

The SEC's case against Dawn J. Bennett

The adviser boycotted her enforcement hearing, but that may not stop the regulator from throwing her out of the securities industry

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By **Jeff Benjamin**

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By all outward appearances, Dawn J. Bennett was a success. Barron's magazine named her three times to its

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She often was quoted in the media and had her own nationally syndicated radio show, **"Financial Myth Busting."**

But the Securities and Exchange Commission contends **much of Ms. Bennett's success was a sham**, built on heavily inflated claims about assets and portfolio performance that she used to drum up business from high-net-worth clients.

At least two of those clients claim they lost more than \$1 million when they invested their money with her and her firm, Bennett Group Financial Services, according to the SEC and arbitration claims filed with the Financial Industry Regulatory Authority Inc.

Dawn Bennett: Financi...

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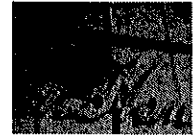
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The SEC is now seeking to make sure Ms. Bennett, 54, and her firm are never entrusted with investors' money again. At a hearing in February, it sought a cease-and-desist order against her, as well as a permanent ban from the securities industry and \$4 million in fines and disgorgement. An SEC administrative law judge is expected to hand down a decision shortly.

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unorthodox legal maneuvering she has employed to fight the SEC's case. Rather than defend herself against the charges, she and her lawyers went into court to have the February hearing halted until she could challenge the SEC's right to force her to have her case heard by an SEC administrative law judge rather than in federal court.

When that argument was rejected, Ms. Bennett **skipped the SEC administrative hearing**, never appearing to defend herself. While other defendants also recently have challenged the SEC's use of administrative law judges, none have boycotted their hearings.

At least one legal expert described the strategy as a Hail Mary pass.

"When you don't show up, that usually means you've got nothing left," said David Chase, a former SEC enforcement attorney who now runs his own practice as a securities defense attorney.

Through her lawyers at Morvillo LLP, Ms. Bennett declined to comment for this story. However, a statement that was posted on Finra's BrokerCheck in September in response to the SEC's investigation said, in part, "Ms. Bennett denies all allegations of any wrongdoing. She will vigorously defend this case at the earliest possible moment, but in the proper forum. When all the facts come to light, not just those the SEC charged her with, we will be in a position to fully defend her."

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Ms. Bennett's law firm said she has given up her securities licenses and is no longer affiliated with any broker-dealer. **Her listing on BrokerCheck** confirms that Ms. Bennett resigned from her broker-dealer, Western International Securities, in November. The broker-dealer, with which Ms. Bennett had been affiliated since October 2009, did not respond to a request for comment. Morvillo also stated that Ms. Bennett is no longer registered as an investment adviser nor is she providing financial advice to clients.

The SEC aims to keep it that way. In fact, the first sentence of a scathing 51-page post-hearing brief reads, "Dawn Bennett is wholly unfit for any role in the securities industry."

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1. INTRODUCTION

Dawn Bennett is wholly unfit for any role in the securities industry. In a calculated effort to raise their profile in the industry, she and her firm repeatedly mischaracterized their size and success, hoping to lure existing clients and to attract new ones. Indeed, her own false advertisements attest to the trick being played on investors: that because of Bennett Group's "over \$1.5 Billion in assets under management" it is the "gold standard" and "has size, strength and stability."¹

But Bennett and her firm never had over \$1.5 billion in assets under management (or "AUM")—let alone the over \$2 billion they were claiming by 2011. Nor did her clients experience the gains she touted on her radio show. To her, important metrics like AUM and client performance were nothing more than marketing ploys, to be made up as she went along.

When called upon by their regulators, they further dissembled. The District of Columbia Department of Insurance, Securities and Banking inquired about their claims in the June 2009 Barron's publication, and, in response, Bennett wrote that "our client's [sic] brokerage accounts had assets in excess of \$1 Billion (and still do)."²

But that story couldn't be used on the Commission staff, which already had the brokerage records. So, she tried something different: claiming that she and her firm did short-term cash management for Dimension Data, Omega World Travel, and the Mount Vernon Ladies' Association to the tune of almost \$2 billion. Except that Dimension Data never had that much cash, and whatever investment decisions there were were made over 8,000 miles away by South Africans who had never heard of her. Nor did Omega have \$150 million. And Mount Vernon had fired

¹ Exs. 102, 168. Throughout this brief, references to hearing exhibits will follow the format "Ex. _____."

