INITIAL DECISION RELEASE NO. 534
ADMINISTRATIVE PROCEEDING
FILE NO. 3-15317

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

In the Matter of	:	INITIAL DECISION
	:	November 26, 2013
FRANK BLUESTEIN	:	

APPEARANCES: Timothy S. Leiman and Natalie G. Garner for the Division of Enforcement, Securities and Exchange Commission

Frank Bluestein, pro se[1]

BEFORE: Cameron Elliot, Administrative Law Judge

Summary

This Initial Decision grants the Division of Enforcement's (Division) Motion for Summary Disposition (Motion) and permanently bars Respondent Frank Bluestein (Bluestein) from associating with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization (NRSRO), and from participating in an offering of penny stock (collectively, collateral bars or full industry bar).

Procedural Background

On May 7, 2013, the Securities and Exchange Commission (Commission) issued an Order Instituting Administrative Proceedings (OIP) against Bluestein, pursuant to Section 15(b) of the Securities Exchange Act of 1934 (Exchange Act) and Section 203(f) of the Investment Advisers Act of 1940 (Advisers Act). The OIP alleges that a federal district court has enjoined Bluestein from future violations of Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933 (Securities Act), and Sections 10(b) and 15(a) of the Exchange Act and Exchange Act Rule 10b-5 (collectively, the federal securities laws), in SEC v. Bluestein, 2:09-cv-13809 (E.D. Mich. Apr. 24, 2013).[2]

[1] Gregg Paley represented Bluestein at the June 3, 2013, prehearing conference.

[2] Bluestein failed to answer the OIP in accordance with Rule 220 of the Commission's Rules of Practice. See OIP at 2; 17 C.F.R. § 201.220; cf. Frank Bluestein, Admin. Proc. No. 3-15317 (May 29, 2013) (unpublished) (reminding Bluestein of the requirement to file an Answer).

At a prehearing conference held on June 3, 2013, I deemed service of the OIP complete by May 17, 2013. I also granted the parties leave to file motions for summary disposition, pursuant to Rule 250 of the Commission's Rules of Practice. See Frank Bluestein, Admin. Proc. No. 3-15317 (June 3, 2013) (unpublished); Tr. at 3, 5-6. On July 12, 2013, the Division filed its Motion, with supporting exhibits (Div. Exs. A-H).[3] On August 6, 2013, Bluestein filed his Opposition to the Motion (Opposition or Opp'n), with his Declaration in Support of Opposition (Declaration or Decl.). On August 8, 2013, the Division filed its Reply Brief.

Summary Disposition Standard

A motion for summary disposition may be granted if there is no genuine issue with regard to any material fact and the party making the motion is entitled to summary disposition as a matter of law. 17 C.F.R. § 201.250(b). The facts of the pleadings of the party against whom the motion is made shall be taken as true, except as modified by stipulations or admissions made by him, by uncontested affidavits, or by facts officially noticed pursuant to Rule 323 of the Commission's Rules of Practice. 17 C.F.R. §§ 201.250(a), .323.

The Commission has repeatedly upheld use of summary disposition in cases such as this, where the respondent has been enjoined or convicted and the sole determination concerns the appropriate sanction. See Jeffrey L. Gibson, Exchange Act Release No. 57266 (Feb. 4, 2008), 92 SEC Docket 2104, 2111-12 (collecting cases), pet. denied, 561 F.3d 548 (6th Cir. 2009). Under Commission precedent, the circumstances in which summary disposition in a follow-on proceeding involving fraud is not appropriate "will be rare." John S. Brownson, 55 S.E.C. 1023, 1028 n.12 (2002), pet. denied, 66 F. App'x 687 (9th Cir. 2003).

The findings and conclusions in this Initial Decision are based on the record and on facts officially noticed pursuant to Rule 323 of the Commission's Rules of Practice.[4] See 17 C.F.R. § 201.323. The parties' filings and all documents and exhibits of record have been fully reviewed and carefully considered. Preponderance of the evidence has been applied as the standard of proof. See Steadman v. SEC, 450 U.S. 91, 101-04 (1981). All arguments and proposed findings and conclusions that are inconsistent with this Initial Decision have been considered and rejected.

