

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 91974 / May 21, 2021

ADMINISTRATIVE PROCEEDING
File No. 3-20327

In the Matter of

Emil Botvinnik,

Respondent.

**ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 15(b) OF THE
SECURITIES EXCHANGE ACT OF 1934,
MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that administrative proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”), against Emil Botvinnik (“Botvinnik” 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 and the findings, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions Order (“Order”), as set forth below.

III.

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

1. Emil Botvinnik ("Botvinnik") is a resident of Coral Gables, Florida. From June 2012 to November 2014, Botvinnik was associated with Meyers Associates, LP (later known as Windsor Street Capital, LP) as a registered representative. Botvinnik is not currently associated with a registered broker-dealer. Botvinnik has no disciplinary history with the Commission. Botvinnik held Series 7 and 63 licenses.

2. On May 20, 2021, a final judgment ("Final Judgment") was entered by consent against Botvinnik, permanently enjoining him from future violations, or knowingly providing substantial assistance to future violations, of (i) Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], (ii) Section 10(b) of the Exchange Act and Rule 10b-5 thereunder [15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5], in the civil action entitled *Securities and Exchange Commission v. Emil Botvinnik*, Civil Action No. 1:18 -CV-08182, in the United States District Court for the Southern District of New York ("Action").

3. The Commission's complaint alleged as follows: From June 2012 to November 2014, Botvinnik, then a registered representative at a broker-dealer based in New York City, engaged in violations of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder and Section 17(a) of the Securities Act of 1933 involving excessive trading in the accounts of his retail customers that generated substantial commissions to enrich himself while his customers experienced significant losses. The complaint alleged that Botvinnik persuaded at least five customers to maintain securities trading accounts with him at the firm and assured them that he would employ a profitable trading strategy on their behalf. Botvinnik recommended a series of frequent, short-term trades to these customers while charging commissions and fees for each trade. The frequency of Botvinnik's trading, coupled with the commissions and fees on every trade, made it almost certain that his customers would lose money from the recommended level of trading. Indeed, the customers' investments would need to achieve annual returns of approximately 31% to 104% just to pay for the transaction costs associated with Botvinnik's trading strategy. The Complaint further alleged that Botvinnik was required to have a reasonable basis to believe his trading strategy was suitable for the customers to whom he recommended it. In fact, Botvinnik did not have a reasonable basis to believe that the frequent level of trading he recommended to customers, given the significant costs imposed on them, would be suitable for them or anyone else. Botvinnik also engaged in fraudulent and deceptive conduct by executing certain trades in customers' accounts without first obtaining their approval or informing them of material facts about the trading strategy he recommended, as required for non-discretionary accounts.

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

IV.

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

Accordingly, it is hereby ORDERED pursuant to Section 15(b)(6) of the Exchange Act that Respondent be, and hereby is barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

Any reapplication for association by the Respondent will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, compliance with the Commission's order and payment of any or all of the following: (a) any disgorgement or civil penalties ordered by a Court against the Respondent in any action brought by the Commission; (b) any disgorgement amounts ordered against the Respondent for which the Commission waived payment; (c) any arbitration award related to the conduct that served as the basis for the Commission order; (d) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (e) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

By the Commission.

Vanessa A. Countryman
Secretary