SECURITIES AND EXCHANGE COMMISSION
Washington, D.C.

SECURITIES EXCHANGE ACT OF 1934

Release No. 100786 / August 21, 2024

Admin. Proc. File No. 3-21231

In the Matter of

PAUL GERACI

OPINION OF THE COMMISSION

BROKER-DEALER PROCEEDING

Grounds for Remedial Action

Conviction

Respondent was convicted of conspiracy to commit wire and mail fraud. *Held*, it is in the public interest to bar respondent from association with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization and from participating in an offering of penny stock.

APPEARANCES:

Teresa J. Verges for the Division of Enforcement.

On November 4, 2022, we instituted an administrative proceeding against Paul Geraci pursuant to Section 15(b) of the Securities Exchange Act of 1934.[1] We now find Geraci to be in default, deem the allegations against him to be true, and bar him from associating in the securities industry in any capacity and from participating in an offering of penny stock.

I. Background

A. The Commission instituted this proceeding against Geraci.

The order instituting proceedings ("OIP") alleged that Geraci pleaded guilty in 2022 to one count of conspiracy to commit wire and mail fraud in violation of 18 U.S.C. § 1349. Specifically, the OIP alleged that, from the fall of 2016 to December 2018, Geraci conspired with others to defraud investors who purchased unregistered securities of two companies, Social Voucher.com, Inc. ("Social Voucher") and Stocket, Inc. ("Stocket"). After the Commission issued the OIP, the district court sentenced Geraci to 57 months in prison and ordered him to pay $2.5 million in restitution.[2]

Geraci admitted in his plea colloquy that he owned Internet Marketing Distribution LLC d/b/a Pinnacle Atlantic ("Pinnacle Atlantic"), a boiler room[3] that was not registered with the Commission. Geraci also admitted that, through Pinnacle Atlantic employees, he solicited investors for unregistered shares of Social Voucher and Stocket. Geraci further admitted that he personally solicited investors in Social Voucher and Stocket and that, in doing so, he did not disclose that he received commissions of between 30 and 50 percent of the investors' total investment.

The OIP initiated proceedings to determine whether the allegations contained therein were true and if any remedial action was appropriate in the public interest. It directed Geraci to file an answer to the allegations within 20 days after service, as provided by Rule of Practice

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1 *Paul Geraci*, Exchange Act Release No. 96236, 2022 WL 16709996 (Nov. 4, 2022).

2 We take official notice of the amended final judgment in Geraci's criminal proceeding in federal district court, which was issued on January 12, 2023. Amended Judgment in a Criminal Case, ECF No. 383, *United States v. Geraci*, No. 0:21-cr-60101 (S.D. Fla. Jan. 12, 2023); *see* 17 C.F.R. § 201.323 (providing that official notice may be taken "of any material fact which might be judicially noticed by a district court of the United States"); *Am. Inv. Serv., Inc.*, Exchange Act Release No. 43991, 2001 WL 167861, at *1 n.1 (Feb. 21, 2021) (recognizing Commission's authority to take official notice of federal district court orders).

3 *See Vladimir Boris Bugarski*, Exchange Act Release No. 66842, 2012 WL 1377357, at *2 n.8 (Apr. 20, 2012) (explaining that "[a] 'boiler-room' operation is characterized by numerous salespeople making a high volume of telephone calls to previously unknown individuals and using high-pressure tactics to sell securities, often through the use of misrepresentations").

220(b).[4] The OIP informed Geraci that if he failed to answer, he may be deemed in default, the allegations in the OIP may be deemed to be true as provided in the Rules of Practice, and the proceeding could be determined against him upon consideration of the OIP.[5]

B. Geraci failed to answer the OIP, respond to an order to show cause why he should not be found in default, or respond to a motion for a default and sanctions.

Geraci was properly served with the OIP on August 18, 2023, pursuant to Rule of Practice 141(a)(2)(i),[6] but did not respond. On December 7, 2023, more than 20 days after service, the Commission ordered Geraci to show cause by January 22, 2024, why it should not find him in default due to his failure to file an answer or otherwise defend this proceeding.[7] The show cause order warned Geraci that, if the Commission found him to be default, the allegations in the OIP would be deemed to be true and the Commission could determine the proceeding against him upon consideration of the record.

After Geraci failed to answer the OIP or respond to the order to show cause, the Division filed a motion requesting that the Commission find Geraci in default and bar him from associating in the securities industry and from participating in an offering of penny stock. In support of its motion, the Division filed copies of documents from Geraci's criminal proceeding, including the indictment, plea agreement, factual proffer statement, and amended judgment. Geraci did not respond to the Division's motion.