[3] Exhibits A to H are attached to the Declaration of Timothy S. Leiman in Support of the Motion. The exhibits include the following documents from SEC v. Bluestein: the Commission's September 28, 2009, complaint (Div. Ex. A); the October 24, 2012, settlement-conference transcript (Div. Ex. B); the magistrate judge's March 7, 2013, report and recommendation (Div. Ex. C); the district court's April 24, 2013, opinion and order, adopting the magistrate judge's report and recommendation (Div. Ex. D); and the May 6, 2013, district court judgment (Div. Ex. E). The exhibits also include: copies of screen shots of www.mypivotaldirections.com, dated July 6, 2012, and www.probabilityofsuccesstrading.com, which appear to be dated April 12, 2012 (Div. Ex. F); copies of screen shots of www.freedomroadtrading.com, dated April 7, 2010 (Div. Ex. G); and a July 8, 2009, press release from www.free-press-release.com, titled "Frank Bluestein Resurfaces with New Stock Picking Podcast" (Div. Ex. H).

[4] Pursuant to Rule 323, I take official notice of the proceedings and the docket sheet in SEC v. Bluestein.

Findings of Fact

A. Bluestein's Sale of Ed May Securities and Subsequent Activities

From 2002 to 2007, Bluestein was a registered representative of a broker-dealer, as well as an associated person of a registered investment advisor. Div. Ex. C at 2. Bluestein and his firm sold approximately $74 million of Ed May securities (E-M securities) to approximately 800 investors. Id. Ed May (May) was a con artist who devised a massive Ponzi scheme for which he was indicted in 2009; May pled guilty and was sentenced to sixteen years in prison. Id. In investigative testimony before the Commission, Bluestein admitted that the E-M securities he had sold were not registered. Id. The district court found that that he did not establish an exemption from registration. Id. at 6. He also admitted that he received a commission or "referral fee" of two-and-a-half percent of the money raised from the sale of E-M securities. Id. at 2. At one point, the commission was raised to four percent. Id. He conceded that he did not tell investors about the commission or fee he was earning. Id. at 2-3. Investors also testified that Bluestein never disclosed to them that he was receiving a commission from May. Id. at 3.

According to April 2010 website screenshots and a July 2009 Internet press release in the record, Bluestein was a research team member of and the chief stock picker for the website "Freedom Road Trading" (FRT). Div. Exs. G-H. According to July 2012 website screenshots in the record, Bluestein was a stock-picking coach of the website "My Pivotal Directions" (MPD), which was created by his son, Nathan Bluestein, and charged a $995 annual fee for Bluestein's daily stock-trading signals. See Div. Ex. F at SJ App. 517-18, 525-26. A blog titled "Probability of Success" has posts promoting MPD presentations by Bluestein and his son; the record is unclear, however, as to the date of these blog posts. Id. at SJ App. 520-22.

B. SEC v. Bluestein

In September 2009, the Commission filed its complaint in SEC v. Bluestein, alleging, inter alia, that Bluestein violated the federal securities laws through his sale of E-M securities. See Div. Ex. A. The Commission subsequently moved for partial summary judgment and requested that the district court enjoin Bluestein from future violations of the federal securities laws. Mot. Partial Summ. J., SEC v. Bluestein, 2:09-cv-13809, 2013 U.S. Dist. LEXIS 58509 (E.D. Mich. July 11, 2012), ECF No. 45.

At an October 2012 settlement conference, Bluestein consented to the entry of a permanent injunction against future violations of the federal securities laws, and a permanent bar from the securities industry in a follow-on administrative proceeding. Div. Ex. B at 4-11; Div. Ex. C at 3-4, 11; see Decl. ¶ 3. The parties and the assigned magistrate judge did not resolve the issue of monetary penalties sought by the Commission (monetary issue), in order to allow Bluestein sixty days to submit financial information to the Commission to facilitate a possible settlement on the monetary issue. Div. Ex. B. at 4, 8. The magistrate judge advised Bluestein that if the parties failed to reach a settlement on the monetary issue, he would give Bluestein additional time to respond to the Commission's summary judgment motion. Id. at 8-9. Toward the end of the conference, the magistrate judge permitted Bluestein's attorney to withdraw from the case and gave Bluestein thirty days to hire new counsel. Id. at 11. The magistrate judge informed Bluestein that if he became pro

se, his obligations to the court, to comply with court orders and to participate in further settlement discussions, would in no way be diminished. Id. at 11-12.

