

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 82199 / December 1, 2017

INVESTMENT ADVISERS ACT OF 1940
Release No. 4817 / December 1, 2017

Admin. Proc. File No. 3-17210

In the Matter of
PAUL LEON WHITE, II

CORRECTED ORDER DISMISSING REVIEW PROCEEDING AND NOTICE OF FINALITY

On October 27, 2016, an administrative law judge issued an initial decision of default barring Paul Leon White, II, from associating with any broker, dealer, investment adviser, municipal securities dealer, or transfer agent, and from participating in an offering of penny stock, based on his conviction on seven counts of grand larceny and one count of engaging in a scheme to defraud, while being associated with various broker-dealers and while holding himself out as an investment adviser from at least July 2008 through April 2009.¹ The law judge found White in default based on his failure to file an answer to the order instituting proceedings (OIP) and to show cause why he should not be found in default. As a result of the default, the law judge accepted as true the factual allegations in the OIP.

On January 25, 2017, White filed a petition for review of the initial decision.² On March 15, 2017, our Office of the General Counsel issued an order by delegated authority granting White's petition for review and setting a briefing schedule that required White to file a brief in support of his petition by April 14, 2017.³ The March 15 order noted that, pursuant to

¹ See *Paul Leon White, II*, Initial Decision Release No. 1072, 2016 SEC LEXIS 4036 (Oct. 27, 2016). White, who is currently incarcerated, was sentenced to 21 to 63 years imprisonment and ordered to pay \$2,975,000 in restitution. *Id.* at *17.

² Our Office of the Secretary granted White an extension through January 31, 2017, by which to file his petition for review. *Order Granting Motion to Extend Time*, Exchange Act Release No. 79482, 2016 WL 7094441 (Dec. 6, 2016).

³ *Order Granting Petition for Review and Scheduling Briefs*, Exchange Act Release No. 80250, 2017 WL 993155 (Mar. 15, 2017).

Commission Rule of Practice 180(c),⁴ “failure to file a brief in support of the petition may result in dismissal of this review proceeding.”⁵

On April 12, 2017, White requested a 30-day extension of time to file his initial brief. In response, our Office of the Secretary granted White a 14-day extension and directed White to file his brief by April 28, 2017.⁶ On April 24, 2017, White filed a brief that was more than six times the maximum length established by Commission Rule of Practice 450, along with a request that he be permitted to exceed the applicable word limitation.⁷

On May 22, 2017, our Office of the Secretary denied White’s request to exceed the word limit and directed him to file a compliant brief by June 9, 2017.⁸ White sought reconsideration of the denial of his request to submit a brief exceeding the word limitation and an extension of the filing deadline. On June 14, 2017, the Office of the Secretary issued an order denying reconsideration but granting White until July 14, 2017, to file a compliant brief.⁹ White has never filed a compliant brief or otherwise responded to the June 14, 2017 order.

Under our rules, we are authorized to dismiss proceedings where, as here, a respondent has failed “[t]o cure a deficient filing within the time specified”¹⁰ We believe that dismissal is appropriate here based on White’s failure to file a brief that complies with our word limitation.¹¹ We note that White’s failure to file a compliant brief, or otherwise respond to the

⁴ 17 C.F.R. § 201.180(c).

⁵ *Order Granting Petition for Review*, 2017 WL 993155.

⁶ *Order Granting Motion to Extend Time to File Briefs*, Exchange Act Release No. 80463, 2017 WL 1363352 (April 14, 2017) (by delegated authority).

⁷ *See* 17 C.F.R. § 201.450(c)-(d) (providing that an opening brief shall not exceed 14,000 words and that a brief that does not exceed 30 pages is presumptively considered to be within that limit). The Secretary’s Office did not receive White’s motion until May 9, 2017. *See Extension Order*, Exchange Act Release No. 80743, 2017 WL 2224350 (May 22, 2017).

⁸ *Extension Order*, 2017 WL 2224350 (by delegated authority).

⁹ *Order Granting Motion to Extend Time to Re-file Brief; Denying Reconsideration Request; and Denying Motion for Leave to Make Future Extension Motion*, Exchange Act Release No. 80931, 2017 WL 2572437 (June 14, 2017) (by delegated authority).

¹⁰ 17 C.F.R. § 201.180(c).

¹¹ *See David A. Hesterman*, Exchange Act Release No. 46703, 2002 WL 31374801 (Oct. 22, 2002) (finding that respondents defaulted in their appeal to the Commission after they filed a deficient brief, were notified of the deficiency, and failed to file a compliant brief); *see also Robert D. Tucker*, Exchange Act Release No. 71972, 2014 WL 1512023 (April 18, 2014) (dismissing application for review under Rule 180(c) where respondent’s pleading did not meet requirements of Rule 450); *cf. James Michael Murray*, Advisers Act Release No. 4658, 2017 WL 1035747 (Mar. 6, 2017) (dismissing review proceeding where it appeared that respondent had “abandoned his appeal” due to his failure to submit an opening brief).

June 14 order, is consistent with his earlier actions that led the law judge to find him in default and, in our view, evidences a disregard for the Commission's processes.

Accordingly, it is ORDERED that this review proceeding be, and it hereby is, dismissed.

We also hereby give notice that the law judge's October 27, 2016 initial decision has become the final decision of the Commission, in accordance with Rule of Practice 360(d)(2).¹² The Order contained in that decision barring White from association with any broker, dealer, or investment adviser, and from participating in an offering of penny stock, is hereby declared effective.¹³

By the Commission.

Brent J. Fields
Secretary

¹² 17 C.F.R. § 201.360(d)(2).

¹³ Although the law judge imposed a collateral bar on White, the conduct at issue occurred before the effective date of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which authorized the imposition of collateral bars. We therefore set aside the bars imposed by the law judge from associating with a municipal securities dealer or transfer agent. *See Bartko v. SEC*, 845 F.3d 1217, 1224-26 (D.C. Cir. 2017) (finding imposition of collateral bar impermissibly retroactive where misconduct occurred prior to enactment of Dodd-Frank).