

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 5242 / May 28, 2019

ADMINISTRATIVE PROCEEDING
File No. 3-19183

In the Matter of

**STEPHEN BRANDON
ANDERSON**

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS
PURSUANT TO SECTIONS 203(f) AND 203(k)
OF THE INVESTMENT ADVISERS ACT OF
1940, MAKING FINDINGS AND IMPOSING
REMEDIAL SANCTIONS AND A CEASE-
AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 203(f) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”) against Stephen Brandon Anderson (“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, which are admitted, and except as provided herein in Section V, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 203(f) and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that:

Summary

1. Stephen Brandon Anderson owned and operated River Source Wealth Management, LLC, a now-defunct formerly registered investment adviser. In 2015 and 2016, Anderson overcharged River Source clients advisory fees of at least \$367,000. In addition, Anderson made material misstatements to clients and in reports filed by River Source with the Commission, including overstating River Source's assets under management by at least \$61 million in 2016. Anderson further failed to keep required books and records and failed to adopt and implement required compliance policies and procedures.

2. As a result of the conduct described in this Order, Anderson willfully violated the antifraud and reporting provisions of Sections 206(2) and 207 of the Advisers Act, and aided and abetted and caused River Source's violations of the books and records and compliance provisions of Sections 204 and 206(4) of the Advisers Act and Rules 204-2 and 206(4)-7 thereunder.

Respondent

3. **Stephen Brandon Anderson ("Anderson")**, age 41, is a resident of Asheville, North Carolina. During the relevant time period, Anderson owned and operated River Source, a registered investment adviser, and served as its chief compliance officer. Anderson holds a Series 65 license and previously held Series 6 and 63 licenses. Anderson filed for personal bankruptcy in November 2016. The bankruptcy proceeding was subsequently closed without discharge in March 2018. Anderson is currently an investment adviser representative at Foundations Investment Advisors, LLC ("FIA"), a registered investment adviser.

Other Related Entities

4. **River Source Wealth Management LLC ("River Source")** was a North Carolina limited liability company owned and operated by Anderson. The company was registered with the Commission as an investment adviser from August 2009 until it filed a Form ADV-W terminating its registration in March 2017. The company was formally dissolved in February 2018. In 2016, River Source reported approximately \$236 million in assets under management. When River Source closed, the majority of its clients moved with Anderson to FIA.

5. **Balsam Capital Group, LLC ("Balsam Capital")** is a North Carolina limited liability company owned and operated by Anderson. Balsam Capital describes itself as an

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

“independent financial advising firm” that offers advisory services (currently through FIA, previously through River Source). Balsam Capital is the entity Anderson uses to market his services to clients and potential clients, including through its web site, www.balsamcapitalgroup.com. Balsam Capital is not, and has never been, a registered investment adviser.

Background

6. Anderson and an associate formed River Source in 2009 and registered it with the Commission as an investment adviser. River Source provided financial advice and asset management services. Anderson’s associate retired in 2013, after which Anderson became the sole owner and operator of River Source.

Overcharging Advisory Fees

7. River Source’s primary source of revenue was advisory fees charged to clients, which were supposed to be based on a percentage of each client’s assets under management. The maximum advisory fee for each client was set forth in a fee schedule attached to the client’s Investment Advisory Agreement, which was signed by Anderson and the client. The fee was subject to amendment.

8. In September 2012, Anderson sent a letter notifying clients that River Source was raising its maximum annual advisory fee from 1.0% to 1.25% for clients with less than \$1,000,000 in assets under management, which represented most of River Source’s clients. Anderson included a similar advisory fee disclosure annually in each River Source Form ADV Part 2A (known as the Client Brochure), including the Client Brochure filed with the Commission on March 17, 2015. Anderson also sent a copy of the annual Client Brochures to each River Source client. This maximum advisory fee rate remained in effect through the end of 2015.

9. Contrary to these representations about the maximum fee rate, in 2015 River Source charged a majority of its clients advisory fees that totaled more than 1.25% of their assets under management. The amount and percentage of the overcharges varied. In total, River Source received approximately \$650,000 in advisory fees for 2015, of which at least \$185,816 were overcharges.