Following the conference, the magistrate judge directed Bluestein to respond to the Commission's summary judgment motion by January 21, 2013, if no settlement had been reached on the monetary issue. See Order, SEC v. Bluestein, 2:09-cv-13809, 2013 U.S. Dist. LEXIS 58509 (E.D. Mich. Nov. 30, 2012), ECF No. 52. Thereafter, the Commission moved for entry of the permanent injunction and, in further support of its pending summary judgment motion, stated that Bluestein had not responded to any of the Commission's letters or phone messages to continue discussions on the monetary issue. See Mot. Perm. Inj. and Reply Supp. Mot. Partial Summ. J., SEC v. Bluestein, 2:09-cv-13809, 2013 U.S. Dist. LEXIS 58509 (E.D. Mich. Jan. 14, 2013 and Feb. 11, 2013, respectively), ECF Nos. 53-54.

In March 2013, the magistrate judge issued a report and recommendation that the district court grant the Commission's motions, enjoin Bluestein from future violations of the federal securities laws, and order disgorgement of $3,603,538.90 plus $838,932.24 in prejudgment interest. Div. Ex. C at 1, 8-11. Bluestein did not object to the magistrate judge's report. See Div. Ex. C at 12; Div. Ex. D at 2-3. The district court adopted the magistrate judge's report and recommendation, granted the Commission's motions, and, in May 2013, entered judgment permanently enjoining Bluestein and ordering the recommended disgorgement plus prejudgment interest. Div. Exs. D-E. To date, Bluestein has neither moved for reconsideration nor appealed. See Dkt. Sheet, SEC v. Bluestein, 2:09-cv-13809.

Conclusions of Law

Section 15(b)(6) of the Exchange Act and Section 203(f) of the Advisers Act authorize the Commission to sanction Bluestein if, as relevant here, 1) at the time of the alleged misconduct, he was associated with a broker, dealer, or investment adviser; 2) he has been enjoined from any action specified in Section 15(b)(4)(C) of the Exchange Act or Section 203(e)(4) of the Advisers Act; and 3) the sanction is in the public interest.[5] 15 U.S.C. §§ 78*o*(b)(6)(A)(iii), 80b-3(f). During the time of his misconduct, Bluestein was a registered representative of a broker-dealer and an associated person of an investment adviser. Div. Ex. C at 2. The district court enjoined Bluestein from future violations of the federal securities laws, i.e., "conduct . . . in connection with the purchase or sale of any security," within the meaning of Section 15(b)(4)(C) of the Exchange Act and Section 203(e)(4) of the Advisers Act. 15 U.S.C. §§ 78*o*(b)(4)(C), 80b-3(e)(4); see Div. Exs. D-E. A sanction therefore will be imposed if it is in the public interest.

Bluestein does not dispute that the statutory basis for a sanction has been satisfied. Although he concedes that he agreed to an injunction preventing his employment in the securities industry at the settlement conference, he argues that there is a genuine issue of material fact

[5] As to the sanction, Section 15(b)(6) of the Exchange Act and Section 203(f) of the Advisers Act authorize the Commission to bar Bluestein from association with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or NRSRO; and Section 15(b)(6) of the Exchange Act further authorizes a bar on participating in an offering of penny stock. 15 U.S.C. §§ 78*o*(b)(6), 80b-3(f).

because, he alleges, the prospect of collateral bars in a follow-on administrative proceeding was not addressed at the conference and he did not consent to the sanction sought by the Division in this proceeding. See Opp'n at 2; Decl. ¶¶ 3, 6. He alleges that the Division's request for collateral bars against him is an attempt to modify the terms of the injunction agreed to by the parties. Opp'n at 2. Bluestein's argument is understood to mean that the Division's decision to pursue collateral bars against him contravenes the settlement agreement. However, there is no requirement under Section 15(b)(6) of the Exchange Act or Section 203(f) of the Advisers Act for a respondent to consent to collateral bars in a follow-on proceeding. "[T]he mere existence of an injunction may support . . . a bar from participation in the securities industry where the nature of the acts enjoined and the circumstances indicate that it is in the public interest." Marshall E. Melton, 56 S.E.C. 695, 700 (2003). Accordingly, Bluestein has raised no genuine issue of material fact from this argument.

In any event, the evidence shows that Bluestein agreed to the collateral bars and, therefore, there is no violation of the settlement agreement. Div. Ex. B at 5-6. At the settlement conference, the magistrate judge and Division counsel explained that the industry bar would be sought in an administrative proceeding, and Bluestein confirmed under oath that he understood the settlement terms and had no questions.[6] Div. Ex. B at 4-11; Div. Ex. C at 3-4.

