SECURITIES AND EXCHANGE COMMISSION
Washington, D.C.

INVESTMENT ADVISERS ACT OF 1940
Release No. 6599 / May 3, 2024

Admin. Proc. File No. 3-21121

In the Matter of

RON K. HARRISON

OPINION OF THE COMMISSION

INVESTMENT ADVISER PROCEEDING

Grounds for Remedial Action

Injunction

Respondent was permanently enjoined from violations of the antifraud provisions of the federal securities laws. *Held*, it is in the public interest to bar respondent from association with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

APPEARANCES:

Kathryn C. Wanner for the Division of Enforcement.

On September 21, 2022, the Securities and Exchange Commission issued an order instituting proceedings ("OIP") against Ron K. Harrison pursuant to Section 203(f) of the Investment Advisers Act of 1940.[1] We now find Harrison to be in default, deem the allegations against him to be true, and bar him from associating in the securities industry in any capacity.

I. Background

A. The Commission instituted the proceeding against Harrison.

The OIP alleged that, on April 21, 2022, a federal court entered a judgment by consent against Harrison, permanently enjoining him from future violations of Section 17(a) of the Securities Act of 1933,[2] Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder,[3] and Sections 206(1) and 206(2) of the Advisers Act,[4] as well as enjoining him from accessing any securities brokerage account of any third party. According to the OIP, the Commission's underlying civil complaint had alleged that Harrison, acting as an unregistered investment adviser, traded options in his clients' online brokerage accounts, sent his clients monthly invoices misrepresenting the gains from his trading, and collected improper performance fees from them based on the overstated gains. The OIP stated that the complaint had also alleged that Harrison had touted his experience as a Wall Street trader without disclosing that FINRA had previously barred him from associating with any FINRA member.

The OIP initiated proceedings to determine whether the allegations contained therein were true and if any remedial action was appropriate in the public interest. It directed Harrison to file an answer to the allegations within 20 days after service, as provided by Rule of Practice 220(b).[5] The OIP informed Harrison that if he failed to answer, he could be deemed in default, the allegations in the OIP could be deemed to be true as provided in the Rules of Practice, and the proceeding could be determined against him upon consideration of the OIP.[6]

B. Harrison failed to answer the OIP, respond to an order to show cause why he should not be found in default, or respond to a motion for entry of default and sanctions.

Harrison was properly served with the OIP on September 19, 2023, pursuant to Rule of Practice 141(a)(2)(i),[7] but did not answer it. On December 18, 2023, more than 20 days after the OIP's service, the Commission ordered Harrison to show cause, by January 2, 2024, why it should not find him in default due to his failure to file an answer or otherwise defend this

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1 *Ron K. Harrison*, Advisers Act Release No. 6142, 2022 WL 4445431 (Sept. 21, 2022).

2 15 U.S.C. § 77q(a).

3 15 U.S.C. § 78j(b); 17 C.F.R. § 240.10b-5.

4 15 U.S.C. §80b-6(1)-(2).

5 17 C.F.R. § 201.220(b).

6 *See* Rules of Practice 155(a), 220(f), 17 C.F.R. §§ 201.155(a), .220(f).

7 17 C.F.R. § 201.141(a)(2)(i) (providing that service of an OIP on an individual may be made by "handing a copy of the order to the individual").

proceeding.[8] Harrison was warned that, if he was found in default, the allegations in the OIP would be deemed to be true and the Commission could determine the proceeding against him upon consideration of the record. Harrison did not respond to the order to show cause.

On January 29, 2024, the Division of Enforcement filed a motion requesting that the Commission find Harrison in default and bar him from the securities industry. The Division supported the motion with the allegations of the OIP and with filings from the civil action against Harrison, including the civil complaint, the consent judgment containing the injunctions, and the order granting the Commission's request for a final judgment against Harrison. Harrison did not respond to the Division's motion.

