SECURITIES AND EXCHANGE COMMISSION
Washington, D.C.

SECURITIES EXCHANGE ACT OF 1934
Rel. No. 74596 / March 27, 2015

Admin. Proc. File No. 3-15628

In the Matter of

DANIEL IMPERATO

OPINION OF THE COMMISSION

BROKER-DEALER PROCEEDING

Grounds for Remedial Action

Injunction

Respondent was permanently enjoined from violating antifraud, registration, and other provisions of the federal securities laws. *Held*, it is in the public interest to bar him from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization and from participation in any penny stock offering.

APPEARANCES:

Daniel Imperato, pro se.

Timothy S. McCole and *B. David Fraser*, for the Division of Enforcement.

Appeal filed: July 28, 2014
Last brief received: November 17, 2014

Daniel Imperato appeals from an initial decision of an administrative law judge barring him from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization ("NRSRO") and from participation in any penny stock offering based on his having been enjoined from violating antifraud, registration, and other provisions of the federal securities laws.[1] We base our findings on an independent review of the record, except with respect to those findings not challenged on appeal.

I.

A. Imperato was permanently enjoined for violating antifraud, registration, and other provisions of the federal securities laws.

In January 2012, we filed a civil action alleging that, from 2005 through 2008 (the "Relevant Period"), Imperato defrauded investors in Imperiali, Inc., a Florida corporation that he owned and controlled, in a scheme that raised approximately $2.5 million. In documents distributed to investors and in Imperiali's filings with the Commission, Imperato, along with two other individuals, portrayed Imperiali as a "thriving, multinational corporation" with "multiple, valuable subsidiaries" when, in fact, it was "just a shell corporation" with "virtually no assets or operations," and its subsidiaries were "worthless or, in some cases, even non-existent."[2]

Specifically, the complaint alleged that, during the Relevant Period, Imperato, though neither registered as a broker or dealer nor associated with a registered broker or dealer, offered and sold Imperiali stock in unregistered offerings in several states, hiring a sales team to "cold call" investors and directly soliciting investors himself. According to the complaint, Imperato and his sales team gave investors private placement memoranda ("PPMs") that contained untrue and misleading statements, including that Imperiali's board of directors was comprised of experienced professionals, that Imperiali owned "Imperiali Organization," a company that purportedly was involved in multiple business enterprises, and that Imperiali would use stock offering proceeds to fund a business development company. But, in reality, the complaint alleged, Imperiali had no board of directors and did not own Imperiali Organization, and Imperato used stock offering proceeds to cover personal expenses, including expenses related to his 2008 independent campaign to become president of the United States. The complaint further alleged that Imperato made materially false and misleading statements in press releases that he drafted and disseminated to investors and in Imperiali's registration statements and annual and periodic reports. Those filings, among other things, "falsely described Imperiali's investments, valued Imperiali's virtually worthless assets at amounts ranging from $3.5 million to $269 million, and failed to disclose the issuance of five million shares of restricted stock."[3]

After a tentative settlement agreement with Imperato fell through, the Division of Enforcement (the "Division") filed a motion for summary judgment, arguing that there was "no

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1 *See Daniel Imperato*, Initial Decision No. 628, 2014 WL 3048126 (July 7, 2014).

2 *SEC v. Imperiali, Inc.*, No. 9:12-cv-80021 (S.D. Fla. Jan. 9, 2012), ECF No. 1.

3 *Id.*

genuine issue as to any material fact" and that it was "entitled to judgment as a matter of law."[4] In the motion, the Division requested that the district court enjoin Imperato from future violations of the federal securities laws, order disgorgement, including prejudgment interest, assess a civil money penalty, and impose an officer and director bar. The court referred the motion to a magistrate judge who issued a report and recommendation that summary judgment be granted in favor of the Division.[5]

On October 8, 2013, the district court, after reviewing the magistrate judge's report, Imperato's objections, and pertinent portions of the record, "ratified, affirmed and approved" the report in its entirety.[6] The court granted the Division's motion for summary judgment and adopted the magistrate judge's findings as its own, including the findings that:

- Imperato and Imperiali violated Sections 5(a) and 5(c) of the Securities Act of 1933[7] by selling Imperiali stock in transactions that were not registered with the Commission, resulting in the sale of more than 2,362,500 shares of common stock to at least twenty-six investors in at least eighteen states;

