

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 89699 / August 27, 2020

ADMINISTRATIVE PROCEEDING
File No. 3-19946

In the Matter of

Richard Barone,

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS,
PURSUANT SECTION 21C OF THE
SECURITIES EXCHANGE ACT OF 1934
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 public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against Richard Barone (“Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (“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, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Section 21C of the Securities Exchange Act of 1934 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:

Summary

1. Dominic Tropiano engaged in unauthorized and unsuitable trading in leveraged exchange traded funds ("ETFs") in the accounts of customers of America Northcoast Securities, Inc. ("ANS"). From May 2015 through April 2016, ANS did not register Tropiano as a registered representative with the Financial Industry Regulatory Authority ("FINRA"). However, ANS permitted Tropiano to solicit and place securities trades in 66 accounts of retail customers that Tropiano had recruited from the broker-dealer where he previously worked and with whom he had a one year non-compete agreement. Respondent was the Chairman and majority indirect owner of ANS and was Tropiano's father-in-law at the time. Respondent permitted him to open customer accounts, and permitted him to place trades in ANS customer accounts even after learning of customer complaints. Accordingly, Respondent caused ANS to violate Section 15(b)(7) of the Exchange Act and Rule 15b7-1 thereunder.

Respondent

2. Respondent Richard A. Barone, age 78, is a resident of Pepper Pike, Ohio, and Longboat Key, Florida. He holds a Series 65 license and previously held Series 1, 4, 40, 63, and F04 (financial principal) licenses. During the relevant period, he was the indirect majority owner and Chairman of ANS and he was also the founder and Chairman Emeritas of an investment adviser registered with the Commission. He was also a registered representative and investment adviser representative of various firms since 1966, and is now semi-retired.

Other Relevant Entity

3. America Northcoast Securities, Inc. was a registered broker-dealer incorporated in Nevada with its principal place of business in Cleveland, Ohio. ANS was a member of FINRA. ANS filed a Form BD-W on August 1, 2017, which became effective on September 30, 2017. ANS is no longer in business.

Background

4. In April 2015, Dominic Tropiano was fired from his job as a registered representative of a registered broker-dealer for violating the firm's policies regarding supervisory review of correspondence. Tropiano was subject to an agreement prohibiting him from soliciting any of his former customers for one year after his termination.

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.

5. At the time he was fired, Tropiano was married to the daughter of Respondent. Tropiano went to see Respondent, his father-in-law, for advice on finding a new job. At the time, Respondent was the Chairman of ANS.

6. Respondent knew that Tropiano was subject to an agreement with his previous employer prohibiting him from soliciting any of his former customers for one year after his termination. Respondent nevertheless advised Tropiano that it was important to retain his customers.

7. Respondent permitted Tropiano to bring his former customers over to ANS. Pursuant to this arrangement, Tropiano would encourage his former customers to open accounts at ANS. However, Tropiano would not become a registered representative of ANS until his one-year non-solicitation period had expired. Tropiano accepted Respondent's offer.

8. Respondent permitted Tropiano access to ANS's trading room and permitted him to open customer accounts. Respondent knew Tropiano was not registered with ANS and could not be registered with ANS due to his non-compete agreement with his previous employer.

9. Tropiano brought retail customers to ANS from his previous employer. During the year Tropiano was acting as an unregistered representative, he effected trades for these customers.

10. During the year that Tropiano acted as an unregistered representative, he placed unsuitable and unauthorized trades in leveraged ETFs in the accounts of several of these ANS retail customers, which led to large losses for these customers.

11. On September 25, 2015, Respondent learned that a customer had complained that Tropiano had engaged in unauthorized trading in leveraged ETFs in the customer's and his mother's accounts. Respondent took no action to prevent Tropiano from effecting securities transactions in customer accounts at that time. Tropiano continued to engage in unsuitable trading in ANS customer accounts.

12. On April 20, 2016, after his one year non-compete agreement expired, ANS registered Tropiano with FINRA as a registered representative of the firm. Less than two months later, in early June 2016, ANS terminated Tropiano's employment as a result of customer complaints.

13. ANS filed a Form BD-W on August 1, 2017, which became effective on September 30, 2017. ANS is no longer in business.

14. As a result of his unsuitable and unauthorized trading at ANS, on May 9, 2019, FINRA barred Tropiano from associating with any FINRA member in any capacity pursuant to an Acceptance, Waiver, and Consent ("AWC").

15. Section 15(b)(7) of the Exchange Act, and Rule 15b7-1 thereunder provide that any natural person associated with a broker-dealer who effects, or is involved in effecting, any

securities transaction must be properly registered or approved by any national securities exchange or national securities association of which the broker-dealer is a member.

16. Between May 2015 and April 2016, Tropiano effected securities transactions without being registered with FINRA as a registered representative at ANS.

17. As a result of the conduct described above, Respondent caused ANS to violate Section 15(b)(7) and Rule 15b7-1 thereunder.

IV.

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

Accordingly, pursuant to Section 21C of the Exchange Act it is hereby ORDERED that:

A. Respondent cease and desist from committing or causing any violations and any future violations of Section 15(b)(7) of the Exchange Act and Rule 15b7-1 thereunder.

B. Respondent shall, within 14 days of the entry of this Order, pay a civil money penalty in the amount of \$50,000 to the Securities and Exchange Commission. The Commission may distribute civil money penalties collected in this proceeding if, in its discretion, the Commission orders the establishment of a Fair Fund pursuant to 15 U.S.C. § 7246, Section 308(a) of the Sarbanes-Oxley Act of 2002. The Commission will hold funds paid pursuant to this paragraph in an account at the United States Treasury pending a decision whether the Commission, in its discretion, will seek to distribute funds or, subject to Exchange Act Section 21F(g)(3), transfer them to the general fund of the United States Treasury. 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 Richard Barone 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 Kathryn A. Pyszka, Associate Director, Division of Enforcement, Securities and Exchange Commission, Suite 1450, 175 West Jackson Blvd., Chicago, IL 60604.

C. Regardless of whether the Commission in its discretion orders the creation of a Fair Fund for the penalties ordered in this proceeding, 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, 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.

Vanessa A. Countryman
Secretary