Bluestein further argues that the collateral bars could not have been contemplated by the parties at the October 2012 settlement conference because they were not in existence at the time. Opp'n at 2-3. To the contrary, by 2010, Congress enacted the full range of collateral bars sought by the Division. See Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, § 925, 124 Stat. 1376, 1850-51 (2010) (codified at 15 U.S.C. §§ 78*o*(b)(6)(A), 80b-3(f)) (Dodd-Frank); Securities Enforcement Remedies and Penny Stock Reform Act, Pub. L. No. 101-429, § 504, 104 Stat. 931, 952-53 (1990) (codified at 15 U.S.C. § 78*o*(b)(6)(A)).

Bluestein next contends that summary disposition is inappropriate because his former district court counsel inadequately represented him and monetary penalties were imposed by the district court without proper notice or a hearing. Opp'n at 2, 4-5; Decl. ¶¶ 5, 7. However, Bluestein may not use this administrative proceeding to attack the district court's judgment or findings or to litigate issues not raised before the district court or through an appeal to the court of appeals. See Blinder, Robinson & Co. v. SEC, 837 F.2d 1099, 1108 (D.C. Cir. 1988); James E. Franklin, Exchange Act Release No. 56649 (Oct. 12, 2007), 91 SEC Docket 2708, 2713-14, aff'd, 285 F. App'x 761 (D.C. Cir. 2008); Joseph P. Galluzzi, 55 S.E.C. 1110, 1115-16 (2002). Moreover, the underlying injunction is "finalized for the purposes of this administrative proceeding," notwithstanding Bluestein's intention to file in the district court a motion pursuant to Federal Rule of Civil Procedure 60(b).[7] Herbert M. Campbell II,

[6] In connection with the settlement conference, the Commission provided Bluestein with a document containing language regarding the industry bars he would be facing. Div. Ex. B at 4-6, 9. Although that document is not part of the record, Bluestein raises no issue related to it, and the settlement conference transcript and district court's findings show that Bluestein agreed to a permanent bar from the securities industry that was unambiguous in its terms. Div. Ex. B at 5-6, 11; Div. Ex. C at 3-4; Div. Ex. D at 2-3.

[7] If a motion for reconsideration before the district court is successful and the statutory basis for the collateral bars is no longer present, the remedy is to petition the Commission for reconsideration of this action. See Jon Edelman, 52 S.E.C. 789, 790 (1996); cf. John Gardner Black, Advisers Act Release

Esq., Initial Decision Release No. 266 (Oct. 27, 2004), 83 SEC Docket 4000, 4008 (citing John Francis D'Acquisto, 53 S.E.C. 440, 444 n.9 (1998)).

Accordingly, there is no genuine issue with regard to any material fact and summary disposition is appropriate. See 17 C.F.R. § 201.250(b). A sanction will be imposed if it is in the public interest. See Teicher v. SEC, 177 F.3d 1016, 1017-18 (D.C. Cir. 1999) (holding that the Commission has authority to bar persons from association with registered or unregistered investment advisers or otherwise sanction them under Section 203 of the Advisers Act).

Sanctions

The Division seeks a full industry bar against Bluestein. Mot. at 7-8. The appropriateness of any remedial sanction in this proceeding is guided by the public interest factors set forth in Steadman v. SEC, namely: 1) the egregiousness of the respondent's actions; 2) the isolated or recurrent nature of the infraction; 3) the degree of scienter involved; 4) the sincerity of the respondent's assurances against future violations; 5) the respondent's recognition of the wrongful nature of his conduct; and 6) the likelihood of future violations (Steadman factors). 603 F.2d 1126, 1140 (5th Cir. 1979), aff'd on other grounds, 450 U.S. 91 (1981); see Gary M. Kornman, Advisers Act Release No. 2840 (Feb. 13, 2009), 95 SEC Docket 14246, 14255, pet. denied, 592 F.3d 173 (D.C. Cir. 2010). The Commission's inquiry into the appropriate sanction to protect the public interest is a flexible one, and no one factor is dispositive. Kornman, 95 SEC Docket at 14255. The Commission also considers the deterrent effect of administrative sanctions. See Schield Mgmt. Co., Exchange Act Release No. 53201 (Jan. 31, 2006), 87 SEC Docket 848, 862. Industry bars have long been considered effective deterrence. See Guy P. Riordan, Exchange Act Release No. 61153 (Dec. 11, 2009), 97 SEC Docket 23445, 23478 & n.107 (collecting cases).

