

**UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION**

\_\_\_\_\_)  
In the Matter of )  
ARMED MOHAMED SOLIMAN )  
\_\_\_\_\_)

**INITIAL DECISION**

Washington, D.C.  
January ~~19~~<sub>24</sub>, 1994

**Brenda P. Murray  
Administrative Law Judge**

**ADMINISTRATIVE PROCEEDING  
FILE NO. 3-7954**

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AHMED MOHAMED SOLIMAN ) **INITIAL DECISION**  
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**APPEARANCES:** William P. Hicks and Louise P. Videau for the  
Division of Enforcement, Atlanta District Office,  
Securities and Exchange Commission.

L. Jerome Stanley, Esq. for Ahmed Mohamed Soliman

**BEFORE:** Brenda P. Murray, Administrative Law Judge

## Background

The Securities and Exchange Commission (Commission) instituted this proceeding on January 7, 1993. The issue is what, if any, remedial action is appropriate in the public interest if certain allegations advanced by the Commission's Division of Enforcement (Division) about Ahmen Mohamed Soliman (Mr. Soliman) are true.

The Order Instituting Proceedings cites Sections 15(b)(6) and 19(h) of the Securities Exchange Act of 1934 (Exchange Act) and Sections 203(e) and 203(f) of the Investment Advisers Act of 1940 (Advisers Act) as authority for the proceeding.

I conducted a hearing in Baton Rouge, LA, on June 14, 1993. The record consists of testimony by 16 witnesses and 27 exhibits. On August 13, 1993, the Division filed proposed findings of fact and conclusions of law and a brief in support and Mr. Soliman filed a brief. On August 27, 1993, the parties filed reply briefs.

## Findings of Fact and Law

My findings and conclusions are based on the preponderance of the evidence standard as determined from the record and on my observation of the witnesses.

Mr. Soliman holds a bachelors degree in chemical engineering from the University of Cairo, Egypt, and a masters degree in business administration from Fairleigh Dickinson University. Mr. Soliman qualified with the National Association of Securities Dealers as a general securities representatives (Series 7) in 1983. In addition, he holds various licenses to engage in regulated business activities from the State of Louisiana: real estate 1981, life and health insurance 1983, and variable annuities 1985.

As is detailed in the following findings, the three allegations set out in the Commission's order initiating the proceeding are true. As to the first two allegations, Mr. Soliman was associated with registered broker-dealers from 1983 through April 1992, and he was convicted of violating 26 U.S.C. 7207, submitting false and fraudulent documents on material matters to the Internal Revenue Service (U.S. v. Ahmed M. Soliman, Criminal Action No. 92-12-A (M.D. LA.)).

A. G. Edwards terminated Mr. Soliman's employment as a registered representative at its Baton Rouge, LA, office on April 2, 1992 as the result of his criminal conviction. Mr. Soliman's status with United Pacific Securities (United Pacific), another registered broker-dealer, in the period April to October 1992 is unclear on this record but the weight of the evidence is that he was a registered representative. On the one hand, there is no evidence that he conducted business as a registered representative, on the other hand, in April 1992, he filed a Uniform Application for Securities Industry Registration (Form U-4) with United Pacific to become a registered representative, in June he represented on his Form ADV filed with the Commission that he was registered with United Pacific, and in October 1992 United Pacific canceled his registered representative status (Compare Division Exhibit 5, Schedule D, p. 2 with Tr. 91, 197-201, 204, 213, 220-21). Mr. Soliman's position that United Pacific filed the notice terminating his registration because he became affiliated with the broker-dealer not as a registered representative but in some other way is

implausible (Tr. 219-221; Respondent's Exhibit 8). Mr. Soliman's position is also inconsistent with his acknowledgement that termination of his registration by United Pacific was a set back for his business (Tr. 97). 1/

