SECURITIES AND EXCHANGE COMMISSION
Washington, D.C.

SECURITIES EXCHANGE ACT OF 1934
Release No. 100778 / August 20, 2024

INVESTMENT ADVISERS ACT OF 1940
Release No. 6664 / August 20, 2024

Admin. Proc. File Nos. 3-20248; 3-20249

In the Matter of

WESLEY KYLE PERKINS
and
WORLD TREE FINANCIAL, LLC

OPINION OF THE COMMISSION

BROKER-DEALER PROCEEDING

INVESTMENT ADVISER PROCEEDING

Grounds for Remedial Action

Injunction

Investment adviser firm and its principal were permanently enjoined from violations of the antifraud provisions of the federal securities laws. *Held*, it is in the public interest to bar respondents from association with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; and to bar principal from participation in any penny stock offering.

APPEARANCES:

Lynn M. Dean for the Division of Enforcement.

Steven G. Durio and *Lauren Ashley Noel* for Wesley Kyle Perkins and World Tree Financial, LLC.

On March 22, 2021, the Securities and Exchange Commission instituted proceedings against Wesley Kyle Perkins and World Tree Financial, LLC ("Respondents") pursuant to Section 203(f) of the Investment Advisers Act of 1940, and against Perkins pursuant to Section 15(b) of the Securities Exchange Act of 1934.[1] The Commission subsequently consolidated the proceedings.[2] We now find Respondents to be in default, deem the allegations against them to be true, bar them from associating in the securities industry in any capacity, and bar Perkins from participating in an offering of penny stock.

I. Background

A. The Commission instituted these proceedings against Respondents.

The orders instituting proceedings ("OIPs") allege that, from 2009 to 2016, Perkins was the 60% owner, CEO, and chief investment officer of World Tree, an investment adviser; and that, during that period, Perkins was also associated with a registered-broker dealer.[3] According to the OIPs, the Commission brought a civil action against Respondents in federal district court alleging that they engaged in a cherry-picking scheme, in which they allocated favorable trades to themselves and favored clients and unfavorable trades to disfavored clients.[4] The OIPs alleged that the district court enjoined Respondents from future violations of Section 17(a) of the Securities Act of 1933, Exchange Act Section 10(b) and Rule 10b-5 thereunder, and Advisers Act Sections 206(1) and 206(2). The OIPs initiated proceedings to determine whether the allegations contained therein were true and if any remedial action was appropriate in the public interest.

B. Respondents failed to respond to a motion for summary disposition and to an order to show cause why they should not be found in default.

On July 22, 2022, after Respondents filed answers to the OIPs and participated in a pre-hearing conference with the Division of Enforcement, the Commission issued an order setting a summary disposition briefing schedule.[5] The order required that briefs in support of motions for

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1 *Wesley Kyle Perkins*, Exchange Act Release No. 91378, 2021 WL 1168555 (Mar. 22, 2021); *World Tree Fin., LLC*, Advisers Act Release No. 5702, 2021 WL 1168567 (Mar. 22, 2021).

2 *Wesley Kyle Perkins*, Exchange Act Release No. 95353, 2022 WL 2903858, at *3 (July 22, 2022).

3 The OIPs do not name the broker-dealer or make additional allegations concerning the broker-dealer. FINRA's BrokerCheck shows that Perkins was associated with a broker-dealer from 2009 to 2016. https://files.brokercheck.finra.org/individual/individual_4565682.pdf. We take official notice of Perkins's BrokerCheck report. *See Daniel B. Vazquez, Sr.*, Exchange Act Release No. 100431, 2024 WL 3179320, at *1 n.2 (June 26, 2024) (taking official notice of BrokerCheck report pursuant to Rule of Practice 323, 17 C.F.R. § 201.323).

4 *See SEC v. World Tree Financial, LLC*, No. 6:18-cv-01229-MJJ-CBW, ECF No. 1 (W.D. La. Sept. 18, 2018) (complaint).

5 *Perkins*, 2022 WL 2903858, at *3.

summary disposition be filed by August 19, 2022, and opposition briefs be filed by September 16, 2022. The order warned that a party's failure to file a brief may result in the determination of the matter at issue against them, entry of default, or the prohibition of the introduction of evidence or the exclusion of testimony regarding the matter at issue.

On August 19, 2022, the Division filed a motion for summary disposition against Respondents, and the Commission subsequently issued an order extending the time for Respondents to file a brief opposing the motion to December 6, 2022.[6] Respondents did not file an opposition brief.

