

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

Securities Exchange Act of 1934
Release No. 77360 / March 14, 2016

In the Matter of the Application of the	:	
	:	
Financial Industry Regulatory Authority, Inc.	:	
	:	
For an Order Granting the Approval of	:	ORDER APPROVING
	:	APPLICATION FOR
Steven Rattner	:	RELIEF FROM A
	:	STATUTORY
As an	:	DISQUALIFICATION
	:	
Investment Banking Representative	:	
	:	
With	:	
	:	
Guggenheim Securities, LLC	:	
	:	
Securities Exchange Act of 1934	:	
Section 15A(g)(2)	:	
	:	

The Financial Industry Regulatory Authority, Inc. has filed a notice containing an application (“Application”) with the Securities and Exchange Commission (“Commission”), pursuant to Rule 19h-1 of the Securities Exchange Act of 1934 (“Exchange Act”), on behalf of Guggenheim Securities, LLC (“Guggenheim” or “Firm”), seeking consent for Steven Rattner, a person subject to a statutory disqualification, to associate with Guggenheim as an investment banking representative (Series 79), subject to the terms and conditions set forth in the Application. Rattner is not currently associated with a broker-dealer.

I. Background

A. Basis for Statutory Disqualification

Rattner is subject to a statutory disqualification as a result of a final judgment, to which he consented, entered by the United States District Court for the Southern District of New York, on November 23, 2010 (“Final Judgment”).¹ The Final Judgment, among other things, permanently enjoins Rattner from further violations of Section 17(a)(2) of the Securities Act of 1933, ordered Rattner to pay disgorgement of \$3 million (as well as \$213,378 of prejudgment interest), and fined Ratter an additional \$3 million. The Final Judgment subjects Rattner to a statutory disqualification under Section 3(a)(39)(F) of the Exchange Act and its incorporation of Section 15(b)(4)(C) of the Exchange Act.

On December 9, 2010, based on the same underlying facts as the Final Judgment, the Commission issued a follow-on order, pursuant to Section 15(b) of the Exchange Act, which bars Rattner from association with any broker, dealer, or investment adviser, with the right to reapply after two years (“Bar Order”).² The Bar Order subjects Rattner to a statutory disqualification under Section 3(a)(39)(B) of the Exchange Act.

The Final Judgment and Bar Order are based on a Commission complaint that alleged that, in 2005 and 2006, Rattner secured a \$150 million investment from the New York State Common Retirement Fund (“Retirement Fund”) for a Quadrangle Group LLC (“Quadrangle”) private equity fund only after arranging for a Quadrangle affiliate to distribute the DVD of a film that David Loglisci, then the New York State Deputy Controller, and his brothers produced, and after agreeing to pay more than \$1 million in purported “finder” fees to Henry Morris, the top political advisor and chief fundraiser for then-New York State Comptroller Alan Hevesi, even though Quadrangle had already succeeded in presenting its investment proposal directly to Loglisci. The complaint further alleged that Rattner failed to disclose the DVD deal or the true nature of the payment to Morris, to the Retirement Fund’s Investment Advisory Committee.³

B. Rattner’s Industry Background

Rattner first registered as a New York Stock Exchange (“NYSE”) Officer in 1985 and became an NYSE Allied Member in 1987. Rattner registered as a general securities representative in 1989, as a general securities principal in January 1990, and he passed the uniform securities agent state law exam in June 1990. These licenses lapsed, but Rattner qualified as an investment banking representative in April 2013. He again passed the uniform securities agent state law exam in July 2013. Prior to the Final Judgement and Bar Order, Rattner was associated with three other FINRA member firms: Morgan Stanley & Co. (1985-1989); Lazard, Freres & Co. (1989-2000); and Quadrangle (2000-2009).

¹ See Securities and Exchange Commission v. Steven L. Rattner, No. 10 Civ. 8699 (S.D.N.Y. November 23, 2010).

² See Exchange Act Release No. 63478 (December 9, 2010).

³ See id.

Rattner currently serves as the chairman of Willett Advisors LLC (“Willett”). Willett is an investment-related business formed to invest the personal assets of former New York City Mayor Michael R. Bloomberg and the assets of the Bloomberg Family Foundation. Rattner oversees the investment team and functions as a primary decision maker for investment decisions. Willett is not, and has never been, registered as an investment advisor with any state or the Commission.

C. The Firm

Guggenheim became a FINRA member in January 1997 and services only institutional customers. The Firm’s home office is in New York, New York, and it has 24 branch offices and employs 377 registered representatives. The Firm represents that it does not employ any other individuals subject to a statutory disqualification.

II. Proposed Business Activities and Supervision

In the Application, FINRA and Guggenheim represent that Rattner will be employed as an investment banking representative, and that he will perform investment banking functions, including advising media industry investment banking clients. Rattner will be compensated by a percentage of the net fees that the Firm receives in connection with any transaction that he originates for the Firm, or in which he participates.

FINRA and Guggenheim represent that Richard Osler will be Rattner’s primary supervisor. Osler is the senior managing director of the Firm’s investment banking department, and has been associated with Guggenheim since August 2009. He has been registered as a general securities representative since March 1990, and has been registered as a general securities principal since March 1997. Both Rattner and Osler will work at the Firm’s home office in New York, New York.

FINRA and Guggenheim also represent that Mark Alan Van Lith will be Rattner’s backup supervisor when Osler is unavailable. Van Lith is a senior managing director of the Firm’s investment banking department, and has been associated with Guggenheim since October 2009. Van Lith has been registered as a general securities principal since April 1993. Van Lith will work out of the Firm’s home office in New York, New York.

FINRA is not aware of any disciplinary or regulatory proceedings, complaints, or arbitrations against Osler or Van Lith.