- Imperato violated the antifraud provisions of Section 10(b) of the Securities Exchange Act of 1934, Exchange Act Rule 10b-5, and Securities Act Section 17(a)[8] by "knowingly making blatantly false and deceptive material statements" in PPMs, press releases, and Imperiali's filings with the Commission;

- Imperato acted as an unregistered broker in the offer and sale of Imperiali stock, in violation of Exchange Act Section 15(a)[9] by personally soliciting investors to buy stock, serving as the "closer" to negotiate and complete the stock sales, and receiving the majority of the proceeds from the stock sales;

- Imperato was liable as a controlling person and/or aider and abettor in violating Exchange Act Section 13(a)[10] by participating in the drafting and editing of Imperiali's materially misleading reports filed with the Commission, and Imperiali violated Exchange Act Section 13(b)[11] by failing to keep "even the most rudimentary records" and having "no controls in place to prevent Imperato from arbitrarily booking nonexistent assets on its financial statements and assigning those assets multi-million dollar values without the slightest basis";

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4 Fed. R. Civ. P. 56(c).

5 *SEC v. Imperiali, Inc.*, No. 9:12-cv-80021 (S.D. Fla. Sept. 25, 2013), ECF No. 137.

6 *SEC v. Imperiali, Inc.*, No. 9:12-cv-80021 (S.D. Fla. Oct. 8, 2013), ECF No. 163.

7 15 U.S.C. § 77e(a), (c).

8 15 U.S.C. § 78j(b); 17 C.F.R. § 240.10b-5; 15 U.S.C. § 77q(a).

9 15 U.S.C. § 78*o*(a).

10 *Id.* § 78m(a).

11 *Id.* § 78m(b).

- Imperato made materially false statements to Imperiali's accountant and signed false certification statements attesting to the accuracy of reports filed with the Commission, in violation of rules promulgated pursuant to Exchange Act Section 13(a); and

- Imperato violated Section 34(b) of the Investment Company Act of 1940[12] by materially overstating the value of Imperiali's portfolio companies and failing to maintain required company documents.

On November 8, 2013, the district court entered a final judgment enjoining Imperato from future violations of the federal securities laws.[13] In addition, the court ordered him to disgorge $2,493,785, plus $640,703 in prejudgment interest, and imposed an officer and director bar.[14] Imperato appealed the district court's judgment to the United States Court of Appeals for the Eleventh Circuit.

B. Imperato's injunction provided the basis for this follow-on administrative proceeding.

On November 27, 2013, while Imperato's appeal in the Eleventh Circuit was pending, we instituted this "follow-on" administrative proceeding, pursuant to Exchange Act Section 15(b)(6).[15] After both parties filed cross-motions for summary disposition under Rule 250(a) of the Commission's Rules of Practice,[16] the law judge determined that there was no genuine issue with regard to any material fact and that the Division was entitled to summary disposition as a matter of law. Concluding that Imperato's conduct was egregious, recurrent, and involved a high degree of scienter, the law judge barred Imperato from association with any broker, dealer, investment adviser, municipal securities dealer, municipal adviser, transfer agent, or NRSRO and from participation in any penny stock offering.

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12 *Id.* § 80a-33(b).

13 *SEC v. Imperiali, Inc.*, No. 9:12-cv-80021 (S.D. Fla. Nov. 8, 2013), ECF No. 195.

14 *Id.* The district court declined to impose a civil penalty in light of the "extensive nature of the relief granted." *Id.*

15 15 U.S.C. § 78*o*(b)(6). An administrative proceeding that seeks to impose sanctions after an individual is enjoined from acts involving securities fraud is commonly called a "follow-on" proceeding. *Chris G. Gunderson, Esq.*, Exchange Act Release No. 61234, 2009 WL 4981617, at *5 n.39 (Dec. 23, 2009) (citing *Gibson v. SEC*, 561 F.3d 548, 550 n.1 (6th Cir. 2009)).

16 *See* 17 C.F.R. § 201.250(a) (providing that 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 a summary disposition as a matter of law"). We have repeatedly upheld the use of summary disposition in circumstances where a respondent has been enjoined and the sole determination concerns the appropriate sanction. *See, e.g., Jeffrey L. Gibson*, Exchange Act Release No. 57266, 2008 WL 294717, at *5 (Feb. 4, 2008), *petition denied*, 561 F.3d 548 (6th Cir. 2009).