On February 7, 2023, the Commission ordered Respondents to show cause by February 21, 2023, why it should not find them in default due to their failure to respond to the Division's motion or otherwise defend this proceeding.[7] The show cause order warned that if Respondents did not file a response, the Division's motion for summary disposition would be construed by the Commission as a motion for entry of an order of default and the imposition of remedial sanctions. The show cause order also warned Respondents that if the Commission found them to be in default, the allegations in the OIP would be deemed to be true as provided in the Rules of Practice,[8] and the Commission could determine the proceeding against them upon consideration of the record. Respondents did not respond to the show cause order.

C. The Division's motion for summary disposition is construed as a motion for entry of default and imposition of remedial sanctions.

The Division's motion for summary disposition, which we now construe as a motion for entry of default and the imposition of remedial sanctions, requests that the Commission bar Respondents from associating in the securities industry and bar Perkins from participating in an offering of penny stock. The Division supports the motion with a copy of the district court's findings of fact and conclusions of law issued after a bench trial, the district court's final judgment, and the Fifth Circuit Court of Appeals affirming the district court's findings and judgment.[9]

In the findings of fact and conclusions of law, the district court stated that Perkins was an investment adviser, and that he also was the 60% owner, CEO, and chief investment officer of investment adviser World Tree. The court stated that World Tree was registered with the Commission as an investment adviser until 2012, when it withdrew its registration, and that it

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6 *Wesley Kyle Perkins*, Exchange Act Release No. 96258, 2022 WL 16834138 (Nov. 8, 2022).

7 *Wesley Kyle Perkins*, Exchange Act Release No. 96822, 2023 WL 1819240 (Feb. 7, 2023).

8 *See* Rules of Practice 155(a), 180(c), 17 C.F.R. §§ 201.155(a), .180(c).

9 *World Tree Financial, LLC*, No. 6:18-cv-01229-MJJ-CBW, ECF Nos. 91 & ECF No. 92 (Jan. 15, 2021); *SEC v. World Tree Financial, LLC*, 43 F.4th 448 (5th Cir. 2022).

was registered with the State of Louisiana as an investment adviser at the time the civil action was filed.[10]

The court found that, from 2012 to 2015, Respondents knowingly and intentionally cherry-picked favorable trades for Perkins, his family, and certain favored-clients, and allocated unfavorable trades to accounts held by a single client; and that this scheme resulted in ill-gotten gains of $347,947.[11] The court found that Respondents concealed the scheme by falsely claiming in Forms ADV provided to clients that Respondents did not trade in the same securities as clients, and that Respondents allocated block trades fairly and equitably among its clients.[12] The court concluded that this misconduct, which "involved systematic practices over a three-year period," was "particularly egregious and harmful to clients who trusted [Respondents] with their investment decisions"; and that Respondents were "fully aware of the wrongful and deceitful nature of [their] actions even as [they were] taking them."[13]

Based on this conduct, the court determined that Respondents violated Securities Act Section 17(a), Exchange Act Section 10(b) and Rule 10b-5 thereunder, and Advisers Act Sections 206(1) and 206(2).[14] The court's final judgment enjoined Respondents from violating these provisions of the securities laws, and ordered Respondents to disgorge, jointly and severally, $347,947 plus prejudgment interest, Perkins to pay a $160,000 civil penalty, and World Tree to pay a $300,000 civil penalty.

II. Analysis

A. We deem Respondents to be in default and deem the OIPs's allegations to be true.

Rule of Practice 155(a) provides that if a party fails "to respond to a dispositive motion within the time provided, or otherwise to defend the proceeding," we may deem the party to be in default and "determine the proceeding against that party upon consideration of the record,

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10 The Commission's Investment Adviser Public Disclosure ("IAPD") website shows that World Tree's investment adviser registration in Louisiana was terminated in 2019. https://adviserinfo.sec.gov/firm/summary/151663. World Tree's last filed Form ADV, linked on that website, reports that in 2018 World Tree had two employees—Perkins and his wife. https://reports.adviserinfo.sec.gov/reports/ADV/151663/PDF/151663.pdf. We take official notice of this information. *See Vazquez, Sr.*, 2024 WL 3179320, at *1 n.2 (taking official notice of records from IAPD website pursuant to Rule of Practice 323, 17 C.F.R. § 201.323).

11 The district court imputed Perkins' conduct and scienter to World Tree. *World Tree Financial, LLC*, No. 6:18-cv-01229-MJJ-CBW, ECF Nos. 91 at 18-20.

12 As the district court explained, a block trade "allows a broker to execute a single large trade in its own name for the benefit of its clients and then allocate portions of that trade to particular client accounts." *World Tree Financial, LLC*, No. 6:18-cv-01229-MJJ-CBW, ECF Nos. 91 at 4.

13 *Id.* at 32.

