

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 3832/May 9, 2016

ADMINISTRATIVE PROCEEDING
File No. 3-16795

In the Matter of

JOSEPH J. FOX

ORDER

On September 8, 2015, the Securities and Exchange Commission issued an order instituting proceedings against Respondent, directing the determination of what, if any, non-financial remedial sanctions under Section 15(b)(6) of the Securities Exchange Act of 1934 were in the public interest based on Respondent's violations of Section 5(a) and (c) of the Securities Act of 1933. I issued an initial decision on April 25, 2016, barring Respondent from the securities industry for a period of five years. *Joseph J. Fox*, Initial Decision Release No. 1004, 2016 SEC LEXIS 1515.

On May 6, 2016, Respondent filed a motion to correct manifest error pursuant to Rule of Practice 111(h), 17 C.F.R. § 201.111(h). Rule 111 provides that "[a]ny motion to correct must be filed within ten days of the initial decision." 17 C.F.R. § 201.111(h). Respondent's motion was filed eleven days after the initial decision was issued. However, according to information provided by the Office of the Secretary, Respondent was served with the decision by certified mail. The Rules of Practice therefore afforded him an additional three days in which to file his motion to correct, which I accordingly find was timely. 17 C.F.R. § 201.160(b).

The Rules of Practice prohibit motions exceeding 7,000 words, and they require that any motion longer than fifteen pages be accompanied by a certificate attesting that it complies with this limitation. 17 C.F.R. § 201.154(c). Respondent's motion is twenty-three pages long and contains no such certificate; the motion is approximately 3,000 words over the page limit. Due to his pro se status, I will nonetheless accept the motion as proper and consider it in its entirety.

Attached to Respondent's motion are several exhibits containing evidence not previously introduced in this proceeding. My authority at this stage of the proceeding is limited – as the Commission has observed, "once the initial decision is issued, our rules largely divest the law judge of authority over the proceedings." *Alchemy Ventures, Inc.*, Exchange Act Release No. 70708, 2013 SEC LEXIS 3459, at *13 (Oct. 17, 2013). And while the Rules of Practice permit the Commission to allow the submission of additional evidence, such a request must "show with particularity that such additional evidence is material and that there were reasonable grounds for

failure to adduce such evidence previously.” 17 C.F.R. § 201.452. Respondent provides no explanation for his failure to submit the evidence attached to his motion prior to the issuance of the initial decision. Although Respondent’s new evidence is not properly part of the record, in view of his pro se status, I will consider it in determining whether there were any manifest errors in the initial decision. *See* Black’s Law Dictionary (10th ed. 2014) (defining a manifest error as one that is “plain and indisputable, and that amounts to a complete disregard of . . . the credible evidence *in the record*.” (emphasis added)).

Finally, at this time I do not require any briefing from the Division of Enforcement. The Division should not file a brief in opposition to Respondent’s motion unless instructed to do so in a future order.

SO ORDERED.

Cameron Elliot
Administrative Law Judge