

Initial Decision Release No. 1298
Administrative Proceeding
File No. 3-17751

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

In the Matter of
Roy Dekel

Initial Decision
November 7, 2018

Appearances: Amy Jane Longo, Lynn M. Dean, and Matthew T. Montgomery for the Division of Enforcement, Securities and Exchange Commission

Marc Y. Lazo, Lisbeth Bosshart Merrill, and Charles K. Stec, Wilson Harvey Browndorf, LLP, for Roy Dekel

Before: James E. Grimes, Administrative Law Judge

Summary

After this proceeding was reassigned to me to provide Respondent Roy Dekel with the opportunity for a new hearing, Dekel consented to my adoption of the administrative record compiled under the prior administrative law judge, including the initial decision entered on July 28, 2017. Based on Dekel's consent and waiver of his right to a new hearing, I adopt the original record. I grant the Division of Enforcement's motion for summary disposition. Dekel is barred from associating with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

Procedural Background

The Securities and Exchange Commission initiated this proceeding in December 2016, when it issued an order instituting proceedings (OIP) under

Section 203(f) of the Investment Advisers Act of 1940.¹ This is a follow-on proceeding based on an injunction entered in 2016 by the United States District Court for the Central District of California. The OIP alleges that from 2011 through 2015, Dekel was a registered representative associated with an entity that was registered with California as an investment adviser.² It also alleges that the district court enjoined Dekel from violating Section 17(a) of the Securities Act of 1933, Exchange Act Sections 10(b) and 20(a), and Exchange Act Rule 10b-5.³ And the OIP recites what the Commission alleged in its injunctive complaint.⁴

A different administrative law judge originally presided over this proceeding and issued an initial decision granting the Division's motion for summary judgment against Dekel.⁵ But the Commission vacated that decision following the Supreme Court's decision in *Lucia v. SEC*,⁶ and the matter was reassigned to me to provide Dekel with the opportunity for a new hearing.⁷ Dekel was directed to propose how further proceedings should be conducted.⁸

On October 25, 2018, Dekel executed a declaration under penalty of perjury stating:

I knowingly and voluntarily waive the opportunity for a new hearing before an administrative law judge ("ALJ") who did not previously participate in this matter, and

¹ OIP at 1; *see* 15 U.S.C. § 80b-3(f).

² OIP at 1–2.

³ OIP at 2; *see* 15 U.S.C. §§ 77q(a), 78j(b), 78t(a); 17 C.F.R. § 240.10b-5.

⁴ OIP at 2.

⁵ *See Roy Dekel*, Initial Decision Release No. 1157, 2017 SEC LEXIS 2271 (ALJ July 28, 2017). A copy of that original initial decision is attached to this initial decision as Appendix 1 and will be cited as "ID-1157."

⁶ 138 S. Ct. 2044 (2018); *see Pending Admin. Proc.*, Securities Act of 1933 Release No. 10536, 2018 SEC LEXIS 2058, at *2–3 (Aug. 22, 2018).

⁷ *Pending Admin. Proc.*, Admin. Proc. Rulings Release No. 5955, 2018 SEC LEXIS 2264, at *2–3 (ALJ Sept. 12, 2018).

⁸ *Roy Dekel*, Admin. Proc. Rulings Release No. 5978, 2018 SEC LEXIS 2321, at *1 (ALJ Sept. 14, 2018).

agree that the newly assigned ALJ should adopt in full the administrative record created under the previously assigned ALJ, including the initial decision entered on July 28, 2017. I agree that no further proceedings in this matter are necessary.⁹

The Division submitted a copy of Dekel's declaration and asked that the proceeding be resolved based on Dekel's consent.¹⁰

As the Commission authorized, I accept the parties' proposal for the conduct of further proceedings based on Dekel's consent to my adoption of the original record.¹¹ That record shows that Dekel was served with the OIP and answered on February 13, 2017. The Division filed its motion for summary disposition on March 22, 2017; Dekel filed an opposition on April 12, 2017; and the Division filed its reply on April 26, 2017. The previously mentioned initial decision was entered on July 28, 2017.¹²

Findings of Fact

Based on Dekel's consent, I adopt the findings of fact contained in the original initial decision.¹³

Conclusions of Law

Based on Dekel's consent, I adopt the conclusions of law found in the original initial decision.¹⁴

Order

The Division of Enforcement's motion for summary disposition is GRANTED.

⁹ Decl. of Lynn M. Dean (Nov. 2, 2018), Ex. 4 (Dekel Decl.) ¶ 2; *see* 28 U.S.C. § 1746.

¹⁰ Div. Notice of Lodgement and Request To Be Relieved of Further Filings 1 (Nov. 2, 2018).

¹¹ *See Pending Admin. Proc.*, 2018 SEC LEXIS 2058, at *4.

¹² *See* ID-1157.

¹³ ID-1157 at 2–4; *see* Dekel Decl. ¶ 2.

¹⁴ ID-1157 at 2–6; *see* Dekel Decl. ¶ 2.

Under Section 203(f) of the Investment Advisers Act of 1940, Roy Dekel is BARRED from associating with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

This initial decision will become effective in accordance with and subject to the provisions of Rule 360.¹⁵ Under 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 111.¹⁶ If a motion to correct a manifest error of fact is filed by a party, then a 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.

James E. Grimes
Administrative Law Judge

¹⁵ See 17 C.F.R. § 201.360.

¹⁶ See 17 C.F.R. § 201.111.