10. In December 2015, Anderson sent a letter notifying clients that River Source was raising its maximum annual advisory fee from 1.25% to 1.5%, effective January 1, 2016. The River Source Client Brochure filed March 28, 2016 as part of the River Source Form ADV, and subsequently sent to all clients, did not reflect this change.

11. Contrary to this representation about the maximum fee rate, in 2016 River Source charged a majority of its clients advisory fees that totaled more than 1.5% of their assets under management. The amount and percentages of the overcharges varied. In total, River Source received approximately \$640,000 in advisory fees for 2016, of which at least \$181,360 were overcharges.

Other Material Misstatements

12. Registered investment advisers are required to file with the Commission an annual Form ADV, which contains, among other information, the adviser's total assets under management ("AUM"). River Source's 2015 Form ADV, which Anderson prepared, signed, and filed on March 17, 2015, falsely reported that River Source had \$227.2 million in AUM. This overstated River Source's AUM by at least \$34 million.

13. River Source's 2016 Form ADV, which Anderson prepared, signed, and filed on March 29, 2016, falsely reported that River Source had \$235.6 million in AUM. This overstated River Source's AUM by at least \$61 million. These material AUM overstatements were repeated in the Client Brochures that Anderson prepared and sent to clients.

14. The Form ADV also requires investment advisers to disclose, among other information, legal events that are material to evaluation of the adviser's business or the integrity of the adviser's management. River Source's 2015 and 2016 Forms ADV failed to disclose two lawsuits filed against Anderson and River Source by former River Source clients. The suits alleged, among other things, breach of fiduciary duty, fraud, negligent and reckless supervision, and unjust enrichment. River Source's Forms ADV filed in 2015 and 2016 falsely represented that neither River Source nor any of its employees, partners, directors or control persons were subject to any civil proceeding that could result in an adverse court finding related to investment activities.

15. In 2017, Anderson also misled clients about the reason he transferred their assets from River Source's long-time asset custodian. Anderson falsely told clients in a February 27, 2017 letter that he had "chosen" to terminate the custodial relationship and that the decision was "amicable." In fact, the asset custodian made the decision to end its relationship with River Source after it noticed irregular billing practices, requested documents to support certain charges, and failed to receive those documents from Anderson.

Failure to Keep Books and Records

16. Rule 204-2 of the Advisers Act requires registered investment advisers to keep true, accurate and current books and records relating to its investment advisory business for a minimum of five years, and to provide those records to the Commission upon request. River Source failed to keep books and records required by this Rule. For example, River Source failed to maintain and produce to the Commission the following required books and records:

- Cash receipts, disbursement journals, and general ledgers;
- Communications regarding the performance or rate of return of all managed accounts;
- Copies of each Form ADV Part 2 and all amendments thereto, and a record of the date each was sent to any client or prospective client;
- All records and documents necessary to form the basis for or demonstrate the calculation of the performance or rate of return of all managed accounts;

- Documents from which River Source could promptly identify and furnish the current positions of each client.

17. Anderson, the owner and operator of River Source, was responsible for these books and records deficiencies.

Failure to Adopt and Implement Compliance Policies

18. Rule 206(4)-7(a) of the Advisers Act requires registered investment advisers to adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and Rules thereunder. River Source's compliance policies were purchased from a third party and not tailored to its business. Nor were they updated regularly. In addition, River Source had no policy or procedure regarding the calculation and charging of client fees, nor any policy or procedure designed to prevent overcharging advisory fees or misreporting assets under management. Additionally, River Source had no policies or procedures regarding maintenance of client files.

19. Anderson also failed to implement certain policies at River Source. For example, River Source had a written policy requiring offsite backup of electronic records. No offsite backup was ever set up. River Source also had written policies requiring daily reconciliation of account positions and balances, which Anderson failed to follow. Anderson also did not conduct and document reviews of client accounts for suspicious activity, as required by River Source's policies. Furthermore, River Source's policies required it to make and keep general journals, a general ledger, written communications, and records of each client's positions, which it failed to do.

20. Anderson, the owner and operator of River Source, was responsible for River Source's policy and procedure failures. Anderson also failed to annually review the adequacy of River Source's policies and procedures, and assess their effectiveness, as required by Rule 206(4)-7(b) of the Advisers Act.