C. During the pendency of this administrative proceeding, the Eleventh Circuit affirmed the injunction.

On December 2, 2014, while this administrative proceeding was pending, the Eleventh Circuit affirmed the district court's grant of summary judgment for the Division.[17] The court found that the issues raised by Imperato did not establish any genuine issues of material fact precluding summary judgment. Among other things, Imperato argued that he did not act as an unregistered broker because he did not "cold call" investors or receive proceeds from securities sales. The Eleventh Circuit found this argument to be unavailing:

> Even if Imperato did not receive proceeds from sales or initiate cold-calls to investors, the Commission presented undisputed evidence that Imperato spoke with investors, acted as the "closer" for his sales team, and drafted memoranda for potential investors. This evidence was sufficient to establish that Imperato acted as a "broker."[18]

Imperato also argued that he did not violate the antifraud provisions because his valuations of Imperiali and its subsidiaries were not false. The Eleventh Circuit rejected this argument as well, stating:

> The record established that Imperato dictated and approved press releases and financial statements that included millions of dollars in false investments, including a $70 million valuation of investments in companies that were never incorporated and that Imperato testified had "no operation." The valuation process for Imperiali and its subsidiaries show[ed] an "extreme departure from the standards of ordinary care," and presented so obvious a danger of misleading buyers that Imperato "must have been aware" of the risk.[19]

Imperato further argued that he was not in "control" of Imperiali and therefore could not be held liable as a control person under Exchange Act Section 20(a). But the Eleventh Circuit found that the record refuted Imperato's argument and established as a matter of law that he was the controlling shareholder of Imperiali and controlled corporate decisions.[20]

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[17] *SEC v. Imperiali, Inc.*, ___ F. App'x ___, 2014 WL 6765525 (11th Cir. Dec. 2, 2014) (per curiam).

[18] *Id.* at *3.

[19] *Id.* at *2-3 (quoting *Ziemba v. Cascade Int'l, Inc.*, 256 F.3d 1194, 1202 (11th Cir. 2001)).

[20] *Id.* at *4. The Eleventh Circuit considered and rejected various other procedural challenges to the district court's decision, including that the district court erred when it reopened the case after an administrative closure; that the district court erred when it denied his motion to amend or alter the judgment under Rule 59 of the Federal Rules of Civil Procedure; that the

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II.

A. The Exchange Act predicates exist for determining whether remedial sanctions against Imperato are warranted.

Exchange Act Section 15(b)(6) authorizes us to determine whether it is "in the public interest" to impose remedial sanctions, including a bar from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or NRSRO, if a person has been enjoined from any conduct or practice in connection with the purchase or sale of a security, and, at the time of the alleged misconduct, the person was associated with a broker.[21] We find that the statutory predicates for considering whether to impose sanctions have been satisfied. Imperato was permanently enjoined from violating antifraud, registration, and related provisions of the federal securities laws, and those violations stemmed from his conduct as an unregistered broker and involved his participation in a penny stock offering. Although Imperato was not registered as a broker or dealer or associated with a registered broker or dealer, we have authority to sanction persons, such as Imperato, who act as unregistered brokers.[22]

Imperato does not deny that he was enjoined or that he participated in a penny stock offering, but rather asserts that he did not act as a broker in the securities transactions between Imperiali and investors. This assertion is nothing more than an attempt to relitigate the district court's determination, upheld by the Eleventh Circuit, that Imperato acted as an unregistered broker in violation of Exchange Act Section 15(a). The doctrine of collateral estoppel precludes Imperato from attacking in this proceeding the injunction and factual and procedural issues actually litigated and necessary to the district court's decision.[23] The only means of challenging

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district court erred when it denied his requests for documents; and that the district court erred when it denied his motion for a change of venue. *See id.* at *4-5.

[21] 15 U.S.C. § 78*o*(b)(6). It also authorizes us to bar a person from participation in any offering of penny stock based on the same considerations. *Joseph Contorinis*, Exchange Act Release No. 72031, 2014 WL 1665995, at *1 n.4 (Apr. 25, 2014).

[22] *See Teicher v. SEC*, 177 F.3d 1016, 1017-18 (D.C. Cir. 1998) (affirming Commission's authority to bar persons from association with investment advisers, whether registered or unregistered); *see also, e.g.*, *Tzemach David Netzer Korem*, Exchange Act Release No. 70044, 2013 WL 3864511, at *8 (July 26, 2013) (stating that "[i]t is well established that we are authorized to sanction an associated person of an unregistered broker-dealer or investment adviser in a follow-on administrative proceeding"); *Vladislav Steven Zubkis*, Exchange Act Release No. 52876, 2005 WL 3299148, at *6 (Dec. 2, 2005) (barring unregistered associated person of an unregistered broker-dealer from association with a broker or dealer and from participation in any penny stock offering, based on injunction prohibiting securities law violations).