On July 1, 1992, Mr. Soliman became a registered investment adviser pursuant to Section 203(c) of the Advisers Act under the name Ahmed Mohamed Soliman, a sole proprietorship. Mr. Soliman conducted business at 2900 West Fork Drive in Baton Rouge in July and August, 1992 under the name Retirement Consultants of Louisiana, a name he used to conduct business (Tr. 56). 2/ In July and August 1992, Mr. Soliman ran six advertisements in the Baton Rouge newspaper identifying himself as a registered investment adviser and President, Retirement Consultants of Louisiana, "For your investment needs before and after retirement." According to the advertisements, Retirement Consultants of Louisiana offered securities through United Pacific. Some advertisements pictured Mr. Soliman and Dianne Chehardy and Mark Gyan who were identified as investment brokers around the name Retirement Consultants of Louisiana. Other advertisements pictured Mr. Soliman with Ms. Chehardy and Mr. Gyan who were identified as financial consultants around the name Retirement Consultants of Louisiana along with two additional people and the statement "We welcome William L. Ellzey,

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1/ The Division has not alleged any misconduct by Mr. Solliman in connection with his status with United Pacific (Tr. 197-201, 224-237).

2/ According to Mr. Soliman, he used the name for his investment adviser business which he says never happened and his business of selling insurance (Tr. 82-83).

CPA and James F. Ledford Attorney at our new location 3999 South Sherwood Forest Boulevard, Baton Rouge, LA 70816". All the advertisements urged people to call "us" and stated that "Securities offered through United Pacific Securities, Inc.; Member NASD, SIPC" (Division Exhibit 9). Mr. Soliman paid Ms. Chehardy's fees to register with United Pacific, he referred securities business to her, and she did office work for his investment advisory firm (Tr. 35, 3-76). Ms. Chehardy and Mr. Gyan worked in an office rented by Retirement Consultants of Louisiana which had a sign outside with Mr. Soliman's name and the designation RIA (Tr. 16-17, 20; Division Exhibit 12).

In July, August, and September 1992, Mr. Soliman paid for a business telephone account for Retirement Consultants of Louisiana with an additional listing in his name. 3/ He made local and long distance calls on this number. 4/ He sent letters to people announcing an investment seminar he ran at a Baton Rouge hotel in early September 1992 at which Ms. Chehardy and Mark Gyan spoke about securities and mutual funds.

In September 1992, two Commission securities compliance

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3/ Phone service was switched from 2900 West Fork Drive to 3999 South Sherwood Blvd. on August 31. Mr. Soliman signed the lease for the office and paid the September rent on a check drawn on Retirement Consultants of Louisiana. Mr. Soliman claimed that he and the other people in the office each paid a share of the rent (Tr. 31-32, 76-77).

4/ Mr. Soliman used the phone in his investment adviser business. The phone bills show local and long distance calls but he claims he only made local calls as an investment adviser (Tr. 101; Division Exhibit 17).

officers were unable to locate Mr. Soliman on West Fork Drive, the address specified on the investment adviser registration form on file with the Commission. They found Mr. Soliman at 3999 South Sherwood Forest Blvd., his new business address effective September 1, and requested financial statements for the registered investment adviser. Mr. Soliman produced a check book in the name of Retirement Consultants of Louisiana and one page financial statements for the months of July and August. The examiners could not reconcile the checks, the information Mr. Soliman provided, and the financial statements (Tr. 31-39).

On September 28, 1992, ten days after the examiners from the Commission's Division of Investment Management conducted their examination, Mr. Soliman filed an amendment to his Form ADV changing the adviser's name from Ahmen Mohamed Soliman to Retirement Consultants of Louisiana, changing the principal place of business to 3999 South Sherwood Forest Boulevard, Baton Rouge, and adding the names of Ms. Chehardy and Mr. Gyan, licensed securities brokers, as individuals associated with the investment advisor.

Section 204 of the Advisers Act states:

Every investment adviser who makes use of the mails or of any means or instrumentality of interstate commerce in connection with his or its business as an investment adviser (other than one specifically exempted from registration pursuant to section 203(b) of this title) shall make and keep for prescribed periods such records ... as the Commission, by rule, may prescribe ...