14 15 U.S.C. §§ 77q(a), 78j(b), 80b-6(1), (2); 17 C.F.R. § 240.10b-5.

including the order instituting proceedings, the allegations of which may be deemed to be true."[15] Because Respondents have failed to respond the Division's motion or the Commission's show cause order, we find it appropriate to deem them to be in default and deem the allegations of the OIPs to be true. We also give preclusive effect in this proceeding to the district court's findings.[16] We base the findings that follow on the record, including the OIPs and the evidentiary materials that the Division submitted with its motion.

B. We find that barring Respondents from the securities industry and barring Perkins from participating in penny stock offerings is in the public interest.

Exchange Act Section 15(b)(6)(A) authorizes the Commission to suspend or bar a person from associating in the securities industry and from participating in an offering of penny stock if it finds, on the record after notice and opportunity for hearing, that (1) the person was enjoined from engaging in or continuing any conduct or practice in connection with investment adviser activities, or in connection with the purchase or sale of any security; (2) the person was associated with a broker or dealer at the time of the alleged misconduct; and (3) such a sanction is in the public interest.[17] Similarly, Advisers Act Section 203(f) authorizes the Commission to suspend or bar a person from associating in the securities industry if it finds, on the record after notice and opportunity for hearing, that (1) the person was enjoined from engaging in or continuing any conduct or practice in connection with investment adviser activities, or in connection with the purchase or sale of any security; (2) the person was associated with an investment adviser at the time of the misconduct; and (3) such a sanction is in the public interest.[18]

The record establishes the first two of these elements under each statute. Because the district court enjoined Respondents from violating the antifraud provisions of the Securities Act, Exchange Act, and Advisers Act,[19] they have been enjoined "from engaging in or continuing any conduct or practice . . . in connection with the purchase or sale of any security."[20] The same Advisers Act antifraud provisions also concern conduct in connection with investment adviser

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15 17 C.F.R. § 201.155(a).

16 *See, e.g.*, *Reginald Buddy Ringgold, III*, Advisers Act Release No. 6267, 2023 WL 2705591, at *3 (Mar. 29, 2023) ("The doctrine of collateral estoppel precludes the Commission from reconsidering a district court's injunction, as well as factual . . . issues that were actually litigated and necessary to the court's decision to issue the injunction."); *cf. Siris v. SEC*, 773 F.3d 89, 96 (D.C. Cir. 2014) (holding that respondent could not collaterally attack a consent judgment underlying the follow-on proceeding).

17 15 U.S.C. § 78*o*(b)(6)(A) (cross-referencing Exchange Act Section 15(b)(4)(C), 15 U.S.C. § 78*o*(b)(4)(C), which specifies injunctions against various actions, conduct, and practices).

18 15 U.S.C. § 80b-3(f) (cross-referencing Advisers Act Section 203(e)(4), 15 U.S.C. § 80b-3(e)(4), which specifies injunctions against various actions, conduct, and practices).

19 *See* 15 U.S.C. §§ 77q(a), 78j(b), 80b-6(1), (2); 17 C.F.R. § 240.10b-5.

20 *See supra* notes 17 and 18 and accompanying text.

activities.[21] Further, the OIPs alleged that, at the time of the misconduct, Perkins was associated with a broker-dealer and an investment adviser, and that World Tree was an investment adviser. Because World Tree was an investment adviser, it was necessarily associated with an investment adviser.[22]

Thus, we need determine only if any remedial action is in the public interest. In doing so, we consider the 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 the conduct, and the likelihood that the respondent's occupation will present opportunities for future violations.[23] Our public interest inquiry is flexible, and no one factor is dispositive.[24] The remedy is intended to protect the trading public from further harm, not to punish the respondent.[25]

We have weighed these factors and conclude that, to protect the public interest, industry bars are warranted for Respondents and a bar from participating in an offering of penny stock is warranted for Perkins. Respondents' misconduct was egregious and recurrent. For more than three years, Respondents conducted a cherry-picking scheme to enrich themselves at their clients' expense,[26] and they took efforts to conceal their scheme through misrepresentations about their trading and allocation practices.[27] This fraud, through which Respondents obtained

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[21] 15 U.S.C. § 80b-6(1), (2); *see also supra* notes 17 and 18 and accompanying text.

[22] *See* 15 U.S.C. § 80b-2(a)(16) (defining a "person" under the Advisers Act to include companies), (17) (defining a "person associated with an investment adviser" to include "any person directly or indirectly controlling" such investment adviser); *Anthony J. Benincasa*, Advisers Act Release No. 1923, 2001 WL 99813, at *2 (Feb. 7, 2001) (explaining that a person who acts as an investment adviser meets the definition of a "person associated with an investment adviser" in Advisers Act Section 202(a)(17) because they are "in a position of control with respect to the investment adviser"); *cf. Executive Fin. Servs., Inc.*, Exchange Act Release No. 99153, 2023 WL 8648748, at *2 (Dec. 13, 2023) ("Because the OIP, taken as true, states that EFS was acting as an unregistered broker at the time of its misconduct, it was a person associated with a broker.").