² Ex. 86.

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SEC post-hearing brief

According to the SEC, Ms. Bennett claimed she and her firm had, at different times, assets under management of \$1.2 billion to more than \$2 billion, when the most the firm ever managed was \$407 million. That was made up of \$338 million in brokerage assets, \$67 million in pension consulting assets and \$1.1 million in advisory assets, the SEC said.

She made the claims repeatedly for Barron's top adviser listings and on her radio s

the false claims ... demonstrate the misstatements were no mere mistake," the SEC says in the brief. "Rather, they were a deliberate — and fraudulent — attempt to boost a fledgling advisory practice into the highest ranks of the industry."

Inflating one's AUM is no idle boast. Assets are a sign of success in the financial advice business and advisers routinely rely on their AUM as a calling card to attract new clients. For that reason, the SEC takes AUM claims seriously and insists that advisers be truthful when reporting these numbers to the investing public.

"People inflate their AUM because it makes them look more successful," said Tom Ajamie, managing partner at the law firm Ajamie and co-author with *InvestmentNews* senior columnist Bruce Kelly of the book, **"Financial Serial Killers: Inside the World of Wall Street Money Hustlers, Swindlers and Con Men."**

"There's a lot more [AUM] inflation by advisers than people know about, because it usually takes place in private conversations and doesn't become this public," he said.

RANKINGS MANIPULATION

Part of the government's case against Ms.

Bennett relates to her repurposing her published

the SEC.

Ms. Bennett's firm first appeared in Barron's in 2009 on **its list of "Top 100 Women Financial Advisors."** Her claim of \$1.1 billion in AUM ranked her fifth on the list. Later that year, the SEC contends she made another submission to Barron's, this time for **its list of "Top 100 Independent Financial Advisors."** Her AUM was listed as \$1.3 billion and she was ranked 26th.

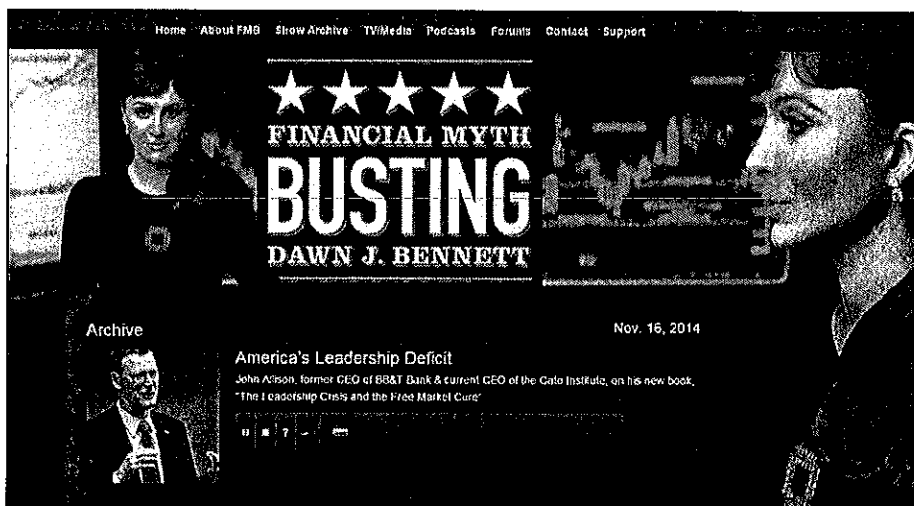
In its brief, the SEC said that when her public relations adviser congratulated her on the Barron's ranking, she responded in an email, "26? Wish I were in top 10. Somehow with number 26 it does not mean much." The SEC said that when the public relations adviser told her he had a client the previous year who got calls from people looking to invest after ranking No. 23, Ms. Bennett responded eight minutes later, "It would be nice to get a few of those calls!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!"