In the Application, FINRA and the Firm propose the following plan for heightened supervision:

1. Guggenheim will create supplemental written supervisory procedures stating that Osler is the primary supervisor responsible for Rattner. If at any time Osler is not available to perform these functions, Van Lith is designated as Rattner’s alternate supervisor.

2. Guggenheim's New York office will serve as Rattner's primary office location for investment banking activities, although he may, from time to time and in the normal course of business, participate in meetings outside of the office with Firm clients or other parties to an investment banking transaction.
3. With respect to the meetings described in Item No. 2 of this plan, Rattner will disclose to Osler, on a monthly basis, details related to such meetings that occurred in the previous month, as well as those meetings that are scheduled for the upcoming month. The disclosure must contain the date, time, topic(s) discussed or to be discussed, and location of all of Rattner's outside client appointments. These materials will be copied and maintained and kept segregated for ease of review during any statutory disqualification examination.
4. Osler, Van Lith, Rattner and Guggenheim's chief compliance officer will meet every two months to discuss Guggenheim business and any issues regarding this plan of supervision, including but not limited to Rattner's performance and his meetings, as described in Item No. 2, which took place outside of Guggenheim's New York office during the prior two months. Guggenheim will maintain a written record of these bi-monthly meetings, which will include a description of the purpose and matters discussed. Records of such meetings will be maintained in a segregated file.
5. Rattner will not maintain, or be the registered representative for, any customer accounts, and will not have contact with any retail customers.
6. Rattner will not be responsible for the creation or execution of transaction related documents.
7. Rattner will not act in a supervisory capacity.
8. Rattner will not, directly or indirectly, solicit, receive, or manage investments from any public pension funds, and will not appear in any capacity before any public pension fund.
9. Osler will review Rattner's outgoing and incoming written correspondence on a weekly basis, and will address any concerns to Rattner. Osler will maintain a record of any concerns he notes from his review in a segregated file.
10. Rattner will forward, to his Firm email address, any emails he receives through any non-Firm email addresses that relate to his securities or investment banking activities. Rattner will not use his personal email address to conduct any Guggenheim business.
11. Upon the closing of every transaction for which he provides investment banking services, Rattner will be required to execute an attestation that he has not, directly or indirectly, promised or provided any inappropriate or undisclosed benefit to any investor in the transaction in return for that investor's investment. On a quarterly basis, Rattner will be required to sign a statement verifying the accuracy of his past attestations and that no circumstances have changed that would render any of his past attestations inaccurate.

Consistent with Guggenheim's policies and written supervisory procedures, Rattner will be subject to immediate disciplinary action, including possible termination, if Guggenheim learns of any material misstatement in any attestation by Rattner. The compliance department will be required to maintain records of these attestations in Rattner's personnel file.

12. Rattner will seek prior approval of his outside business activities in accordance with Guggenheim's Outside Business Activities Policy, including Rattner's work with Willett.
13. Rattner is prohibited from performing any work for, or providing any advice to, Bloomberg's media companies, including Bloomberg L.P.
14. Guggenheim, through its compliance department, will monitor Rattner's outside media activities by conducting electronic searches and internet and media reviews, including implementing internet alerts, under the direction of Guggenheim's chief compliance officer. The compliance department will maintain documentation evidencing this review. If any concerns arise as a result of this surveillance, Osler will promptly discuss them with Rattner. During the bi-monthly meetings attended by Osler, Van Lith, Rattner and Guggenheim's chief compliance officer, Rattner's outside media activities during the prior two month period will be discussed and any issues will be documented and escalated. Notes describing any issue requiring escalation will be maintained in a segregated file.
15. Guggenheim will immediately refer any complaints pertaining to Rattner, whether oral or written, to Osler and to the Firm's compliance department for review and determination. Osler will prepare a memorandum to the file as to what measures he took to investigate the merits of the complaint and the resolution of the matter. Osler will keep all documents pertaining to these complaints segregated for ease of review and forward a complete copy to the compliance department for review and records retention.
16. For the duration of Rattner's statutory disqualification, Guggenheim will obtain prior approval from FINRA before changing Rattner's primary or alternate supervisor from Osler and Van Lith, respectively, to another person.
17. Osler will certify quarterly (March 31, June 30, September 30 and December 31) to the Firm's compliance department that he and Rattner are complying with all of the above conditions of heightened supervision.

III. Relief Sought

In the Application, FINRA seeks an order declaring that, notwithstanding Rattner's statutory disqualification, the Commission:

1. Will not institute proceedings pursuant to Sections 15(b) and 19(h) of the Exchange Act, solely on the basis of Rattner's association as an investment banking representative with Guggenheim pursuant to the representations contained in the Application; and

2. Will not direct FINRA to bar the proposed association, as provided in Section 15A(g)(2) of the Exchange Act.

IV. Conclusion

The Division of Trading and Markets (“Division”), pursuant to delegated authority, has reviewed the Application and the record before FINRA. Relying on the representations made by FINRA and Guggenheim concerning the proposed association of Rattner,⁴ the Division has concluded that it is appropriate for the Commission to approve the Application for Rattner to associate as an investment banking representative subject to the conditions of this order.

Accordingly, IT IS ORDERED that the Application of FINRA on behalf of Guggenheim and Rattner be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵

Robert W. Errett
Deputy Secretary

⁴ All representations, terms, and conditions of employment, contained in FINRA’s Rule 19h-1 notice filing (which includes Guggenheim’s MC-400 Application to FINRA) including any subsequent amendments or correspondence not specifically listed in this order, are incorporated herein by reference.

⁵ 17 CFR 200.30-3(a)(4).