ADMINISTRATIVE PROCEEDING
FILE NO. 3-8154

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

In the Matter of	)
	)
SHAW TEHRANI A\K\A	)
SHAW AHMADI-TEHRANI	)
	)

INITIAL DECISION

Washington, D.C.
December 15, 1993

Max O. Regensteiner
Administrative Law Judge

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APPEARANCES: Amy C. Reich, Edwin H. Nordlinger, Robert B. Blackburn and Daniel R. Schnipper, of the Commission's Northeast Regional Office, for the Division of Enforcement.

Shaw Ahmadi-Tehrani, pro se.

BEFORE: Max O. Regensteiner, Administrative Law Judge

In these proceedings pursuant to Section 15(b)(6) of the Securities Exchange Act of 1934 ("Exchange Act"), the issues are (1) whether, as alleged by the Division of Enforcement, Shaw Ahmadi-Tehrani ("Tehrani")[1] was (a) permanently enjoined from violating certain Securities Act of 1933 and Exchange Act provisions and rules under the Exchange Act and (b) convicted of bank fraud, and (2) if so, what, if any, remedial action is appropriate in the public interest.

Following hearings, the Division filed proposed findings of fact and conclusions of law and a supporting memorandum, Tehrani filed a memorandum and the Division filed a reply memorandum.

Section 15(b)(6) of the Exchange Act

As pertinent here, Section 15(b)(6) provides for the imposition of one of specified sanctions on any person associated or seeking to become associated with a broker-dealer, or so associated or seeking to become associated at the time of the alleged misconduct, where that sanction is found to be in the public interest and such person is enjoined from engaging in any conduct or practice in connection with the purchase or sale of any security or has been convicted of a felony involving larceny, theft, forgery, fraudulent conversion or misappropriation of funds.

The Injunction

In April 1993, Tehrani was permanently enjoined by the United

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[1] In the Commission's Order instituting these proceedings, the respondent's name is shown as Shaw Tehrani, a/k/a Shaw Ahmedi-Tehrani. In the course of the proceedings, the respondent stated that his correct family name is Ahmadi-Tehrani.

States District Court for the Southern District of New York from violating antifraud and disclosure provisions of the Securities Act and Exchange Act (Section 17(a) of the Securities Act and Sections 10(b) and 13(d) of the Exchange Act) and certain Exchange Act rules (Rules 10b-5 and 13d-1).[2] Tehrani consented to the injunction without admitting or denying the allegations of the Commission's complaint. The complaint alleged that in the period 1989-90, Tehrani, who was then employed by BC Financial Corporation, a registered broker-dealer, and Ahmad N. Bayaa, president of Southland Communications, Inc., acting in concert, engaged in a scheme to manipulate the price of Southland securities by accumulating at least 89% of the public float in various accounts controlled by them at various brokerage firms. It alleged that to further their scheme, Bayaa and Tehrani bought, and caused their controlled accounts to withhold from the market, as much of the Southland securities as possible; engaged and attempted to engage in transactions to create the illusion of buying interest; opened numerous accounts at various brokerage firms creating the false illusion of widespread market interest in Southland securities; and alerted their friends and others in the brokerage community to their plans and urged them to withdraw the supply of Southland securities from the open market. According to the complaint, the scheme resulted in losses to various broker-dealers totalling more than $11 million, due to non-payment for the purchase of Southland securities. In addition to enjoining Tehrani, the court ordered him

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[2] SEC V. Ahmad N. Bayaa, et al., 90 Civ. 3262 (KMW).

to disgorge $71,021, including $20,641 in prejudgment interest.

The Conviction

In May 1993, Tehrani was found guilty in the United States District Court for the Northern District of Florida of conspiracy to defraud the United States and two counts of bank fraud.[3] According to the indictment,[4] in 1991-92 Tehrani and others engaged in a scheme to steal blank checks and to obtain cash from banks by forging the signatures of the account-holders on those checks. The court sentenced him to prison for 50 months, followed by supervised release for five years. He was also ordered to pay a special assessment of $150 and to make restitution in the amount of $63,528. Tehrani's appeal from his conviction is pending.

Public Interest

At the time of the alleged misconduct involved in the injunctive action, Tehrani was associated with a broker-dealer, and the injunction falls within one of the categories covered by Section 15(b)(6). Hence, the remaining issue concerns the sanction that is appropriate in the public interest. The record does not show that at the present time or at the time of the misconduct that resulted in Tehrani's conviction, he was associated or seeking to

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[3] United States v. Robert Neil Mahoney, et al., TCR 92-04062-003.

[4] As requested by the Division, I have taken official notice of the indictment.

become asssociated with a broker-dealer.[5] While the conviction could thus not in itself be a basis for a Section 15(b)(6) proceeding, it is highly pertinent to the public interest issue.

