UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 64408/May 4, 2011

ADMINISTRATIVE PROCEEDING
File No. 3-14210

In the Matter of	:	
	:	ORDER MAKING FINDINGS AND
JOHNNY E. JOHNSON	:	IMPOSING SANCTIONS BY DEFAULT
	:	

The Securities and Exchange Commission (Commission) issued an Order Instituting Proceedings (OIP) on January 28, 2011, pursuant to Section 15(b) of the Securities Exchange Act of 1934 (Exchange Act). On March 21, 2011, I found that Johnny E. Johnson (Johnson) was served with the OIP on March 8, 2011, by leaving a copy with his mother. See 17 C.F.R § 201.141(a)(2)(i).

The Division of Enforcement (Division) filed a Motion for Default and Memorandum of Law in Support (Default Motion) on April 6, 2011. The Default Motion has the following exhibits: Exhibit A, Judicial Counsel form POS-010, establishing service on Johnson on March 8, 2011; Exhibit B, Final Judgment in SEC v. Sun Empire, LLC, No. 8:09-cv-00399-DOC-RNB (C.D. Cal.) filed January 12, 2011; Exhibit C, Order Granting in Part and Denying in Part Motions for Summary Judgment in Sun Empire, filed September 13, 2010; Exhibit D, Minute Order in Sun Empire, filed August 23, 2010, with [Tentative] Order Granting Motion for Summary Judgment (Tentative Order); Exhibit E, Minutes in Sun Empire filed March 23, 2010; Exhibit F, Declaration of Melissia A. Buckhalter-Honore in Support of Motion for Summary Judgment Against Bich Quyen Nguyen (Nguyen) and Johnson, with ten exhibits, filed May 19, 2010, in Sun Empire; and Exhibit G, Indictment in United States v. Nguyen, No. 8:10-cr-00188 (C.D. Cal.), filed September 29, 2010.

The Division requests that Johnson be barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization (NRSRO), and from participating in any offering of a penny stock, including: acting as a promoter, finder, consultant, agent, or other person who engages in activities with a broker, dealer, or issuer for purposes of the issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock. Default Motion at 3.

Johnson is in default because he has not filed an Answer to the OIP, he did not participate in a prehearing conference on April 6, 2011, and he has not filed an opposition to the Default Motion or otherwise defended the proceeding. See 17 C.F.R §§ 201.155(a)(2), .220(f), .221(f).

Findings of Fact

From at least January 2006 to January 28, 2011, Johnson and others operated a Ponzi scheme in which he represented he was a chief operating officer of Sun Investment Savings and Loan (SISL) and Sun Group investments clubs. OIP at 1; Default Motion, Exhibit C at 2. Johnson falsely represented that SISL was a Swedish bank that issued certificates of deposit (CDs) that generated annual rates of return of up to 96 percent.[1] Default Motion, Exhibit C at 2. Because SISL purportedly did not issue CDs of less than $1 million, Johnson awarded people to organize private investment clubs (PIC), which represented investors' pooled assets, approximately three percent of the balance of the PIC. Default Motion, Exhibit C at 2-3. Johnson solicited investors on behalf of SISL, Sun Group, Sun Commerce and Investment, and other affiliates in various locations in California and through the SISL website. OIP at 1. Johnson's last known residence was in Los Gatos, California. Id.

On January 12, 2011, a Final Judgment was entered against Johnson permanently enjoining him from future violations of Sections 5 and 17(a) of the Securities Act of 1933 (Securities Act); Sections 10(b) and 15(a) of the Exchange Act and Exchange Act Rule 10b-5; and ordering Nguyen and Johnson to disgorge, jointly and severally, $9,750,691.94, representing profits gained from their conduct, together with prejudgment interest of $262,300.12, and to pay a civil penalty of $20 million, jointly and severally, in Sun Empire. Default Motion at 4, Exhibit B.

