

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SECURITIES EXCHANGE ACT OF 1934
Release No. 67544/July 31, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14868

In the Matter of	:	
	:	ORDER MAKING FINDINGS AND
MATTHEW J. GAGNON	:	IMPOSING SANCTION BY DEFAULT

SUMMARY

This Order bars Matthew J. Gagnon (Gagnon) from association with any broker or dealer. Gagnon was previously enjoined from violating the antifraud and registration provisions of the securities laws.

I. BACKGROUND

The Securities and Exchange Commission (Commission) instituted this proceeding with an Order Instituting Proceedings (OIP), pursuant to Section 15(b) of the Securities Exchange Act of 1934 (Exchange Act), on May 2, 2012. The OIP alleges that Gagnon was enjoined in 2012 from violating the antifraud and registration provisions of the federal securities laws. Gagnon's Answer to the OIP was due on June 1, 2012. Matthew J. Gagnon, Admin. Proc. No. 3-14868 (A.L.J. May 25, 2012). To date, he has failed to file an Answer. On June 28, 2012, the Division of Enforcement (Division) filed a Motion to Find Respondent in Default and Determine the Proceedings Against Him.¹ Gagnon did not respond. Accordingly, he has failed to answer, to respond to a dispositive motion within the time provided, or otherwise to defend the proceeding; thus, he is in default, and the undersigned finds that the following allegations in the OIP are true. See 17 C.F.R. §§ 201.155(a), .220(f).

II. FINDINGS OF FACT

Gagnon is permanently enjoined from violating the antifraud and registration provisions of the federal securities laws, specifically, from violating Sections 5(a), 5(c), 17(a), and 17(b) of the Securities Act of 1933 and Sections 10(b) and 15(a) of the Exchange Act and Rule 10b-5

¹ The Division also filed a Motion for Summary Disposition on July 2, 2012. However, that motion does not lie because Gagnon has not filed an Answer. See 17 C.F.R. § 201.250(a).

thereunder.² SEC v. Gagnon, No. 10-cv-11891 (E.D. Mich. Mar. 22, 2012). The wrongdoing that underlies the injunction occurred from December 2005 through November 2007, during May and June 2009, and as recently as April 2010, when Gagnon participated in a Ponzi scheme and other fraudulent schemes. During this period, Gagnon was neither registered as a broker-dealer nor associated with a registered broker-dealer.

III. CONCLUSIONS OF LAW

Gagnon is permanently enjoined “from engaging in or continuing any conduct or practice in connection . . . with the purchase or sale of any security” within the meaning of Sections 15(b)(4)(C) and 15(b)(6)(A)(iii) of the Exchange Act.

IV. SANCTION

Gagnon will be barred from association with any broker or dealer.^{3, 4} This sanction will serve the public interest and the protection of investors, pursuant to Section 15(b) of the Exchange Act. It accords with Commission precedent and the sanction considerations set forth in Steadman v. SEC, 603 F.2d 1126, 1140 (5th Cir. 1979), aff’d on other grounds, 450 U.S. 91 (1981). Gagnon’s unlawful conduct was egregious, over a period of five years. There are no mitigating circumstances.

V. ORDER

IT IS ORDERED that, pursuant to Section 15(b) of the Securities Exchange Act of 1934, MATTHEW J. GAGNON IS BARRED from association with any broker or dealer.

Carol Fox Foelak
Administrative Law Judge

² Official notice, pursuant to 17 C.F.R. § 201.323, is taken of the fact that Gagnon was also ordered to disgorge \$3,613,259 and prejudgment interest of \$488,570.47 and to pay a \$100,000 civil penalty. SEC v. Gagnon, No. 10-cv-11891 (E.D. Mich. Mar. 22, 2012).

³ Although not associated with a registered broker-dealer, Gagnon is subject to a bar from association with a broker or dealer pursuant to Section 15(b) of the Exchange Act. See Vladislav Steven Zubkis, Exchange Act Release No. 52876 (Dec. 2, 2005), 86 SEC Docket 2618, 2627, recon. denied, Exchange Act Release No. 53651 (Apr. 13, 2006), 87 SEC Docket 2584 (unregistered associated person of an unregistered broker-dealer barred from association with a broker or dealer).

⁴ The Division’s request for sanctions also includes a collateral bar pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act). However, Gagnon’s misconduct antedates the July 22, 2010, effective date of the Dodd-Frank Act. Neither the Commission nor the courts have approved such retroactive application of its provisions in any litigated case, and the undersigned declines to impose the new sanction retroactively. See Koch v. SEC, 177 F.3d 784 (9th Cir. 1999); see also Sacks v. SEC, 648 F.3d 945 (9th Cir. 2011).