[23] *See, e.g.*, *Sherwin Brown*, Advisers Act Release No. 3217, 2011 WL 2433279, at *4 (June 17, 2011) (stating that "[t]he doctrine of collateral estoppel precludes the Commission from reconsidering the injunction as well as the factual and procedural issues that were actually litigated and necessary to the court's decision to issue the injunction").

those issues was through an appeal to the Eleventh Circuit, which Imperato has already unsuccessfully pursued.[24]

B. The public interest requires that Imperato be barred.

We next turn to what sanctions, if any, are in the public interest. In analyzing the public interest, we consider, among other things, the egregiousness of the respondent's actions, the isolated or recurrent nature of the infraction, the degree of scienter involved, the sincerity of the respondent's assurances against future violations, the respondent's recognition of the wrongful nature of his conduct, and the likelihood that the respondent's occupation will present opportunities for future violations (the "*Steadman* factors").[25] Our "inquiry into . . . the public interest is a flexible one, and no one factor is dispositive."[26] We also consider the extent to which sanctions will have a deterrent effect.[27]

We have stated that conduct that violates the antifraud provisions of the federal securities laws is "subject to the severest of sanctions."[28] "'Fidelity to the public interest' requires a severe sanction when a respondent's misconduct involves fraud because the 'securities business is one in which opportunities for dishonesty recur constantly.'"[29] We have held that "ordinarily, and in the absence of evidence to the contrary," it will be in the public interest to bar from participation in the securities industry a respondent enjoined from violating antifraud provisions.[30] In this case, based on our consideration of the *Steadman* factors, we conclude that a lifetime collateral bar is in the public interest.

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[24] *Id.* (stating that, to the extent respondents dispute findings made by the court in the underlying proceeding, their remedy is to challenge them on appeal from the injunctive action).

[25] *Vladimir Boris Bugarski*, Exchange Act Release No. 66842, 2012 WL 1377357, at *4 & n.18 (Apr. 20, 2012) (citing *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979), *aff'd on other grounds*, 450 U.S. 91 (1981)).

[26] *David Henry Disraeli*, Exchange Act Release No. 57027, 2007 WL 4481515, at *15 (Dec. 21, 2007), *petition denied*, 334 F. App'x 334 (D.C. Cir. 2009) (per curiam).

[27] *See Schield Mgmt. Co.*, Exchange Act Release No. 53201, 2006 WL 231642, at *8 (Jan. 31, 2006) (stating that "[w]e also consider the extent to which the sanction will have a deterrent effect"); *see also PAZ Sec., Inc. v. SEC*, 494 F.3d 1059, 1066 (D.C. Cir. 2007) (noting that "'[a]lthough general deterrence is not, by itself, sufficient justification for expulsion or suspension . . . it may be considered as part of the overall remedial inquiry'") (quoting *McCarthy v. SEC*, 406 F.3d 179, 189 (2d Cir. 2005)); *Steadman*, 603 F.2d at 1142 (stating that "the Commission also may consider the likely deterrent effect its sanctions will have on others in the industry").

[28] *Gunderson*, 2009 WL 4981617, at *5 (quoting *Justin F. Ficken*, Exchange Act Release No. 58802, 2008 WL 4610345, at *3 (Oct. 17, 2008)).

[29] *Id.* (quoting *Ficken*, 2008 WL 4610345, at *3).

[30] *Ficken*, 2008 WL 4610345, at *3.

Imperato's conduct was egregious, recurrent, and involved a high degree of scienter.[31] He engaged in a scheme to defraud numerous investors in multiple states, generating substantial illegal proceeds. His unlawful actions included the drafting and dissemination of offering materials and press releases in which he knowingly made blatant, material misrepresentations about the value of Imperiali and its subsidiaries and the filing of registration statements, periodic reports, and current reports in which he knowingly overvalued Imperiali's virtually worthless assets. Imperato's misconduct was not isolated, but occurred over a period of years. He acted with a high degree of scienter, which "exacerbates the egregiousness of his misconduct."[32]

