

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 63605 /December 23, 2010

ADMINISTRATIVE PROCEEDING
File No. 3-14098

In the Matter of	:	
	:	ORDER MAKING FINDINGS AND
EDWARD TAMIMI	:	IMPOSING REMEDIAL SANCTION
	:	BY DEFAULT

The Securities and Exchange Commission (Commission) issued its Order Instituting Proceedings (OIP) against Edward Tamimi (Tamimi) on October 27, 2010, pursuant to Section 15(b) of the Securities Exchange Act of 1934 (Exchange Act). The OIP alleged that Tamimi participated in a fraudulent offering of unregistered securities, and, as a result, he was enjoined from future violations of various provisions of the Securities Act of 1933 (Securities Act) and the Exchange Act by the U.S. District Court for the Southern District of Florida.

The Division of Enforcement (Division) has provided evidence that Tamimi was personally served with the OIP in accordance with 17 C.F.R. § 201.141(a)(2)(i) on November 17, 2010, and his Answer to the OIP was due twenty days from this date of service. See OIP at 2; 17 C.F.R. § 201.220(b). An Order was issued on November 23, 2010, setting a telephonic prehearing conference for December 17, 2010. In that Order, Tamimi was put on notice that if he failed to file an Answer or attend the prehearing conference he could be deemed in default and have the proceeding determined against him.

At the prehearing conference, the Division confirmed that it had not received a response from its attempts to confer with Tamimi. The Division requested that Tamimi be found in default and that a bar from association with any broker or dealer be issued against him. Tamimi has not filed an Answer and did not attend the prehearing conference, and, therefore, he is in default. See 17 C.F.R. §§ 201.155(a), .220(f), .221(f).

FINDINGS OF FACT

Tamimi, thirty-three years old, is a resident of Palm Beach Gardens, Florida. OIP at 1. From May 2007 through September 2008, he was a telemarketing sales agent for Winning Kids, Inc. (Winning Kids), a company that has never been registered with the Commission and has not

registered any offering of securities under the Securities Act or a class of securities under the Exchange Act. Id. During this period, Tamimi solicited investors to purchase Winning Kids' securities and received transaction-based compensation in connection with the sales. Id. When he solicited investors to purchase Winning Kids' securities, Tamimi was neither registered as a broker or dealer nor associated with a registered broker or dealer. OIP at 1-2.

On October 15, 2010, a final judgment, by consent without findings of fact, was entered against Tamimi, permanently enjoining him from future violations of Securities Act Sections 5(a), 5(c), and 17(a); Exchange Act Sections 10(b) and 15(a); and Exchange Act Rule 10b-5. SEC v. Tamimi, No. 9:10-CV-80186-KAM (S.D. Fla.). Official notice is taken of the civil action and the injunction entered against Tamimi. See 17 C.F.R. § 201.323.

CONCLUSIONS OF LAW

Under Exchange Act Section 15(b)(6)(A)(iii), which incorporates Exchange Act Section 15(b)(4)(C), the Commission may impose a remedial sanction on a person associated with a broker or dealer, consistent with the public interest, if the person has been enjoined from engaging in conduct in connection with the purchase or sale of any security. See 15 U.S.C. § 78o(b)(4)(C), (6)(A)(iii). As noted in more detail above, Tamimi was enjoined from violating registration and antifraud provisions of the federal securities laws.

Tamimi was a broker, although unregistered, within the meaning of the Exchange Act at the time of his underlying misconduct. Pursuant to Section 3(a)(4)(A) of the Exchange Act, Tamimi was a "person engaged in the business of effecting transactions in securities for the account of others." 15 U.S.C. § 78c(a)(4)(A). The fact that Tamimi was not associated with a registered broker or dealer during the time of his wrongdoing does not insulate him from a bar. See Vladislav Steven Zubkis, 86 SEC Docket 2618 (Dec. 2, 2005), recon. denied, 87 SEC Docket 2584 (Apr. 13, 2006).

To determine whether sanctions are in the public interest, the Commission considers six factors: (1) the egregiousness of the respondent's actions; (2) whether the violations were isolated or recurrent; (3) the degree of scienter; (4) the sincerity of the respondent's assurances against future violations; (5) the respondent's recognition of the wrongful nature of his or her conduct; and (6) the likelihood that the respondent's occupation will present opportunities for future violations. See Steadman v. SEC, 603 F.2d 1126, 1140 (5th Cir. 1979), aff'd on other grounds, 450 U.S. 91 (1981). "[T]he Commission's inquiry into the appropriate sanction to protect the public interest is a flexible one, and no one factor is dispositive." Conrad P. Seghers, 91 SEC Docket 2293, 2298 (Sept. 26, 2007) (citing Robert W. Armstrong, III, 85 SEC Docket 3011, 3039 (June 24, 2005) (quoting KPMG Peat Marwick LLP, 54 S.E.C. at 1192)). Remedial sanctions are not intended to punish a respondent, but to protect the public from future harm. See Leo Glassman, 46 S.E.C. 209, 211-12 (1975).

While no findings of fact were made in the civil action underlying this proceeding, the OIP noted that Tamimi's conduct occurred over a sixteen-month period, were he violated both registration and antifraud laws. These allegations are deemed true, pursuant to 17 C.F.R. §

201.155(a). Tamimi has not responded to this proceeding and, therefore, has failed to provide assurances against future violations or to recognize the wrongful nature of his conduct.

Furthermore, the Commission has noted that “the fact that a person has been enjoined from violating the antifraud provisions ‘has especially serious implications for the public interest.’” Michael T. Studer, 57 S.E.C. 890, 898 (2004) (quoting Marshall E. Melton, 56 S.E.C. 695, 713 (2003)). “Conduct that violates the antifraud provisions of the federal securities laws is . . . subject to the severest of sanctions under the securities laws.” Jose P. Zollino, 89 SEC Docket 2598, 2608 (Jan. 16, 2007); Melton, 56 S.E.C. at 713. The existence of such an injunction can indicate the appropriateness of a bar from participation in the securities industry. See Michael Batterman, 57 S.E.C. 1031, 1043 (2004); Melton, 56 S.E.C. at 709-710.

In view of the foregoing, and consistent with the public interest, Tamimi should be barred from association with any broker or dealer.

ORDER

IT IS ORDERED, pursuant to Section 15(b)(6) of the Securities Exchange Act of 1934, that Edward Tamimi is barred from association with any broker or dealer.

Robert G. Mahony
Administrative Law Judge