I reject counsel's argument that Mr. Soliman was exempt from maintaining the books and records required of a registered

investment adviser. Respondent relies on Section 203(b)(1) which exempts from registration an investment adviser all of whose clients are residents of the state where the adviser maintains its business and who does not furnish advice or analyses or reports on securities listed on national securities exchanges. Counsel cites Mr. Soliman's testimony that he had no clients outside the state of Louisiana (Respondent's Brief, 5). However, Mr. Soliman has also said that he had a certain number of clients, that he had no clients, and that he was not sure what a client was (Tr. 18-19, 90-91). Mr. Soliman never sought a specific exemption from registration, rather he voluntarily registered as an investment adviser to gain credibility with the investing public (Tr. 205). His letterhead stationery said "Retirement Consultants of Louisiana, Investments for Pre-Retirement, Post-Retirement & Rollovers, The Specialists", and his advertisements noted that he was a registered investment adviser (Division Exhibits 9, 11). After choosing to register, he cannot pick and chose what portions of the investment adviser regulations he will comply with. Investment Advisers Act Release No. 870, [1982-1983 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶83,370 at 86,045 n6.

Based on Mr. Soliman's admission and other evidence, I find that the Division's third allegation set out in the Order for Proceedings is true, i.e., Mr. Soliman willfully failed to make and keep the financial records - journals, ledgers, trial balances and financial statements - for the months of July and August 1992 required by Section 204 of the Advisers Act and Rule 204-2(a)



thereunder (Tr. 93-94). It is settled that a willfulness finding does not require a specific finding that respondent intended to violate the law or that respondent was aware that he or she was violating the law. It is sufficient that respondent intentionally committed the act that constitutes the violation or, if charged with a duty to act, failed to meet his/her responsibility. See, e.g., Roman S. Gorski, 43 S.E.C. 618, 621 (1967), Frank W. Humphreys, 48 S.E.C. 161, 164 (1985), and Tager v. S.E.C., 344 F.2d 5, 8 (2d Cir. 1965).

In addition to claiming to be exempt from the books and records requirement, Mr. Soliman denies that he acted as an investment adviser in the period July through September 1992. I find the claim to be false. Section 202(a)(11) defines an investment adviser as:

any person who, for compensation, engages in the business of advising others, ... as to the value of securities or as to the advisability of investing in, purchasing, or selling securities ...

The evidence is persuasive that Mr. Soliman offered the public the services of an investment adviser for compensation in the period July through September 1992. It is disingenuous for Mr. Soliman, a person with an MBA in finance and eleven years experience in the securities industry, to claim that the newspaper advertisements did not indicate that the people shown were available through Retirement Consultants of Louisiana, and that these advertisements and other actions did not constitute an offer to the public of investment adviser services for a fee (Tr. 85).

Section 15(b)(4)(B) of the Exchange Act and Section 203(e)(2)

of the Advisers Act specify that criminal conviction for crimes involving the making of a false report, forgery, and fraudulent concealment, three non-securities-related criminal activities, when accompanied by a public interest finding, as the basis of a sanction. 5/ I reject Respondent's claim that there is no authority for the proceeding because crimes involving forgery and fraudulent concealment must involve funds or securities. I find that Mr. Soliman's conviction for submitting 71 receipts to the Internal Revenue Service which he knew to be false to support the rental property expenses that he claimed on his 1988 income tax return was a crime involving the making of a false report, forgery, and fraudulent concealment.

In Bruce Paul, 48 S.E.C. 126, 127-28 (1985), the Commission found a conviction for filing a false income tax return, a felony, to come within the meaning of the making of a false report. It makes no difference that Mr. Soliman's conviction was a misdemeanor as the statutes specify any felony or misdemeanor. The Commission in Bruce Paul rejected Mr. Paul's position, repeated here by Mr. Soliman that the criminal conviction must be for a securities-

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5/ Section 15(b)(6)(A) which covers, among others, persons associated or seeking to become associated with a broker-dealer who have been convicted of any misdemeanor or felony specified in subparagraph 15(b)(4)(B) within 10 years of the commencement of a proceeding. Subparagraph 15(b)(4)(B) states in part

(i) involves the... making of a false report...  
(iii) involves... forgery...fraudulent  
concealment...or misappropriation of funds or  
securities...