Violations

21. As a result of the conduct described above, Anderson willfully violated Section 206(2) of the Advisers Act, which makes it unlawful "to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client."

22. As a result of the conduct described above, Anderson willfully violated Section 207 of the Advisers Act which makes it "unlawful for any person willfully to make any untrue statement of a material fact in any registration application or report filed with the Commission . . . or willfully to omit to state in any such application or report any material fact which is required to be stated therein."

23. As a result of the conduct described above, Anderson willfully aided and abetted and caused River Source's violations of Section 204 of the Advisers Act and Rule 204-2, which require that investment advisers registered with the Commission maintain and preserve certain books and records, and make available such books and records as the Commission or its representatives may reasonably request.

24. As a result of the conduct described above, Anderson willfully aided and abetted and caused River Source's violations of Section 206(4) of the Advisers Act and Rule 206(4)-7, which require, among other things, that investment advisers registered with the Commission adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules promulgated thereunder, and review the adequacy of those policies and procedures at least annually.

Undertakings

Respondent undertakes to:

25. Within thirty (30) days of the entry of this Order, Respondent shall provide a copy of the Order to all persons to whom he provides investment advisory services or financial advice, as well as any additional individuals who were River Source clients as of January 1, 2017, via mail, e-mail, or such other method as may be acceptable to the Commission's staff, together with a cover letter in a form not unacceptable to the Commission's staff.

26. Within thirty (30) days of the entry of this Order, and for a period of two years, Respondent shall post a copy of the Order on the home page, in a readily viewed area, of any web site he uses to advertise his advisory services, including, but not limited to, the Balsam Capital web site.

27. Certify, in writing, compliance with the undertakings set forth above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and Respondent Anderson agrees to provide such evidence. The certification and supporting materials shall be submitted, within sixty (60) days from the date of completion of the undertakings, to Brian Quinn, Assistant Director, Division of Enforcement (100 F Street NE, Washington, D.C. 20549), with a copy to the Office of Chief Counsel of the Division of Enforcement, at the same address.

IV.

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

Accordingly, pursuant to Sections 203(f) and 203(k) of the Advisers Act, it is hereby ORDERED that:

A. Respondent shall cease and desist from committing or causing any violations and any future violations of Sections 204, 206(2), 206(4) and 207 of the Advisers Act and Rules 204-2 and 206(4)-7 promulgated thereunder.

B. Respondent is censured.

C. Respondent shall be, and hereby is subject to the following limitation on his activities:

1. Respondent shall not act in a supervisory or compliance capacity with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; and Respondent shall not calculate or charge client advisory fees without supervision; and

2. Respondent may apply to act in such a supervisory or compliance capacity, or to act without supervision regarding advisory fees, after three years, to the appropriate self-regulatory organization, or if there is none, to the Commission.

Any application to act in such a supervisory or compliance capacity, or to act without supervision regarding advisory fees, will be subject to the applicable laws and regulations governing the reentry process, and permission to act in such a supervisory or compliance capacity, or to act without supervision regarding advisory fees, may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) 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 (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

D. Respondent shall pay disgorgement of \$367,176, prejudgment interest of \$38,205, and a civil penalty in the amount of \$100,000, to the Securities and Exchange Commission. Payment shall be made in the following installments: \$200,000 shall be paid within 14 days of the entry of this Order; the remainder shall be paid in 12 installments, with payments due every three months from the date of the Order. Payments shall be applied first to post order interest, which accrues pursuant to SEC Rule of Practice 600 and 31 U.S.C. 3717. The first 11 installments shall be \$25,448, and prior to making the final payment set forth herein, Respondent shall contact the staff of the Commission for the amount due. If Respondent fails to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Order, including post-order interest, minus any payments made, shall become due and payable immediately at the discretion of the staff of the Commission without further application to the Commission.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Stephen Brandon Anderson as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Brian Quinn, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549.

E. Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, a Fair Fund is created for the disgorgement, prejudgment interest and penalties referenced in paragraph D above. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, he shall not argue that he is entitled to, nor shall he benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that he shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

F. Respondent shall comply with the undertakings enumerated in paragraphs 25 to 27 above.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Vanessa A. Countryman
Acting Secretary