The Commission's complaint alleged that from at least January 2006 through January 28, 2011, Johnson, acting as an unregistered broker or dealer, participated in unregistered offers and sales of securities in SISL and Sun Group. OIP at 1-2. Johnson solicited investors from California and through the SISL website, through a multi-level marketing scheme operated from an Anaheim, California, hotel. OIP at 2. The complaint further alleged that Johnson offered investors several types of investments that purportedly generated high-yield returns. Id. Johnson made false and misleading statements in the unregistered offer and sale of SISL and Sun Group securities, and otherwise engaged in a variety of conduct which operated as a fraud and deceit on investors. Id. Between at least January 2006 and March 2009, investors purchased more that $30 million of SISL CDs. Default Motion, Exhibit C at 2.

Ruling

Section 15(b)(6)(A) of the Exchange Act authorizes certain sanctions with respect to any person who is associated, who is seeking to become associated, or, at the time of the alleged

[1] SISL never was registered in Sweden to perform financial transactions. Investor funds were not used to purchase SISL CDs. Investor funds were largely deposited in general accounts at financial institutions in the United States. Default Motion, Exhibit C at 16-17.

misconduct, who was associated or was seeking to become associated with a broker or dealer.[2] Sanctions include censure, placing limitations on the activities or functions of a person, suspension for a period not exceeding twelve months, or barring any such person from being associated with a "broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or [NRSRO], or from participating in an offering of penny stock" if the Commission finds that the sanction is in the public interest. Section 15(b)(6)(A) and certain portions of Section 15(b)(4) enumerate the types of conduct that are grounds for imposing a sanction.

In making public interest considerations, the Commission considers the following Steadman factors:

> [T]he 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 his conduct; and the likelihood that the [respondent's] occupation will present opportunities to commit future violations.

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

This record contains compelling evidence that it is in the public interest to bar Johnson from broad participation in the securities industry. Johnson's conduct was egregious in the he conducted a blatantly fraudulent scheme to sell unregistered securities using a multi-layered marketing scheme over an extended period that resulted in an injunction from future violations of multiple provisions of the Securities Act and Exchange Act, that included anti-fraud prohibitions. The district court characterized Johnson's conduct as pervasive, as evidenced by perpetuating misrepresentations using the internet, in a variety of fora, and through surrogates, and noted that Johnson has neither recognized his wrongful conduct or made any representation that he will cease his conduct. Default Motion, Exhibit C at 32.

The district court stated in a Tentative Order issued to counsel, dated August 23, 2010, in Sun Empire that:

> [t]he range of misconduct committed by Defendants during the relevant time period should not be ignored: these schemes involved dozens of investments in a dizzying array of entities, all of which were constructed for the sole purpose of siphoning investors' funds for the benefit of Defendants. Not only does the undisputed evidence show a "reasonable likelihood" of future violations, but it also shows the willful and committed violation of the securities laws.

Default Motion, Exhibit D at 10.

---

[2] Exchange Act Section 15(b) applies to persons acting as a broker or dealer or associated with an unregistered broker or dealer. See Vladislav Steven Zubkis, 86 SEC Docket 2618, 2627 (Dec. 2, 2005).

The OIP states that Johnson's conduct occurred from at least January 2006 to January 28, 2011. OIP at 1. Prior to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank), signed into law on July 21, 2010, Section 15(b)(6)(A) permitted the Commission only to bar a person from being associated with a broker or dealer. However, even prior to Dodd-Frank, Johnson's conduct subjects him to "statutory disqualification" pursuant to Exchange Act Section 3(a)(39) and also effectively prohibits him from association with an investment adviser, municipal securities dealer, and transfer agent. Therefore, these portions of the collateral bar authorized by the Dodd-Frank amendments do not attach new legal consequences to Johnson's pre-Dodd-Frank conduct. See Landgraf v. USI Film Products, 511 U.S. 244, 245, 269-70 (1994); John W. Lawton, Initial Decision No. 419 (April 29, 2011).

Amended Section 15(b)(6)(A) of the Exchange Act also includes two newly created associational bars: municipal advisor and NRSRO. Because such bars did not exist at the time of Johnson's conduct, I find that they attach new legal consequences and are impermissibly retroactive. Id.

Order

I GRANT the Division of Enforcement's Motion for Sanctions; and

I ORDER, pursuant to Section 15(b)(6) of the Securities Exchange Act of 1934, that Johnny E. Johnson is barred from association with any broker, dealer, investment adviser, municipal securities dealer, or transfer agent, and from participating in an offering of penny stock.

Brenda P. Murray
Chief Administrative Law Judge