Moreover, Imperato has not provided assurances against future violations or acknowledged his wrongful conduct,[33] but continues to deny wrongdoing and attempts to shift blame to others by arguing that he was not the "ultimate decisionmaker" for Imperiali, despite the determination in the injunctive proceeding that he controlled the company.[34] Imperato's failure to acknowledge his misconduct or seemingly appreciate the seriousness of that misconduct is highly troubling and indicates there is a significant risk that, given the opportunity, he would commit misconduct in the future.[35] And Imperato's assertion in his brief that he wants the "freedom to be a consultant and adviser to any type of start-up company with aspirations of becoming public" suggests that he is likely to return to the securities industry in some capacity and thereby threaten the public interest, if so permitted.[36] We believe that, under all the circumstances, collaterally

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[31] "Scienter is a mental state consisting of an intent to deceive, manipulate, or defraud, and includes recklessness, commonly defined as 'an extreme departure from the standards of ordinary care . . . to the extent that the danger was either known to the [respondent] or so obvious that the [respondent] must have been aware of it.'" *Johnny Clifton*, Exchange Act Release No. 69982, 2013 WL 3487076, at *10 n.67 (July 12, 2013) (quoting *Makor Issues & Rights, Ltd. v. Tellabs, Inc.*, 513 F.3d 702, 704 (7th Cir. 2008)).

[32] *James C. Dawson*, Advisers Act Release No. 3057, 2010 WL 2886183, at *5 (July 23, 2010).

[33] Even if Imperato had made some assurances against future violations, his high degree of scienter would cause us to doubt the sincerity of those assurances. *See Korem*, 2013 WL 3864511, at *6 (stating that "although Korem vowed not to repeat his misdeeds or work in the securities industry again, his past criminal history, the degree of scienter involved in the misconduct at issue, and his efforts to conceal his misconduct cause us concern about the sincerity of Korem's assurances").

[34] Under the doctrine of collateral estoppel, that determination binds Imperato. *See supra* notes 23 and 24 and accompanying text (discussing collateral estoppel).

[35] *See Christopher A. Lowry*, Advisers Act Release No. 2052, 2002 WL 1997959, at *5 (Aug. 30, 2002) (stating that "Lowry's refusal to recognize his wrongdoing and his public posture that his behavior was appropriate demonstrate that his conduct poses a future threat of harm"), *aff'd*, 340 F.3d 501 (8th Cir. 2003).

[36] *See Toby G. Scammell*, Advisers Act Release No. 3961, 2014 WL 5493265, at *6 (Oct. 29, 2014) (stating that respondent's asserted involvement in "founding" a start-up company and "helping that company grow," coupled with his admitted "fascination" with the markets, indicated

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barring Imperato serves the public interest by protecting investors and the markets from the threat that he poses and deterring others from engaging in the same serious misconduct.[37]

C. Imperato's arguments against the imposition of a collateral bar lack merit.

Although a respondent in a follow-on administrative proceeding may put forward mitigating evidence concerning the circumstances surrounding his underlying misconduct, the bulk of Imperato's arguments consist of impermissible collateral attacks on the factual findings and legal conclusions of the district court (*e.g.*, that he was the "closer" of the securities sales, that the press releases contained false statements, and that he acted with scienter) and the fairness of the injunctive proceeding (*e.g.*, that he did not consent to the referral of the case to the magistrate judge, that the district judge was "hoodwinked with falsehoods," that the district judge should have considered certain newly discovered evidence, that Division counsel acted improperly in connection with the failed settlement agreement, and that "the judgments were entered under ex [post] facto laws"). As discussed, a follow-on administrative proceeding is not the proper forum for addressing those issues.[38]

Imperato further contends that this proceeding was unfair because he was entitled to a hearing and an opportunity to cross-examine witnesses, which he was denied when the law judge granted the Division's motion for summary disposition. Rule 250(b) of the Rules of Practice provides that the law judge may grant such a motion, without a hearing, if "there is no genuine issue with regard to any material fact."[39] In challenging a motion for summary disposition, the opposing party may not rely on bare allegations or denials but instead must present specific facts showing a genuine issue of material fact for resolution at a hearing.[40] Here, the Division established that the existence of Imperato's injunction was undisputed, and Imperato was given the opportunity to identify specific evidence creating genuine issues of material fact that could not

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that he would likely return to the securities industry in some capacity and thereby threaten the public interest).

37 *See, e.g.*, *Anthony Fields, CPA*, Advisers Act Release No. 4028, 2015 WL 728005, at *23 (stating that imposing a collateral bar "serves the public interest and will protect investors from the threat that [the respondent] poses"); *John W. Lawton*, Advisers Act Release No. 3513, 2012 WL 6208750, at *12 (Dec. 13, 2012) (imposing a collateral bar based on conduct that threatens investors and the markets).