Section 203(e)(2) contains the same language.

related offense:

Section 15(b) of the Exchange Act was adopted so that we could determine whether brokers whose honesty and integrity had been seriously impugned should be barred from the securities business. As originally enacted, that provision only authorized us to take remedial action on the basis of convictions that were securities-related. However, our 1963 Special Study of Securities Markets pointed out that "[c]onviction of other crimes, such as embezzlement and fraud unrelated to securities, though not disqualifying under the statute, [could] indicate as much potential danger to the investing public as the securities now listed in section 15(b)..." Shortly thereafter, in 1964, Congress amended Section 15(b) to provide that certain non-securities-related convictions could serve as the basis for sanctions. And, in 1975, Congress once again enlarged the scope of that provision by including among other things, the type of conviction at issue here.

...  
When Congress expanded the bases for remedial action in Section 15(b) of the Exchange Act, it explicitly added misconduct that did not involve securities in an effort to protect the investing public against similar misconduct in a securities context. (footnotes omitted) Bruce Paul, 48 S.E.C. 126, 127-28 (1985)

The reasoning in Bruce Paul remains valid, and, like Mr. Paul, Mr. Soliman has demonstrated clearly his propensity for dishonesty.

The expert testimony Mr. Soliman presented on Internal Revenue Service criminal procedures and proceedings is unpersuasive as to how this Commission should treat Mr. Soliman's conviction because the issue here is how the crime is characterized under Section 15(b)(4)(B) of the Exchange Act and Section 203(e)(2) of the Advisers Act.

#### Public Interest

Sections 203(e) of the Advisers Act directs the Commission to sanction an investment adviser if the sanction is in the public interest and the adviser, among other things, has been convicted

of a particular crime or has willfully violated a provision of the Advisers Act or rule thereunder. 6/ Sections 203(f) of the Advisers Act and 15(b)(6) of the Exchange Act provide similar authority except a bar replaces revocation as to someone associated, seeking to become associated, or who was associated with an investment adviser or broker-dealer. The previous findings satisfy these requisites except for the public interest finding which is the next subject to be considered.

"The securities industry presents a great many opportunities for abuse and overreaching, and depends very heavily on the integrity of its participants". Bruce Paul, 48 S.E.C. 126, 128 (1985). In particular, the role of an investment advisers is that of a fiduciary in whom clients must be able to put their trust. The courts have noted that the occupation of investment adviser is one "which can cause havoc unless engaged in by those with appropriate background and standards". Benjamin Levy Securities, Inc., 46 S.E.C. 1145, 1147 (1978) quoting Marketlines, Inc. v. S.E.C., 384 F.2d 264, 267 (2d. Cir., 1967), cert. denied, 390 U.S. 947 (1968).

I find the testimony from the ten former customers and friends of Mr. Soliman who characterized him as a person of good character unpersuasive in view of the overwhelming evidence of words and deeds which show Mr. Soliman sadly lacking in candor and integrity. Mr. Soliman's criminal conviction occurred because he submitted

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6/ The specific language is "shall censure, place limitations on the activities, functions, or operations of, suspend for a period not exceeding 12 months, or revoke the registration of any investment adviser."

approximately 71 documents which he knew to be false to the Internal Revenue Service. Mr. Soliman initially denied that he altered the documents which he submitted in response to an audit of his 1988 federal income tax return which he prepared and submitted. However, when challenged to produce original documentation, Mr. Soliman could only produce receipts totaling \$684 to support \$12,232 in claimed rental property expenses, and he admitted that he changed the year and the amounts on the documents. (Division Exhibit 3, 12-19, 21-23). As the result of his guilty plea, Mr. Soliman was placed on probation for three years, he paid a fine of \$5,000 and a tax to the Internal Revenue Service of \$3,125, and he was ordered to perform 100 hours of community service.

In addition to the criminal conviction and the willful violation of Section 204 of the Advisers Act and Rule 204-2(a), this record is replete with examples of where Mr. Soliman provided false information on material issues to the Commission. For example:

1. Mr. Soliman stated on his investment adviser registration application that he provided advisory services during the last fiscal year to 500 clients (Division Exhibit 5, Part 1, # 17B), that he managed or supervised 500 client securities portfolios on a non-discretionary basis and that these portfolios had an aggregate market value of approximately \$25 million (Division Exhibit 5, Part 1, #19), and that the approximate billings from the services provided was 40% from investment supervisory services, 40%

from managing investment advisory accounts not involving supervisory services, and 20% from furnishing investment advice through consultations not included in the other two categories (Respondent Exhibit 11, Part 2, #1). At the hearing he admitted all these answers were false (Tr. 203-04).