Here, the Steadman factors, on the balance, weigh in favor of imposing a full industry bar. I adopt the district court's finding that Bluestein's conduct was egregious and recurrent, as he was a major participant in a multi-million dollar Ponzi scheme and his participation continued for a five-year period. Div. Ex. C at 10-11; Div. Ex. D at 2-3. The egregiousness of Bluestein's conduct is further demonstrated by the fact that he was enjoined from violating the antifraud provisions of the federal securities laws and ordered to disgorge more than $3.6 million in undisclosed fees generated from his sale of E-M securities. See Don Warner Reinhard, Exchange Act Release No. 63720 (Jan. 14, 2011), 100 SEC Docket 36940, 36947 & n.21 (citing Robert Bruce Lohmann, 56 S.E.C. 573, 583 n.20 (2003) (finding that matters "not charged in the OIP" may nevertheless be considered "in assessing sanctions")); Michael T. Studer, 57 S.E.C. 890, 898 (2004) ("[T]he fact that a person has been enjoined from violating antifraud provisions has especially serious implications for the public interest." (internal quotation marks omitted)), reconsideration denied, Exchange Act Release No. 50600 (Oct. 28, 2004), 83 SEC Docket 3944, aff'd, 148 F. App'x 58 (2d Cir. 2005).

No. 3015 (Apr. 13, 2010), 98 SEC Docket 27473, 27477 & n.14 (explaining that a respondent who consents to an underlying injunction "remains bound by the allegations in the injunctive complaint unless and until the district court modifies the injunction," but that the respondent could request the district court to vacate the injunction under Rule 60(b)).

I also adopt the district court's findings that: 1) Bluestein knew he was selling unregistered securities and withholding material information from investors; and 2) as to the district court fraud claims under Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act, Bluestein acted with the requisite element of scienter in failing to disclose such fees to investors. Div. Ex. C at 6-7, 10-11; Div. Ex. D at 2-3. Although scienter is not a requirement for the unregistered sale of securities under Section 5 of the Securities Act, see SEC. v. Calvo, 378 F.3d 1211, 1215 (11th Cir. 2004), "the respondent's state of mind is highly relevant in determining the remedy to impose." Steadman, 603 F.2d at 1140. Thus, Bluestein's knowledge in selling unregistered securities and withholding material information from investors weighs in favor of a full industry bar.

Bluestein has provided no assurances against future violations either before the district court or in this proceeding. Div. Ex. C at 10. Tellingly, his Opposition and Declaration are devoid of any recognition of the wrongfulness of, or remorse for, his misconduct. On the other hand, whether there is a likelihood of future violations is unclear. According to the Division's evidence, Bluestein has operated as research team member of, and the chief stock picker for, the FRT website, and a stock-picking coach of the MPD website. Div. Exs. F-H. If continued, Bluestein's activities would arguably present the opportunity for future violations. The Division, however, has not supplied evidence of Bluestein's present employment or investment-related activities, and it is not clear from the record whether Bluestein's activities related to these websites is ongoing. Nevertheless, even assuming arguendo that Bluestein is no longer involved in the securities industry and the likelihood-of-future-violations factor weighs in his favor, the balance of Steadman factors weighs in favor of a full industry bar, particularly given Bluestein's egregious and recurrent misconduct, scienter, and lack of assurances against future violations.

Bluestein makes no specific argument for mitigation of sanctions, but instead suggests that the collateral bars implicate the Ex Post Facto Clause of the U.S. Constitution and his right to freedom of association. Opp'n at 4. I reject both assertions.