II. Analysis

A. We deem Geraci to be in default and deem the OIP's allegations to be true.

Rule of Practice 155(a) provides that if a party fails to "answer, to respond to a dispositive motion within the time provided, or otherwise to defend the proceeding," we may deem the party in default and "determine the proceeding against that party upon consideration of the record, including the order instituting proceedings, the allegations of which may be deemed to be true."[8] Because Geraci has failed to answer or respond to the show cause order or to the Division's motion, we find it appropriate to deem him to be in default and to deem the allegations of the OIP to be true. We base the findings that follow on the record, including the

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4 17 C.F.R. § 201.220(b).

5 *See* Rule of Practice 155(a), 220(f), 17 C.F.R. §§ 201.155(a), .220(f).

6 17 C.F.R. § 201.141(a)(2)(i) (providing that service of an OIP on an individual may be made by "handing a copy of the order to the individual").

7 *Paul Geraci*, Exchange Act Release No. 99110, 2023 WL 8527149 (Dec. 7, 2023).

8 17 C.F.R. § 201.155(a); *see also* Rule of Practice 220(f), 17 C.F.R. § 201.220(f) (providing that "[i]f a respondent fails to file an answer required by this section within the time provided, such respondent may be deemed in default pursuant to" Rule of Practice 155(a)).

OIP and the evidentiary materials that the Division submitted with its motion for default and sanctions.

B. We find that barring Geraci from the securities industry and 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 any offering of a penny stock if it finds, on the record after notice and opportunity for hearing, that: (1) within ten years of the commencement of the proceeding, the person was convicted of a felony involving the purchase or sale of a security, or a conspiracy to commit such an offense, or arising out of the conduct of the business of a broker or dealer; (2) the person was associated with a broker or dealer at the time of the misconduct; and (3) such a sanction is in the public interest.[9]

The record establishes the first two of these elements. Within ten years of the commencement of this proceeding Geraci was convicted of offenses involving the purchase or sale of a security.[10] Specifically, Geraci's conviction in 2022 was based, in part, on his selling Social Voucher's and Stocket's securities from 2016 through 2018. Relatedly, Geraci admitted that neither he nor Pinnacle Atlantic were registered as brokers or dealers at the time he engaged in misconduct. And because Geraci acted as an unregistered broker at the time of his misconduct, he was a person associated with a broker.[11]

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 his conduct, and the

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[9] 15 U.S.C. § 78o(b)(6)(A) (cross-referencing Exchange Act Section 15(b)(4), 15 U.S.C. § 78o(b)(4)); *see also id.* § 78o(b)(4)(B)(i) (discussing offenses involving the purchase or sale of a security)).

[10] *See* Advisers Act Section 202(a)(6), 15 U.S.C. § 80b-2(a)(6) (defining "convicted" to include a "plea of guilty"); *Gregory Bartko*, Exchange Act Release No. 71666, 2014 WL 896758, at *8 (Mar. 7, 2014) (("[W]e agree with the Division that there is no reason for ascribing a different meaning to the word 'convicted' in the Exchange Act to the meaning given to that term in the Advisers Act.") (internal quotations and citation omitted)), *pet. granted in part on other grounds*, 845 F.3d 1217 (D.C. Cir. 2017); *Alexander Smith*, Exchange Act Release No. 3785, 1946 WL 24891, at *6 (Feb. 5, 1946) ("[I]t is clear that when there has been a verdict or plea of guilt or a plea of *nolo contendere* accepted by the court, there is the 'conviction' contemplated by [Exchange Act Section 15(b)] as the starting point for an inquiry into the fitness of the person involved to engage in the securities business.").

[11] *Allen M. Perres*, Exchange Act Release No. 79858, 2017 WL 280080, at *3 (Jan. 23, 2017) (explaining that an individual who acts as an unregistered broker meets the definition of a "person associated with a broker" in Exchange Act Section 3(a)(18)).

likelihood that the respondent's occupation will present opportunities for future violations.[12] Our public interest inquiry is flexible, and no one factor is dispositive.[13] The remedy is intended to protect the trading public from further harm, not to punish the respondent.[14]

We have weighed all of these factors and conclude that an industry bar and a bar from participating in an offering of penny stock are warranted to protect the investing public. Geraci's misconduct was egregious and recurrent. Over the course of two years,[15] while acting as an unregistered broker, Geraci conspired to defraud potential investors by failing to disclose material information about their purchase, i.e., that he received a 30 to 50 percent commission of the total investment in Social Voucher or Stocket.[16]

Geraci also acted with a high degree of scienter.[17] The criminal charge to which Geraci pleaded guilty required him to have joined the conspiracy to commit wire and mail fraud with the

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

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

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

15 *See, e.g., John Sherman Jumper*, Exchange Act Release No. 96407, 2022 WL 17346044, at *3 (Nov. 30, 2022) (finding conduct recurrent where respondent misappropriated funds on three occasions over eleven months); *Brett Hamburger*, Exchange Act Release No. 93844, 2021 WL 6062981, at *1, 4 (Dec. 21, 2021) (finding conduct recurrent where, over a period of 20 months, responded facilitated sales of unregistered securities via a "phone room").