II. Analysis

A. We hold Harrison in default and deem the OIP's allegations to be true.

Rule of Practice 155(a) provides that if a party fails to "answer, to respond to a dispositive motion within the time provided, or otherwise to defend the proceeding," we may deem the party in default and "determine the proceeding against that party upon consideration of the record, including the order instituting proceedings, the allegations of which may be deemed to be true."9 Because Harrison has failed to answer or respond to the order to show cause or the Division's motion, we find it appropriate to deem him in default and the OIP's allegations to be true. We base the findings that follow on the record, including the OIP and the evidentiary materials that the Division submitted with its default motion. In addition, because Harrison

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[8] *Ron K. Harrison*, Advisers Act Release No. 6506, 2023 WL 8784904 (Dec. 18, 2023). The order to show cause also noted that the OIP's introductory paragraph contains a typographical error, as it states that the proceedings were instituted pursuant to Section 203(f) of the *Securities Exchange Act of 1934*, rather than Section 203(f) of the *Advisers Act*. *See id.* at *1 n.1; *see also Harrison*, 2022 WL 4445431, at *1 (OIP). But the OIP elsewhere cited, correctly, Section 203(f) of the Advisers Act as the basis for the proceeding (and the Exchange Act contains no Section 203(f)), decreasing the likelihood that the error caused Harrison to misunderstand the OIP as a whole. The show cause order further clarified and confirmed that this action was instituted pursuant to Advisers Act Section 203(f). Accordingly, we find no prejudice to Harrison because of the earlier typographical error in the OIP, and we find that he received ample opportunity to defend against this proceeding brought under Advisers Act Section 203(f). *See Aloha Airlines, Inc. v. CAB*, 598 F.2d 250, 262 (D.C. Cir. 1979) (holding that pleadings in administrative proceedings are sufficient if the respondent can understand the allegations and is afforded the opportunity to defend against them).

[9] 17 C.F.R. § 201.155(a); *see also* Rule of Practice 220(f), 17 C.F.R. § 201.220(f) (providing that, "[i]f a respondent fails to file an answer required by this [rule] within the time provided, such respondent may be deemed in default pursuant to [Rule] 155(a)").

agreed not to contest the allegations of the civil complaint in this proceeding,[10] we afford preclusive effect to the allegations of the civil complaint.[11]

B. We find an industry bar to be in the public interest.

Advisers Act Section 203(f) authorizes the Commission to suspend or bar a person from the securities industry if it finds, on the record after notice and opportunity for hearing, that (1) the person was enjoined from engaging in or continuing any conduct or practice in connection with acting as an investment adviser or in connection with the purchase or sale of any security; (2) the person was associated with an investment adviser at the time of the alleged misconduct; and (3) such a sanction is in the public interest.[12]

The record establishes the first two of these elements. Harrison was enjoined from conduct in connection with acting as an investment adviser and in connection with the purchase or sale of securities.[13] And the civil complaint's allegations establish that, from at least 2016 through August 2021, including at the time of his misconduct, Harrison was acting as an unregistered investment adviser and trading options in his clients' online brokerage accounts in

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[10] *Consent of Defendant Ron K. Harrison* at 3, Case No. 8:21-CV-01610-JVS-DFM (C.D. Cal. Dec. 26, 2023), ECF No. 36. We take official notice of Harrison's Consent, which was incorporated into the consent judgment that was entered against Harrison. *See* Rule of Practice 323, 17 C.F.R. § 201.323 ("Official notice may be taken of any material fact which might be judicially noticed by a district court of the United States . . . ."); *Conrad A. Coggeshall*, Exchange Act Release No. 97474, 2023 WL 3433398, at *2 n.6 (May 10, 2023) (taking official notice of the record in a federal civil action).

[11] *See Siris v. SEC*, 773 F.3d 89, 96 (D.C. Cir. 2014) ("Whether or not issues established in the consent judgment were 'actually litigated' for purposes of estoppel, the Commission's application of factual preclusion in the follow-on proceeding was appropriate because the judgment unambiguously barred Siris from making any future challenge to the allegations in the complaint."); *see also George Charles Cody Price*, Advisers Act Release No. 4631, 2017 WL 405511, at *4 (Jan. 30, 2017) (relying on complaint's allegations where petitioner had "expressly agreed not to contest the factual allegations from the injunctive action").