2. Mr. Soliman falsely told the Commission examiners initially that he was a registered investment adviser and that he advised his clients - two contract clients and three prospective clients - to put funds in no-load mutual funds (Tr. 18). He told the examiners he was going to use Charles Schwab as a broker for his clients but the advertisements specify United Pacific (Tr. 21).

3. He testified that he did not indicate on his investment adviser registration form that he engaged in selling insurance because as of June 1 he had not sold any, yet he claims his only income in July and August came from selling insurance (Tr. 83-84, 105-06).

Mr. Soliman's penchant for untruthfulness about material matters is egregious. When caught he has offered a wide variety of excuses. He blamed his criminal conduct on water damage to records, time constraints, and a medical condition - mitral lapsed syndrome - which causes panic attacks when he is under pressure (Division Exhibit 3, 22-23). He blamed his false answers on his investment adviser filing to his failure to understand the form but he did not explain why he did not seek clarification (Tr. 203).

Finally, this record discloses Mr. Soliman's utter disregard for the responsibilities required of a registered investment

adviser and a securities professional. He admitted that he knew little about the investment adviser position and registered to retain credibility with the public after his criminal conviction and as a method to continue in the securities industry. He expected to continue as a registered representative, an occupation that he did well at financially (Tr. 91, 205, 220-21). Mr. Soliman earned \$139,745 and \$103,196 in 1987 and 1988 in wages or salary as a registered representative (Respondent's Exhibit 1) A. G. Edwards terminated his employment as a registered representative on April 2, 1992, and it appears he earned \$42,000 as of September 1, 1992 (Tr. 116).

I disagree with Mr. Soliman that there are mitigating circumstances - the conviction was for an isolated act, mitigating circumstances surrounded the conviction, no injury to the public, and he has not been the subject of any other regulatory agency or court decision - which call for any sanction to be minimal. Mr. Soliman's conviction was for activities that occurred in connection with one year's tax return, however, deliberately changing receipts and bills and submitting them to an Internal Revenue Service auditor show such a lack of honesty and judgment as to indicate that the person is unsuited to hold a responsible position in the securities industry. I do not accept that there were any mitigating circumstances surrounding his criminal conviction. The fact that people did not lose money or suffer other injury as a result of Mr. Soliman's activities is not relevant in determining sanctions deemed necessary to protect the public interest in this situation.

Finally, I have considered Mr. Soliman's disciplinary record in the securities industry, but this record and my observation of the witnesses persuade me that Mr. Soliman is likely to repeat his prior unlawful conduct.

For all the reasons discussed, I find it necessary to use the severest sanction available which is to revoke Mr. Soliman's investment adviser registration and to bar him from association with any broker, dealer or investment adviser.

I have considered and rejected those proposed findings, arguments, and conclusions that are inconsistent with this decision.

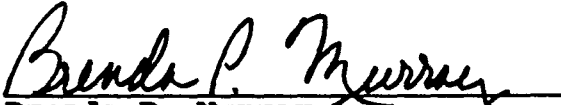
Order

Accordingly, IT IS ORDERED that the investment adviser registration of Ahmed Mohamed Soliman is revoked and Ahmed Mohamed Soliman is barred from being associated with any broker, dealer or investment adviser.

This order shall become effective in accordance with and subject to the provisions of Rule 17(f) of the Commission's Rules of Practice. Pursuant to that rule, this initial decision shall become the final decision of the Commission as to each party who has not filed a petition for review pursuant to Rule 17(b) within fifteen days after service of the initial decision upon him or her, unless the Commission, pursuant to Rule 17(c), determines on its own initiative to review this initial decision as to a party. If



a party timely files a petition for review, or the Commission acts to review as to a party, the initial decision shall not become final as to that party.

  
Brenda P. Murray  
Administrative Law Judge

Washington, D.C.  
January ~~18~~, 1994  
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