38 *See supra* notes 23 and 24 and accompanying text.

39 17 C.F.R. § 201.250(b).

40 *China-Biotics, Inc.*, Exchange Act Release No. 70800, 2013 WL 5883342, at *16 (Nov. 4, 2013).

be resolved without a hearing. But Imperato failed to produce such evidence.[41] As a result, an in-person hearing was not required, and summary disposition was appropriate.[42]

Imperato next contends that this proceeding was time-barred by the five-year statute of limitations in 28 U.S.C. § 2462. But that five-year statute of limitations applies only to "an action or proceeding for the enforcement of any civil fine, penalty, or forfeiture,"[43] and we have held that "a follow-on proceeding seeking an industry-wide bar is not for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise" within the meaning of § 2462, and thus is not subject to § 2462's limitations period.[44] Moreover, even if § 2462 did apply, this follow-on action was instituted less than one month after the permanent injunction was entered against Imperato, well within the five-year limitations period.[45]

Finally, Imperato contends that imposition of a bar was unfair because it "ties [his] hands in involuntary servitude for the rest of [his] life," deprives him of his "freedom to be a consultant and adviser to any type of start-up company with aspirations of becoming public," and destroys his "income, reputation, and the abilities for the shareholders to ever receive their well-deserved rewards and recover their investments." But we have stated that the likelihood that a respondent may suffer adverse consequences as a result of the violation or from the disciplinary proceeding that followed—including such significant consequences as the loss of income, employment opportunities, or adverse reputational impact—is not a mitigating factor.[46]

In sum, we find no mitigating factors that would lead us to impose on Imperato any sanction less than a full collateral bar, which is amply warranted by the facts and circumstances

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41 *See, e.g.*, *Michael C. Pattison, CPA*, Exchange Act Release No. 67900, 2012 WL 4320146, at *11 & n.62 (Sept. 20, 2012) (finding that respondent's submissions before law judge did not raise existence of genuine issues of material fact).

42 Imperato also contends that this proceeding was unfair because the Commission acted as "prosecutor, judge, and jury." But, as our precedent makes clear, the combination of investigatory, prosecutorial, and quasi-judicial functions in one agency does not violate due process. *See, e.g.*, *Thomas C. Kocherhans*, Exchange Act Release No. 36556, 1995 WL 723989, at *3 (Dec. 6, 1995) (stating "[w]hile the NASD as a whole, like this Commission, exercises investigatory, prosecutory and quasi-judicial functions, the combination of such functions in one agency does not violate due process").

43 28 U.S.C. § 2462 (providing that "any proceeding for enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise, shall not be entertained unless commenced within five years from the date when the claim first accrued").

44 *See Contorinis*, 2014 WL 1665995, at *3 (holding that 28 U.S.C. § 2462 does not apply to follow-on proceedings).

45 *Id.* (stating that "any applicable statute of limitations for a follow-on proceeding . . . runs from either the date of the criminal conviction or the injunction upon which the action is based, not from the date of the underlying conduct").

46 *See Clifton*, 2013 WL 3487076, at *16 n. 116.

discussed above. Given his egregious misconduct and troubling attitude towards future compliance, we find that the public interest clearly warrants barring Imperato from any future role in the securities industry.

An appropriate order will issue.[47]

By the Commission (Chair WHITE and Commissioners AGUILAR and STEIN; Commissioners GALLAGHER and PIWOWAR concurring in part and dissenting with respect to the bars from association with municipal advisors and nationally recognized statistical rating organizations because those bars are based on conduct predating the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010).[48]

Brent J. Fields
Secretary

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[47] We have considered all of the parties' contentions. We have rejected or sustained them to the extent that they are inconsistent or in accord with the views expressed in this opinion. The Division's request for summary affirmance is denied.

[48] *E.g.*, *Toby G. Scammell*, Advisers Act Release No. 3961, 2014 WL 5493265, at *9 (Oct. 29, 2014) (Commissioners Gallagher and Piwowar concurring in part and dissenting with respect to the bars from association with municipal advisors and nationally recognized statistical rating organizations).

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Rel. No. 74596 / March 27, 2015

Admin. Proc. File No. 3-15628

In the Matter of

DANIEL IMPERATO

ORDER IMPOSING REMEDIAL SANCTIONS

On the basis of the Commission's opinion issued this day, it is

ORDERED that Daniel Imperato be barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization and from participation in any offering of penny stock.

By the Commission.

Brent J. Fields
Secretary