[12] 15 U.S.C. § 80b-3(f) (cross-referencing Advisers Act Section 203(e)(4), 15 U.S.C. § 80b-3(e)(4)); *see also id.* § 80b-3(e)(4) (discussing injunctions).

[13] *See* Advisers Act Section 206, 15 U.S.C. § 80b-6 (making it unlawful for "any investment adviser" to engage in specified conduct); Exchange Act Section 10(b), 15 U.S.C. § 78j(b) (applying to conduct "in connection with the purchase or sale of any security"); Exchange Act Rule 10b-5, 17 C.F.R. § 240.10b-5 (same).

exchange for performance fees.[14] Because Harrison acted as an investment adviser, he necessarily also was a person associated with an investment adviser.[15]

Thus, we need determine only if any remedial action is in the public interest. In doing so, we consider the egregiousness of the respondent's actions, the isolated or recurrent nature of the infraction, the degree of scienter involved, the sincerity of the respondent's assurances against future violations, the respondent's recognition of the wrongful nature of the conduct, and the likelihood that the respondent's occupation will present opportunities for future violations.[16] Our public interest inquiry is flexible, and no one factor is dispositive.[17] The remedy is intended to protect the trading public from further harm, not to punish the respondent.[18]

We have weighed all these factors and find an industry bar is warranted to protect the investing public. Harrison's misconduct, which occurred over a five-year period, was egregious, recurrent, and involved a high degree of scienter.[19] The civil complaint's allegations, which have preclusive effect in this proceeding,[20] establish that Harrison defrauded his investment adviser clients by falsifying invoices and thereby inflating the performance fees he received, and

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14 *See* Advisers Act Section 202(a)(11), 15 U.S.C. § 80b-2(a)(11) (defining "investment adviser" as "any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities"); *see also Koch v. SEC*, 793 F.3d 147, 157 (D.C. Cir. 2015) (holding that "[t]he definition of investment adviser does not include whether one is registered or not with the SEC").

15 *Shreyans Desai*, Advisers Act Release No. 4656, 2017 WL 782152, at *3 (Mar. 1, 2017) ("[T]he finding that Desai acted as an unregistered investment adviser establishes that he was associated with an investment adviser for purposes of Advisers Act Section 203(f)."); *see also* Advisers Act Section 202(a)(17), 15 U.S.C. § 80b-2(a)(17) (defining "person associated with an investment adviser" as "any partner, officer, or director of such investment adviser (or any person performing similar functions), or any person directly or indirectly controlling or controlled by such investment adviser, including any employee of such investment adviser"); *Anthony J. Benincasa*, Advisers Act Release No. 1923, 2001 WL 99813, at *2 (Feb. 7, 2001) (explaining that a person who acts "as an investment adviser in an individual capacity" is "in a position of control with respect to the investment adviser" and thus "meets the definition of a 'person associated with an investment adviser'").

16 *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979), *aff'd on other grounds*, 450 U.S. 91 (1981).

17 *Tzemach David Netzer Korem*, Exchange Act Release No. 70044, 2013 WL 3864511, at *4 (July 26, 2013).

18 *McCarthy v. SEC*, 406 F.3d 179, 188 (2d Cir. 2005).

19 *See Korem*, 2013 WL 3864511, at *6 (finding that respondent acted with "a high degree of scienter," in part because the "Securities Act § 17(a)(1), Exchange Act § 10(b), and Rule 10b-5 charges underlying the judgment to which [the respondent] consented, required knowing, willful, or, at the very least, reckless conduct").