The Division urges that it is in the public interest to bar Tehrani from association with a broker or dealer. Citing factors that the court in Steadman v. SEC, 603 F.2d 1126, 1140 (5th Cir. 1979), aff'd on other grounds 450 U.S. 91 (1981), listed as pertinent to the sanction determination, it contends that the allegations in the injunctive action and the conduct for which he was convicted involve egregious conduct; that such conduct was not isolated, but continued over an extended period; and that he has not offered any assurances against future violations or recognized the wrongful nature of his conduct.[6]

Tehrani points out that between the time he first entered the securities business in 1986 and the filing of the complaint in the injunctive action, no complaint was filed against him, and he asserts that his professional conduct during that period was

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[5] In the order for proceedings, the Division alleged that Tehrani was associated with BC Financial between April 1989 and June 1990. In its memorandum (p. 7), the Division acknowledged that Tehrani's criminal misconduct did not occur in connection with his activities as a registered representative.

[6] The Division asserts that Tehrani has demonstrated a lack of remorse and contempt for the injunction by not paying any of the disgorgement ordered by the court. In that connection, it asks me to take official notice of a docket sheet for the injunctive action, a copy of which is attached to its memorandum. However, the Division cites no evidence in the record relating to payment or non-payment of the disgorgement, and nothing in the docket sheet relates to that subject. I see no reason to take official notice of the docket sheet.

impeccable. With respect to the injunction, he asserts that any "purported loss" by broker-dealers was attributable to the Commission's suspension of trading in Southland stock and that staff members acted in collusion with and at the behest of short sellers. He states that he consented to the injunction only because his financial resources were depleted and that a consent injunction should not be a basis for a bar. With respect to the conviction, he contends that it had nothing to do with securities fraud, that he is appealing it, and that there is no compelling reason to bar him from the securities business until all appeals are exhausted.

Certain of Tehrani's arguments are in the nature of a collateral attack on the injunction; such an attack is not permissible. Kimball Securities, 39 S.E.C. 921, 924 n.4 (1960).[7] Tehrani's other arguments are for the most part answered by what the Commission stated in its recent decision in Charles Phillip Elliott. Securities Exchange Act Release No. 31202 (September 17, 1992), 52 SEC Docket 2011. Addressing the public interest considerations relating to the injunction involved in that case, the Commission said:

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[7] Tehrani attached to his memorandum a press release concerning a 1991 report of the House Government Operations Committee that was critical of abuses by short sellers and of the Commission's asserted failure to effectively control, and asserted indifference to, those abuses. He relies on this document for an argument that if there was a conspiracy, it was between staff members and short sellers who stood to gain from a drop in the price of Southland stock.

Aside from the fact that this argument impermissibly seeks to disprove the charges in the injunctive action, there is simply no basis for tying the Committee's statements to the particular events involved in the Southland situation.

> We recognize that the injunction was entered by consent and without findings of fact. Nevertheless, those circumstances do not prevent our acting on the basis of, or deriving conclusions from, the injunction. The Securities Exchange Act empowers us to act in the public interest when a person has been enjoined, with no exception made in the case of a consent injunction.
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> As our previous decisions reflect, the action required in the public interest as the result of an injunction may be inferred from all the circumstances surrounding the injunctive action. Moreover, that precedent suggests that, in practical effect, the allegations in the complaint in an action settled by consent may, in a subsequent proceeding before us, be given considerable weight for purposes of assessing the public interest. (Footnotes omitted)

52 SEC Docket at 2018. Here, as in Elliott, the allegations in the injunctive action portray the respondent as the perpetrator of a serious fraud.

Elliott is also instructive on one aspect of Tehrani's arguments concerning the conviction. Like Tehrani, Elliott pointed out that his conviction was on appeal. The Commission's answer was that a court of competent jurisdiction had acted, and the fact that an appeal had been taken did not bear on its consideration. The Commission added that typically (although not in that case because the bar it imposed was independently supported by the injunction), if the appeal was successful, it would entertain an application for reconsideration. 52 SEC Docket at 2017 n.17.

Respecting Tehrani's argument that the conviction had nothing to do with securities fraud, it has already been pointed out that the crimes of which he was convicted come within the categories of crimes enumerated in Section 15(b)(6) of the Exchange Act. In Bruce Paul, 48 S.E.C. 126, 128(1985), the Commission, faced with a

similar argument by a respondent who had been convicted of filing false income tax returns, pointed out that the securities industry presented "a great many opportunities for abuse and overreaching, and depends very heavily on the integrity of its participants." It noted that when Congress in 1964 and again in 1975 amended Section 15(b) to provide that certain non-securities-related convictions could serve as the basis for sanctions, it explicitly sought to protect the investing public against similar misconduct in a securities context.

Based on his past conduct, Tehrani must be deemed a threat to the investing public, and the public needs to be protected from the potential of further misconduct at his hands. Under the circumstances, a bar from the brokerage business is required.

Order

Accordingly, IT IS ORDERED that Shaw Ahmadi-Tehrani is hereby barred from being associated with a broker or dealer.

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, unless the Commission, pursuant to Rule 17(c), determines on its own initiative to review this initial decision as to him. If a party

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

Max O. Regensteiner
Administrative Law Judge

Washington, D.C.
December 15, 1993