16 *See Hamburger*, 2021 WL 6062981, at *4 (finding respondent acted egregiously and fraudulently by failing to disclose "exorbitant commission payments for call centers" to investors); *cf. United States v. Wolfson*, 642 F.3d 293, 296 (2d Cir. 2011) (observing that "a properly instructed jury may find that stock brokers have a duty to disclose material commissions to their customers, and can convict brokers who breach that duty of violating the general antifraud provisions of the securities laws") (internal quotation omitted); *United States v. Szur*, 289 F.3d 200 (2d Cir. 2002) ("[W]e easily conclude that the payment of forty-five-or fifty-percent commissions . . . is clearly significant and must be disclosed accurately.") (internal quotation omitted).

17 *See Aaron v. SEC*, 446 U.S. 680, 701 (1980) (the "degree of intentional wrongdoing evident in a defendant's past conduct" is an "important factor" indicating a risk of future harm).

specific intent to defraud.[18] And Geraci admitted in his proffer statement that he "conspired with [others] to defraud a number of investors."

Because Geraci failed to answer the OIP or respond to the show cause order or to the Division's motion, he has made no assurances in this proceeding that he will not commit future violations. Although his guilty plea indicates that Geraci might have some appreciation for the wrongfulness of his conduct, it does not outweigh the evidence that Geraci poses a risk to the investing public.[19] Although Geraci is currently incarcerated, absent a bar, he would have the opportunity to re-enter the securities industry and commit further violations upon his release.[20]

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 Geraci is unfit to participate in the securities industry and that his participation in it in any capacity would pose a risk to investors.[21] Geraci conspired with others to defraud investors and sought to enrich himself using high-pressure sales tactics by salespeople acting as unregistered brokers. Given that Geraci has defaulted in this proceeding, he has not opposed the

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[18] *See United States v. Greenlaw*, 84 F.4th 325, 339 (5th Cir. 2023) (discussing that, for conviction of conspiracy to commit wire fraud, "each conspiracy count requires that the act be complete with a specific intent to defraud") (internal quotation omitted); *United States v. Ross*, 131 F.3d 970, 981 (11th Cir. 1997) (observing that, for conspiracy to commit mail or wire fraud, "the government's burden is to demonstrate beyond a reasonable doubt that the defendants agreed to engage in a scheme to defraud in which they contemplated that the mails or wire service would likely be used") (internal quotation and alterations omitted).

[19] *See Lawrence Allen DeShetler*, Advisers Act Release No. 5411, 2019 WL 6221492, at *3 (Nov. 21, 2019) ("Although his guilty plea indicates that DeShetler might have some appreciation for the wrongfulness of his conduct, it does not outweigh the evidence that DeShetler poses a risk to the investing public."); *James S. Tagliaferri*, Exchange Act Release No. 80047, 2017 WL 632134, at *6 (Feb. 15, 2017) (finding the "egregious and recurrent nature of the fraud in which [respondent] violated his fiduciary duties and harmed his clients outweigh any acceptance of responsibility"); *Korem*, 2013 WL 3864511, at *6 (finding that although respondent acknowledged his wrongdoing by pleading guilty in the underlying criminal case, "the degree of scienter involved in the misconduct at issue . . . cause[s] us concern").

[20] *Allan Michael Roth*, Exchange Act Release No. 90343, 2020 WL 6488283, at *5 (Nov. 4, 2020); *see also Martin A. Armstrong*, Investment Advisers Act Release No. 2926, 2009 WL 2972498, at *4 (imposing a bar based in part on the finding that "there is a likelihood that Armstrong would, after his release from prison, be able to and inclined to re-enter the securities industry where he would confront opportunities to violate the law again").

[21] *Tagliaferri*, 2017 WL 632134, at *6 (finding that the misconduct underlying the respondent's conviction demonstrated that respondent was unfit to participate in the securities industry and that his participation in it in any capacity would pose a risk to investors).

imposition of any associational bar or a bar from participating in an offering of penny stock. Because Geraci poses a continuing threat to investors, we conclude that it is in the public interest to bar him from association with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization and from participating in an offering of penny stock.[22]

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

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[22] *Id.* (imposing associational and penny stock bars where necessary to protect the public).

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 100786 / August 21, 2024

Admin. Proc. File No. 3-21231

In the Matter of

PAUL GERACI

ORDER IMPOSING REMEDIAL SANCTIONS

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

ORDERED that Paul Geraci is barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; and it is further

ORDERED that Paul Geraci 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