

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 6319 / June 1, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-21475

In the Matter of

CARL S. SCHWARTZ,

Respondent.

ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 203(f) OF THE
INVESTMENT ADVISERS ACT OF 1940,
MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against Carl S. Schwartz (“Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over him and the subject matter of these proceedings and the findings contained in paragraph III.2 below, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 203(f) of the Advisers Act, Making Findings, and Imposing Remedial Sanctions (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds that:

1. Schwartz was the president, chief compliance officer, managing member and 49% owner of RRBB Asset Management, Inc. ("RRBBAM"), an investment adviser registered with the Commission. Schwartz, 67 years old, is a resident of Parsippany, New Jersey. Schwartz is also a certified public accountant licensed in New Jersey.

2. On May 9, 2023, a final judgment was entered by consent against Schwartz, permanently enjoining him from future violations of Section 17(a) of the Securities Act of 1933 ("Securities Act"), Section 10(b) of the Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 thereunder, and Sections 206(1), 206(2) and 207 of the Advisers Act, and from aiding and abetting future violations of Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, in the civil action entitled Securities and Exchange Commission v. Carl S. Schwartz, et al., Civil Action Number 2:20-cv-12523, in the United States District Court for the District of New Jersey.

3. The Commission's complaint alleged that from at least August 2016 through April 2017, Schwartz engaged in a fraudulent trade allocation or "cherry-picking" scheme in breach of his and RRBBAM's fiduciary duties to their advisory clients. The Commission's complaint alleged that Schwartz, who was the only person at RRBBAM with the authority to determine trades and allocations, used RRBBAM's omnibus trading account to disproportionately allocate a number of favorable trades (*i.e.*, trades that had a positive first day return) to accounts held by a new client, who was one of RRBBAM's largest and most lucrative clients in terms of assets under management (the "Favored Accounts"), while disproportionately allocating a number of unfavorable trades (*i.e.*, trades that had negative first day returns) to six accounts held by two long-term clients (the "Disfavored Accounts"). The Complaint alleged that as a result, for the time period at issue, the Favored Accounts enjoyed first day positive returns, while the Disfavored Accounts suffered negative first day returns. The Complaint alleged that through this scheme, RRBBAM and Schwartz earned substantial management fees, misled the advisory client who received the favorable trades into thinking RRBBAM and Schwartz were better at managing their money than they really were so as to induce the favored client to invest additional sums with RRBBAM upon which RRBBAM and Schwartz would earn additional management fees, and disadvantaged their other clients by failing to allocate the trades in a fair and equitable manner, consistent with their fiduciary obligations to all of their advisory clients and their representations in RRBBAM's brochures and other disclosures in which they claimed trades would be fairly and equitably allocated among all client accounts.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent Schwartz's Offer.

Accordingly, it is hereby ORDERED pursuant to Section 203(f) of the Advisers Act that Respondent Schwartz be, and hereby is barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized

statistical rating organization, with the right to apply for reentry after 5 years to the appropriate self-regulatory organization, or if there is none, to the Commission.

Any reapplication for association by the Respondent will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, compliance with the Commission's order and payment of any or all of the following: (a) any disgorgement or civil penalties ordered by a Court against the Respondent in any action brought by the Commission; (b) any disgorgement amounts ordered against the Respondent for which the Commission waived payment; (c) any arbitration award related to the conduct that served as the basis for the Commission order; (d) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (e) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

By the Commission.

Vanessa A. Countryman
Secretary