated, and Schwartz caused violations of Section 206(4) of the Advisers Act and Rule 206(4)-1(a)(1) thereunder.

Respondent

2. Leonard S. Schwartz, also referred to as "Dr. Len" Schwartz, age 49, is a chiropractor and marketing consultant based in Richboro, Pennsylvania. Schwartz is the owner and president of several companies that offer marketing-related services to investment advisers and other investment professionals, including Chiroprax, LLC d/b/a Market Domination Services ("Market Domination") and Create Your Fate, LLC ("Create Your Fate").

Facts

3. Since 1999, Schwartz has offered marketing services to professionals, including investment advisers and broker-dealers, through various companies he owned and controlled. The advertisements for Schwartz's companies state that he has generated tens of millions of dollars in new business for financial services professionals.

4. One service that Schwartz and Create Your Fate offer is called Squeaky Clean Reputation. Through this service, Schwartz and Create Your Fate solicit testimonials on behalf of professionals, including investment advisers and broker-dealers, and post the testimonials on a variety of websites, including YouTube.com, Google.com, Facebook.com, Twitter.com, and Yelp.com. Squeaky Clean Reputation's website represented that the program was "100% compliant for investment advisers."

5. In February 2015, Schwartz and Create Your Fate entered into an agreement with a registered investment adviser based in Wheaton, Illinois ("Adviser A") to provide Squeaky Clean Reputation services. In March 2015, Schwartz and Create Your Fate sent emails to approximately 25 of Adviser A's clients soliciting testimonials about Adviser A and its services. At least eight clients of Adviser A submitted testimonials in response to the email.

6. Schwartz and Create Your Fate published seven of these testimonials on Adviser A's Facebook.com webpage and two of the testimonials on Adviser A's Twitter.com webpage. These testimonials described services that Adviser A had provided to the clients, including that Adviser A was trustworthy and that Adviser A's advice had helped the clients make "safe" investments and achieve financial goals. With Adviser A's approval, Schwartz and Create Your Fate also arranged for the creation of four videos containing the testimonials. Each video was captioned as a "Five Star Review" and included Adviser A's contact information, and a link to its website. Schwartz and Create Your Fate arranged to have the videos published on YouTube.com and Google.com, where they were publicly available from April 2015 until at least February 2016. Schwartz also purchased advertisements on various websites that would direct members of the public to Adviser A's testimonials.

7. On May 28, 2015, Adviser A sent Schwartz an email informing Schwartz that the testimonial rule prohibited registered investment advisers from distributing advertisement containing testimonials. The email included the text of the testimonial rule and a link to guidance on the Commission's website about the testimonial rule. At that time, Adviser A requested that Schwartz and Create Your Fate refrain from publishing testimonials on Adviser A's behalf. Adviser A also suggested that Schwartz consider whether the testimonial rule applied to other investment advisers using the Squeaky Clean Reputation service. In July 2015, Adviser A sent Schwartz another email requesting that Schwartz remove any testimonials about Adviser A from the internet. Despite Adviser A's requests, Schwartz did not remove the testimonial videos from YouTube.com until February 2016.

8. After receiving the emails from Adviser A, Schwartz and Create Your Fate did not seek any legal advice or other guidance about the testimonial rule's applicability to investment advisory clients and instead continued marketing their services to other investment advisers and investment professionals.

9. On June 4, 2015, Schwartz and Create Your Fate entered into an agreement for Squeaky Clean Reputation services with William Greenfield ("Greenfield"), the owner and president of WealthBridge Advisory Services, LLC ("WealthBridge"), a New Jersey-registered investment adviser based in Cherry Hill, New Jersey, and a representative of TFS Securities, Inc. ("TFS"), a Commission-registered investment adviser based in Lincroft, New Jersey. At that time, Schwartz did not notify Greenfield about his May 2015 email correspondence with Adviser A about the testimonial rule. Instead, Schwartz assured Greenfield that Squeaky Clean Reputation was "compliant" with the securities laws. With Greenfield's approval, Schwartz and Create Your Fate sent emails to 15 of Greenfield's clients soliciting testimonials about Greenfield and his services. Nine of the clients submitted testimonials in response to the email. In August and September 2015, Schwartz and Create Your Fate published four of the testimonials on the Facebook.com and Google.com webpages for Greenfield's investment advisory practice. Among other things, certain of the testimonials stated that Greenfield was trustworthy, provided a high level of service, and had helped the clients generate investment returns. These testimonials were publicly available on Facebook.com and Google.com until at least January 2017. In addition, links to WealthBridge's Facebook.com and Google.com webpages containing these testimonials

appeared when members of the public searched for Greenfield, WealthBridge, or for investment advisory services in or around Cherry Hill, New Jersey.

