

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

Administrative Proceedings Rulings
Release No. 6737 / February 27, 2020

Administrative Proceeding
File No. 3-15755

In the Matter of
Mark Feathers

**Order on Motion
for Reconsideration**

Respondent Mark Feathers submitted a motion by email¹ that my office received on February 26, 2020. Respondent requests that I (1) reconsider my order dated February 21, 2020; (2) “allow Respondent a subpoena pointing out in specific detail material and false financial figures, narratives, or both” contained in the Division’s filings in *SEC v. Small Business Capital Corp.*, 5:12-cv-3237 (N.D. Cal.); (3) refer the Division’s work product to the Commission’s Office of Inspector General; and (4) publish an opinion stating that “capital distributions and capital investments should not be added together by a Division CPA.”

The February 21 order memorialized the discussion that occurred during the prehearing conference held that day. At the prehearing conference, I asked Respondent to identify the specific portions of two documents filed by the Division in *SEC v. Small Business Capital Corp.*, the motion for summary judgment (ECF No. 477)² and the reply in support of summary judgment (ECF No. 537), to which the subpoena pertains. The purpose of this request was to narrow the scope of the subpoena to the material actually sought by Respondent. The Division would then identify responsive documents and submit a proposal for in camera review of any documents it asserts are

¹ Respondent is reminded to file the motion in hard copy with the Office of the Secretary, if he has not already done so.

² The February 21 order incorrectly referred to this document as ECF No. 447.

privileged.³ I did not, at the prehearing conference or in the February 21 order, make a final ruling on Respondent's subpoena request and the Division's motion to quash. I anticipate doing so after reviewing Respondent's submission, the Division's proposal, and any in camera production. Because the February 21 order simply set out this process and did not contain any substantive rulings, I see no basis for reconsidering it. And because this process is not complete, it would be premature to grant Respondent's second request at this time.

Similarly, Respondent's third⁴ and fourth requests are not ripe. I will issue a written initial decision once the record is complete and the parties have both had an opportunity to present their arguments. *See* 17 C.F.R. § 201.360(a)(1).

The deadline for Respondent to identify the relevant portions of the Division's filings in *Small Business Capital Corp.* is extended to February 28, 2020. The Division's deadline for submitting its proposal is extended to March 3, 2020.

Jason S. Patil
Administrative Law Judge

³ Responsive documents would include those related to the Boudreau declaration (ECF No. 8) as well as the portions of ECF Nos. 477 and 537 identified by Respondent.

⁴ Any member of the public can submit a complaint to the Commission's Office of Inspector General through its website, <https://www.sec.gov/oig>.