20 *See supra* notes 10-11 and accompanying text.

that he did so knowingly or recklessly.[21] Harrison's actions cost the 22 customers involved roughly $3 million—trading losses of over $2 million, plus over $900,000 in often inflated performance fees. Indeed, the district court's order granting disgorgement indicates that Harrison inflated his performance fees by at least $837,545.72 based on overstated gains. And the complaint establishes that several of Harrison's clients were retired senior citizens with little or no experience in securities trading. Harrison further knowingly or recklessly defrauded his clients by touting his Wall Street experience without disclosing either that he had only worked in the securities industry for two years or that FINRA had earlier barred him from associating with any FINRA member after finding that he misappropriated $62,500 from customers and engaged in unauthorized trading in customer accounts.[22] The record therefore establishes that Harrison repeatedly abused the position of trust he occupied as an investment adviser.[23]

Because Harrison failed to answer the OIP, or to respond to the order to show cause or the Division's motion for entry of default and sanctions, he has made no assurances that he will not commit future violations or that he recognizes the wrongful nature of his conduct. It further appears that Harrison's occupation presents opportunities for future violations because he acted as an investment adviser during the five-year period of his misconduct, and he offers no evidence of his current occupation or assurances about his future plans.[24] Although Harrison has already been enjoined from accessing any third party's securities brokerage account, not all positions in the securities industry require direct access to others' brokerage accounts.

The Commission may impose bars to protect the investing public from a respondent's future actions by restricting access to areas of the securities industry where a demonstrated propensity to engage in violative conduct may cause further investor harm.[25] Here, the record establishes that Harrison defrauded multiple investors of at least $800,000 during a multi-year period, and that he did so after already having been barred by FINRA following earlier

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[21] *See Eldrick E. Woodley d/b/a Woodley & Co. Wealth Strategies*, Advisers Act Release No. 5981, 2022 WL 836849, at *3-4 (Mar. 21, 2022) (imposing associational bars based on investment adviser's submission of false invoices to misappropriate over $147,000 in client funds).

[22] *See* BrokerCheck Report for Ron Keith Harrison, at 5, 7, https://files.brokercheck.finra.org/individual/individual_1785805.pdf (describing Harrison's FINRA registration history and the FINRA bar). We take official notice of Harrison's BrokerCheck report pursuant to Commission Rule of Practice 323, 17 C.F.R. § 201.323. *See Michael Albert DiPietro*, Exchange Act Release No. 77398, 2016 WL 1071562, at *1 n.1 (Mar. 17, 2016) (taking official notice of BrokerCheck records).

[23] *See James C. Dawson*, Advisers Act Release No. 3057, 2010 WL 2886183, at *4 (July 23, 2010) ("[W]e have consistently viewed misconduct involving a breach of fiduciary duty or dishonest conduct on the part of a fiduciary . . . as egregious.").

[24] *See Price*, 2017 WL 405511, at *3 (expressing concern that respondent's occupation would present opportunities for future violations where he did not indicate that he planned to leave the securities industry).

[25] *See, e.g.*, *Stephen Condon Peters*, Advisers Act Release No. 6556, 2024 WL 624010, at *5 (Feb. 14, 2024).

disciplinary proceedings. As a result, Harrison has amply demonstrated that he is unfit to participate in the securities industry in any professional capacity and that an industry-wide bar is necessary to protect investors.[26] We therefore conclude that it is in the public interest to bar him from association with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.[27]

An appropriate order will issue.

By the Commission (Chair GENSLER and Commissioners PEIRCE, CRENSHAW, UYEDA and LIZÁRRAGA).

Vanessa A. Countryman
Secretary

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[26] *See James S. Tagliaferri*, Exchange Act Release No. 80047, 2017 WL 632134, at *6 (Feb. 15, 2017) (finding that the misconduct underlying the respondent's conviction demonstrated that respondent was unfit to participate in the securities industry and posed a risk to investors).

[27] *See id.* (imposing associational bars where they were necessary to protect the public).

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 6599 / May 3, 2024

Admin. Proc. File No. 3-21121

In the Matter of

RON K. HARRISON

ORDER IMPOSING REMEDIAL SANCTIONS

On the basis of the Commission's opinion issued this day, it is

ORDERED that Ron K. Harrison is barred from association with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

By the Commission.

Vanessa A. Countryman
Secretary