10. On September 21, 2015, Schwartz and Create Your Fate entered into an agreement with Brian Eyster (“Eyster”), a representative of ON Investment Management Co. (“ONIMCO”), a registered investment adviser based in Blue Ash, Ohio for Squeaky Clean Reputation services. At that time, Schwartz did not notify Eyster about his May 2015 email correspondence with Adviser A about the testimonial rule. In October 2015, with Eyster’s approval, Schwartz and Create Your Fate sent emails to more than 80 of Eyster’s clients soliciting testimonials about, among other things, services the clients received from Eyster. Four of the clients responded to the email by submitting testimonials describing their experiences working with Eyster. One of these testimonials was published on Yelp.com, where it was publicly available from October 2015 until at least January 2018. With Eyster’s approval, Schwartz and Create Your Fate also arranged for the creation of three videos containing the testimonials. Each of the video testimonials was captioned as a “Five Star Review” and included Eyster’s contact information and a link to his website. Among other things, the testimonials stated that Eyster was a knowledgeable investment adviser and that the clients expected to generate investment returns as a result of working with Eyster. Schwartz and Create Your Fate arranged to have the videos published on YouTube.com and Google.com, where links to the video appeared when members of the public searched for Eyster or investment advisory services in or around Farmington Hills, Michigan. The videos were publicly available from January 2016 until at least January 2017.

11. In January 2016, Schwartz and Create Your Fate entered into an agreement with HBA Advisors, LLC (“HBA”), a registered investment adviser based in Pasadena, California, and Jaime Enrique “Ricky” Biel (“Biel”), a co-owner and investment advisory representative of HBA, for Squeaky Clean Reputation services. In March 2016, with Biel’s approval, Schwartz and Create Your Fate sent emails to approximately 20 of HBA’s clients soliciting testimonials about, among other things, HBA and its services. Several of HBA’s clients responded by publishing testimonials on Yelp.com describing their experiences with HBA. One of these testimonials stated, for example, that HBA had enabled the client to access unique investment opportunities and had protected the client’s investments from risk. These testimonials were publicly available on Yelp.com until at least January 2018. HBA then purchased advertisements on Yelp.com that contained links to HBA’s Yelp.com webpage where members of the public could view the testimonials.

Violations

12. As a result of the conduct described above, the four investment advisers violated and Schwartz caused the four investment advisers’ violations of Section 206(4) of the Advisers Act and Rule 206(4)-1(a)(1) thereunder, which state that it shall constitute a fraudulent, deceptive, or manipulative act, practice, or course of business for any investment adviser registered or required to be registered under the Advisers Act, directly or indirectly, to publish, circulate, or distribute any advertisement which refers, directly or indirectly, to any testimonial of any kind concerning the investment adviser or concerning any advice, analysis, report or other service rendered by such investment adviser.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Schwartz's Offer.

Accordingly, pursuant to Section 203(k) of the Advisers Act, it is hereby ORDERED that:

A. Respondent Schwartz cease and desist from committing or causing any violations and any future violations of Section 206(4) of the Advisers Act and Rule 206(4)-1(a)(1) thereunder.

B. Respondent Schwartz shall pay a civil penalty of \$35,000 within 14 days of the entry of this Order, to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Leonard S. Schwartz as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Anne C. McKinley, Division of Enforcement, Securities and Exchange Commission, 175 West Jackson Boulevard, Suite 1450, Chicago, IL 60604.

C. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, he shall not argue that he is entitled to, nor shall he benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a

Penalty Offset, Respondent agrees that he shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Brent J. Fields
Secretary