The Commission has held that the enactment of additional provisions to the collateral-bar sanctions by Dodd-Frank "are prospective remedies whose purpose is to protect the investing public from future harm," and therefore applying the bars in a follow-on proceeding addressing pre-Dodd-Frank conduct is "not impermissibly retroactive." John W. Lawton, Advisers Act Release No. 3513 (Dec. 13, 2012), 105 SEC Docket 61722, 61737. The Commission reasoned that its consideration of past misconduct in assessing whether to impose collateral bars is "consistent with the Supreme Court's longstanding view that statutes barring individuals from a profession or other activity based on prior convictions are not unconstitutional under the Ex Post Facto Clause." Id. at 61736 & n. 46-47 (citing Hawker v. New York, 170 U.S. 189, 200 (1898), and DeVeau v. Braisted, 363 U.S. 144, 159-60 (1960) (Frankfurter, J., plurality op.)). Given that "Congress has authorized the Commission to bar individuals from areas of the securities industry to protect investors from future harm" (a civil remedy) rather than to impose criminal punishment, id. at 61732-33, Bluestein's Ex Post Facto challenge will succeed only if he establishes by "the clearest proof" that the statutory scheme is so punitive in purpose or effect to transform what has been denominated a civil remedy into a criminal penalty. Smith v. Doe, 538 U.S. 84, 92, 105-06 (2003); United States v. W.B.H., 664 F.3d 848, 854 (11th Cir. 2011); cf. Hudson v. United States, 522 U.S. 93, 103-05 (1997) (concluding, under the Double Jeopardy Clause, that Congress's grant of authority to an administrative agency to bar individuals from the banking industry was "prima facie evidence that

Congress intended to provide for a civil sanction" rather than a criminal penalty and that such debarment was not so punitive in purpose or effect to render the sanction a criminal penalty). Bluestein has made no such showing, nor has he presented any evidence to raise a material issue of fact.

Bluestein also provides no support for his freedom-of-association theory, aside from alleging that the collateral bars "attempt[] to restrict contact with [his] own family." Decl. ¶ 8. The Supreme Court has recognized a constitutionally protected right to freedom of association in two distinct categories: expressive association and intimate human relationships. Roberts v. U.S. Jaycees, 468 U.S. 609, 617-18 (1984); Gary v. City of Warner Robins, 311 F.3d 1334, 1338 (11th Cir. 2002). However, the associations and activities prohibited by the collateral bars do not implicate purely personal association or contact with family members, the concern raised by Bluestein.[8] Rather, the bars govern Bluestein's business relationships and activities, which are "remote from the concerns giving rise to this constitutional protection." Roberts, 468 U.S. at 620; see Kipps v. Caillier, 205 F.3d 203, 205 (5th Cir. 2000); cf. Paul C. Kettler, 51 S.E.C. 25, 28 n.12 (1992) (rejecting a respondent's contention that an associational bar against a business colleague and suspension order against the respondent, imposed by the National Association of Securities Dealers, deprived the respondent of his right to freedom of association because such sanctions did not burden purely personal or social association).

In conclusion, it is in the public interest that Bluestein be barred from associating with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or NRSRO, and from participating in an offering of penny stock.

Order

It is ORDERED that, pursuant to Rule 250(b) of the Securities and Exchange Commission's Rules of Practice, the Division of Enforcement's Motion for Summary Disposition against Respondent Frank Bluestein is GRANTED.

It is FURTHER ORDERED that, pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Section 203(f) of the Investment Advisers Act of 1940, Frank Bluestein is permanently BARRED from association with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

It is FURTHER ORDERED that, pursuant to Section 15(b) of the Securities Exchange Act of 1934, Frank Bluestein is permanently BARRED from participating in an offering of penny stock, including acting as any 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.

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[8] See 15 U.S.C. §§ 78c(a)(18) (person associated with a broker or dealer), (32) (person associated with a municipal securities dealer), (49) (person associated with a transfer agent), (63) (person associated with a NRSRO), 70*o*(b)(6)(C) (person participating in an offering of penny stock), 80b-2(a)(17) (person associated with an investment adviser); see also 15 U.S.C. § 78*o*-4(e)(7) (person associated with a municipal advisor, defined under Section 15B of the Exchange Act).

This Initial Decision shall become effective in accordance with and subject to the provisions of Rule 360 of the Commission's Rules of Practice. See 17 C.F.R. § 201.360. Pursuant to that Rule, a party may file a petition for review of this Initial Decision within twenty-one days after service of the Initial Decision. A party may also file a motion to correct a manifest error of fact within ten days of the Initial Decision, pursuant to Rule 111 of the Commission's Rules of Practice. See 17 C.F.R. § 201.111. If a motion to correct a manifest error of fact is filed by a party, then that party shall have twenty-one days to file a petition for review from the date of the undersigned's order resolving such motion to correct a manifest error of fact.

The Initial Decision will not become final until the Commission enters an order of finality. The Commission will enter an order of finality unless a party files a petition for review or motion to correct a manifest error of fact or the Commission determines on its own initiative to review the Initial Decision as to a party. If any of these events occurs, the Initial Decision shall not become final as to that party.

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Cameron Elliot
Administrative Law Judge