Two years later, according to the SEC, Ms. Bennett submitted yet another application to Barron's, this time for its "2011 Top Advisor Rankings: Washington D.C." By this time, she was falsely claiming \$1.8 billion in assets, which **"earned" her a No. 2 ranking.**

Matt Barthel, associate editor of Barron's, said the rankings of financial advisers are based on multiple criteria, including, but not

of their practices," Mr. Barthel said in an email. The editor declined to provide any further explanation as to how Barron's verifies the veracity of advisers' AUM claims.

"I'm going to guess Barron's never verified the assets under management," Mr. Ajamie said. "Barron's has given the advisers on its lists the imprimatur of authenticity by putting their seal of approval on it. And if they're going to list AUM, they have to have some way of verifying it. They can't just take people's word for it."



Ms. Bennett's radio show: Financial Myth Busting

The SEC said Ms. Bennett took to the airwaves in 2010, often touting her inflated AUM and Barron's rankings on a radio show for which her firm paid between \$1,500 and \$3,850 a week. In its brief, the SEC cited 20 examples of Ms. Bennett making false claims, either about her AUM or Barron's rankings.

The SEC said Ms. Bennett also in

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model portfolio as those of actual clients. On at least one occasion, the SEC said, she claimed the results put the firm in the “top 1%” of financial advisers.

Another time on the radio, according to the SEC brief, “she ... rattled off historic 'returns': ... [']Last year we were up 42%. Our three-year number was up 17%. Our 10-year number was up 12.”

But none of those figures represented actual client results, the SEC said. “They were for a 'model portfolio,' and the 'model' results differed materially from actual results — none of which was disclosed to the show's listeners,” the SEC brief said.

ADDITIONAL ALLEGATIONS

While Ms. Bennett is accused of inflating her assets to attract clients, a deeper dive into SEC filings and Finra arbitration records turn up allegations that she also abused clients and mismanaged the assets with which she was entrusted.

Some of her former clients complained that she charged excessive fees as a result of churning accounts, which in turn led to poor performance.

According to Finra, Ms. Bennett had nine arbitration claims filed against her dating back to February 2013, two of which she |

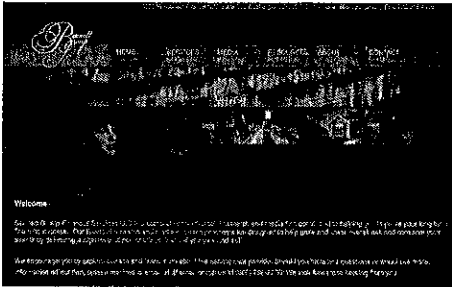
IT OF MS. BENNETT, WAS

listed in the SEC post-hearing brief as having been solicited as a client through marketing promotions showing Ms. Bennett's high rankings on the Barron's lists in 2009 and 2011.

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Ms. Bennett's Bennett Group Financial Services website

According to the testimony, Mr. Crowley interpreted Ms. Bennett's status on the Barron's lists and an accompanying article that she

emailed to him to mean "our investments were being handled in the same way many other smart investors were going to be handled, that other larger parties had made decisions to go with Bennett and that that afforded us the belief that they're a very credible organization."

Mr. Crowley, who could not be reached for comment, invested more than \$1 million with Bennett Group.

He was awarded \$100,000 in compensatory damages in an April 2014 Finra arbitration. The award summary cites portfolio churning and also mentions misrepresentation, omission of facts, fraud, breach of fiduciary duty and breach of contract among the violations.

In another arbitration case, Ms. Bennett was accused of turning over the accou

\$671,000 in commissions, fees and margin interest on an account that had an average value of \$827,000.

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GROSS MISREPRESENTATION

According to the arbitration claim, Ms. Edwards' account would have had to generate annualized returns of 22.63% just to break even.

Ms. Edwards' portfolio lost 77% of its value during the time it was managed by Ms. Bennett.

Ms. Edwards, who was awarded \$100,000 in compensatory damages in October 2014, declined to comment for this story.

The SEC post-hearing brief also detailed the plight of former client Phillips Peter, an 86-year-old former executive at General Electric, who gave Ms. Bennett a \$25.9 million portfolio to manage in the spring of 2009.

Mr. Peter testified that Ms. Bennett was portrayed to him as being "in the top 1% of financial advisers ... and [having] a business that was over a billion dollars."