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

[24] *Tzemach David Netzer Korem*, Exchange Act Release No. 70044, 2013 WL 3864511, at *4 (July 26, 2013).

[25] *McCarthy v. SEC*, 406 F.3d 179, 188 (2d Cir. 2005).

[26] *See, e.g., James C. Dawson*, Advisers Act Release No. 3057, 2010 WL 2886183, *3, *5 (July 23, 2010) (finding investment adviser's cherry-picking scheme over two years that defrauded clients of more than $300,000 to be egregious and recurrent).

[27] *See, e.g., Korem*, 2013 WL 3864511, at *6 (reasoning that the respondent's "efforts to conceal his misconduct" were concerning and that the "various steps [the respondent] took within that period to advance the scheme demonstrate that it was not the product of a momentary lapse in judgment, nor done without deliberate thought"); *cf. United States v. Triumph Capital*

$347,947 in ill-gotten gains, is all the more egregious as it violated the fiduciary duties Respondents owed their clients as investment advisers.[28] And Respondents acted with a high degree of scienter—as the district court stated, they were "fully aware of the wrongful and deceitful nature of [their] actions even as [they were] taking them."[29]

Respondents have made no assurances that they will not commit future violations or that they recognize the wrongful nature of their conduct. It appears that there are also opportunities for future violations as Respondents have been in the securities industry for more than ten years.[30] Although Respondents stated in filings in this proceeding that they did not intend to operate in the securities industry if they lost their appeal to the Fifth Circuit (which, as noted above, they did[31]), Respondents still could reenter the securities industry at any time absent bars. Moreover, as the district court stated in its findings of fact and conclusions of law, Perkins "expressed his intention to work in the securities industry."[32]

The Commission may impose bars to protect the investing public from a respondent's future actions by restricting access to areas of the securities industry where a demonstrated propensity to engage in violative conduct may cause further investor harm. Here, the record establishes that Respondents are unfit to participate in the securities industry and that their participation in it in any capacity would pose a risk to investors.[33] Given that Respondents have defaulted in this proceeding, they have not opposed the imposition of any particular associational bar and Perkins has not opposed the imposition of a bar from participating in an offering of penny stock. Because Respondents pose a continuing threat to investors, we conclude that it is in the public interest to bar them from association with any investment adviser, broker, dealer,

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Grp., Inc., 544 F.3d 149, 160 (2d Cir. 2008) ("[E]fforts to obstruct the investigation evidence a consciousness of guilt . . . .").

28 *See e.g.*, *Stephen Condon Peters*, Advisers Act Release No. 6556, 2024 WL 624010, at *3 & n.19 (Feb. 14, 2024) ("Peters's conduct was all the more egregious because he defrauded his investment advisor clients and, in so doing, violated his fiduciary duty and exploited the trust of his clients.").

29 *World Tree Financial, LLC*, No. 6:18-cv-01229-MJJ-CBW, ECF Nos. 91 at 32.

30 *See* https://files.brokercheck.finra.org/individual/individual_4565682.pdf. (showing that Perkins began working in the securities industry in 2002); *World Tree Financial, LLC*, No. 6:18-cv-01229-MJJ-CBW, ECF Nos. 91 at 3 (finding that World Tree was founded by Perkins and his wife in 2009).

31 *See supra* note 9 and accompanying text.

32 *World Tree Financial, LLC*, No. 6:18-cv-01229-MJJ-CBW, ECF Nos. 91 at 32.

33 *See James S. Tagliaferri*, Advisers Act Release No. 80047, 2017 WL 632134, at *6 (Feb. 15, 2017) (finding that the misconduct underlying the respondent's conviction demonstrated that respondent was unfit to participate in the securities industry and posed a risk to investors).

municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, and to bar Perkins from participating in an offering of penny stock.[34]

An appropriate order will issue.

By the Commission (Chair GENSLER and Commissioners CRENSHAW, UYEDA and LIZÁRRAGA; Commissioner PEIRCE concurring in part and dissenting with respect to the imposition of a bar from participating in an offering of penny stock).

Vanessa A. Countryman
Secretary

[34] *Id.* (imposing associational bars where they were necessary to protect the public).

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 100778 / August 20, 2024

Admin. Proc. File Nos. 3-20248; 3-20249

In the Matter of

WESLEY KYLE PERKINS
and
WORLD TREE FINANCIAL, LLC

ORDER IMPOSING REMEDIAL SANCTIONS

On the basis of the Commission's opinion issued this day, it is

ORDERED that Wesley Kyle Perkins and World Tree Financial, LLC are barred from association with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; and it is further

ORDERED that Wesley Kyle Perkins is barred 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.

By the Commission.

Vanessa A. Countryman
Secretary