Mr. Peter testified that his portfolio had declined 67.9% to \$8.3 million over one year's time, despite his insisting to Ms. Bennett that it not be allowed to fall below \$10 million. The SEC brief states that Ms. Bennett made a personal guarantee to restore

Mr. Peter could not be reached for comment.

When the SEC challenged Ms. Bennett during its investigation about her reported AUM, she made multiple claims, none of which the SEC could verify, according to its brief.

In early 2011, when she was confronted by SEC examiners

about the discrepancy between her claims and the firm's actual AUM, Ms. Bennett said she was including advice she gave three companies on short-term cash management, according to the brief.

She said she was managing \$706 million for Dimension Data, \$150 million for Omega World Travel and \$100 million for the Mount Vernon Ladies' Association, according to the SEC.

Those three cash-management accounts, combined with the \$406 million that the SEC could verify she was managing, totaled the \$1.3 billion that was reported in the 2009 Barron's list of the top 100 independent financ

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Although Dawn J. Bennett seemed successful, the SEC has accused her of heavily inflating her assets and portfolio performance to attract clients. In addition to \$4 million in fines and disgorgements, the agency is seeking to bar her from the securities industry for good.

cash for Dimension Data.

NO MEMORY OF HER

But according to the SEC, Dimension Data's chief financial officer Daniel Celoni, whom Ms. Bennett said she had met with in Virginia to discuss cash management, did not remember ever meeting her. In addition Mr. Celoni told the SEC he didn't believe any single person at his company would have the authority to hire Ms. Bennett to manage cash, according to the SEC.

Brian Howard, the group treasurer for Dimension Data in Johannesburg, South Africa, testified that his company didn't even have \$1.5 billion worth of cash to be managed.

Regarding the cash management for Omega World Travel, the SEC asserts Ms. Bennett said she had been having weekly phone calls as well as in-person meetings with Daniel Bohan, the husband of Omega's CEO and founder, Gloria Bohan.

But the SEC said Ms. Bohan told investigators her husband died in 2010 and had been incapacitated by illness and unable to work since 2004.

Regarding Ms. Bennett's claim of managing cash for Mount Vernon, the local nonprofit responsible for George Washington's home in Virginia, the SEC discovered that Mount Vernon ha

managed, according to the SEC brief

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BUILDING THE BRAND

In its brief, the SEC is asking the judge to impose a fine of \$600,000 on Bennett and \$2.9 million on her firm. In addition, the regulator wants the judge to order \$644,189 in disgorgement.

"Just because she's not working as an adviser anymore doesn't mean she can't still build some credibility as a personal finance expert."

*—Marc Freedman, CEO of
Freedman Financial*

Despite the SEC's case against her, Ms. Bennett is **still hosting her radio show**, which airs on Sundays from noon to 2 p.m. and is syndicated to 20 stations around the country, according to a spokesman for Radio America. Each show is still promoted with a press release that identifies her as CEO and founder of Bennett Group Financial Services.

Marc Freedman, CEO of Freedman Financial and host of his own radio show in Massachusetts, said Ms. Bennett could still be deriving some personal satisfaction from being on the air.

credibility as a personal finance expert," he said.

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Ms. Bennett spent years developing her polished brand, which still comes across in her weekly radio shows, which typically include a blend of political and financial commentary.

(Related read: How hosting radio shows helps advisers attract clients)

Meanwhile, Ms. Bennett has often tested the limits of branding and innovation. For example, there is the curious effort to brand herself as a fashion designer.

She operates **DJBennett.com** from the same Washington, D.C., address as her financial advisory business.

The clothing business website, emblazoned with a dragon logo and the tagline, "The World of Sporting Luxury," features active-wear apparel for men, women and children for everything from golf and tennis to cycling and snowboarding.

A **2011 video** on the VogueTV YouTube channel features Ms. Bennett promoting the "Dawn Bennett Collection, a new line of high-end denim created by Dawn Bennett, founder and CEO of Bennett Group Financial Services."

According to the video, Ms. Bennett "used her success in finance to follow her true passion, and launch a career in fashion."

says means "good luck, good fortune, and a lot of power and strength."

Watch: Dawn Bennett introduces her high-end clothing line

Introducing the Dawn Bennett Collection- VOGU...



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