INITIAL DECISION RELEASE NO. 688
ADMINISTRATIVE PROCEEDING
FILE NO. 3-15799

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

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| In the Matter of<br><br>MICHAEL D. MONTGOMERY | INITIAL DECISION<br>October 9, 2014 |

APPEARANCES: Charles C. Davis, Jr., Stephen L. Cohen, and Ivonia K. Slade for the Division of Enforcement, Securities and Exchange Commission

Michael D. Montgomery, *pro se*

BEFORE: Brenda P. Murray, Chief Administrative Law Judge

On March 18, 2014, the Securities and Exchange Commission (Commission) issued an Order Instituting Administrative Proceedings (OIP), pursuant to Section 15(b) of the Securities Exchange Act of 1934 (Exchange Act) and Section 203(f) of the Investment Advisers Act of 1940 (Advisers Act). The OIP alleges that Michael D. Montgomery (Montgomery) was convicted of wire fraud and filing a false tax return, and sentenced to a sixty-month prison term followed by three years of supervised release, in *United States v. Montgomery*, No. 3:11-cr-5156 (W.D. Wash. Dec. 27, 2012) (*Montgomery*). OIP at 2. The OIP also alleges that in January 2013, the district court ordered Montgomery to pay $995,811 in restitution. *Id.*

At a telephonic prehearing conference on April 10, 2014, Montgomery was present but did not participate because he claimed he had suffered a traumatic brain injury and did not understand what was happening. Tr. 7-8, 11.[1] The Division of Enforcement (Division) made an oral motion for summary disposition and stated that it was requesting a collateral bar against Montgomery. Tr. 9-10. After the conference, I issued an order directing Montgomery to file his answer by April 28, 2014; I explained that if Montgomery filed his answer, I would issue a procedural schedule for a written motion for summary disposition from the Division. *Michael D. Montgomery*, Admin. Proc. Rulings Release No. 1373, 2014 SEC LEXIS 1297 (Apr. 14, 2014). Following Montgomery's failure to file a timely answer, I issued an Order to Show Cause, stating that I would issue an Initial Decision on Default granting the relief the Division requested, unless Montgomery showed good cause by June 16, 2014, why he should not be held in default for failing to file an answer within the time provided and not otherwise defending the

[1] Citation (Tr.) is to the prehearing transcript.

proceeding. *Michael D. Montgomery*, Admin. Proc. Rulings Release No. 1443, 2014 SEC LEXIS 1702 (May 20, 2014).

On June 23, 2014, I received a four-page letter from Montgomery, which I construed as Montgomery's Answer to the OIP (Answer).[2] *Michael D. Montgomery*, Admin. Proc. Rulings Release No. 1574, 2014 SEC LEXIS 2317 (June 30, 2014). On June 30, 2014, I denied Montgomery's request for a stay of this proceeding, and set a summary disposition schedule pursuant to Commission Rule of Practice (Rule) 250. *Id.* Thereafter, the Division filed its Motion for Summary Disposition (Division's Motion), with supporting exhibits.[3] Montgomery has not filed an opposition to the Division's Motion, which was due August 8, 2014.

## Summary Disposition Standard

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 summary disposition as a matter of law. 17 C.F.R. § 201.250(b). For the reasons that follow, I grant the Division's Motion because these criteria are met and the statutory basis for a sanction is satisfied.

## Findings of Fact

The findings and conclusions in this Initial Decision are based on the record and on facts officially noticed pursuant to Rule 323, including the record in *Montgomery*. *See* 17 C.F.R. § 201.323. As Montgomery's Answer does not contest the OIP's allegations, I deem those allegations admitted.[4] *See* 17 C.F.R. § 201.220(c); Answer. I admit into evidence the exhibits to the parties' filings. I have considered the entire record and reject all arguments and proposed findings and conclusions that are inconsistent with this Initial Decision. I applied preponderance of the evidence as the standard of proof. *See Steadman v. SEC*, 450 U.S. 91, 101-04 (1981).

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[2] Attached to Montgomery's Answer is Exhibit A, a neuropsychological evaluation prepared in June 2011, following his August 2010 bicycle accident.

[3] In support of its Motion, the Division attached: FINRA's BrokerCheck Report regarding Montgomery (Div. Ex. A); Investment Adviser Representative Public Disclosure Report regarding Montgomery (Div. Ex. B); the indictment in *Montgomery* (Div. Ex. C); the December 2012 judgment in *Montgomery* (Div. Ex. D); and the January 2013 amended judgment in *Montgomery* (Div. Ex. E).

[4] Moreover, Montgomery's failure to respond to the Division's Motion would be grounds to find him in default and deem the OIP's allegations to be true. *See* 17 C.F.R. § 201.155(a)(2). Also, as I previously ruled, it would be reasonable to find Montgomery in default because he did not file a timely answer, he did not show good cause for why he should not be held in default, and he failed to defend the proceeding at the prehearing conference because of an unpersuasive claim of mental injury. *Michael D. Montgomery*, 2014 SEC LEXIS 2317, at *6. Out of an abundance of caution, I have proceeded with a summary disposition procedure, and Montgomery was given multiple opportunities to defend the proceeding.

**Background**

Montgomery attended Whittier College and worked in the securities industry for about seventeen years. Div. Ex. A at 1, 4; Def.'s Sentencing Mem. at 9, *Montgomery* (Dec. 19, 2012), ECF No. 85. He passed a Series 63 exam in 1992 and a Series 65 exam in 1993. Div. Ex. B at 3. From June 2002 through July 2009, Montgomery was a registered representative of, and person associated with, Wachovia Securities Financial Network, LLC (Wachovia), and Mutual Service Corporation (MSC), both of which were registered broker-dealers and investment advisers.[5] OIP at 1; Div. Ex. A at 4.

From at least 2003 through 2007, while working as a registered securities salesperson and investment adviser representative, Montgomery engaged in a scheme to defraud an elderly client, J.M., and the beneficiaries of J.M.'s living trust, using his position as trustee of J.M.'s living trust and attorney-in-fact to siphon a substantial amount of money from J.M. and the trust. Plea Agreement at 5-6, 8, *Montgomery* (June 22, 2012), ECF No. 48; Div. Ex. A at 10-11. As a result of such misconduct, the Washington State Department of Financial Institutions revoked Montgomery's registration with the Washington State Securities Division in 2009. Div. Ex. B at 9-10; Plea Agreement at 5.

**Criminal Proceeding**

In 2011, a federal grand jury indicted Montgomery on six counts of wire fraud and four counts of filing a false tax return. Div. Ex. C. The indictment charged that between in or about from 2003 through 2007, while acting as an elderly client's investment adviser, attorney-in-fact, and trustee of that client's revocable living trust, and after his client was placed in a nursing home, Montgomery stole over $1 million from the client's banking and investment accounts, routinely liquidated the client's securities and transferred the proceeds to himself, and created false "notes" and "loan papers" to conceal his theft. *Id.* at 1-5. The indictment also charged that Montgomery filed false income tax returns in which he omitted the income he received and took by theft from his client. *Id.* at 5-7.

In June 2012, Montgomery pled guilty to two counts of the ten-count indictment, namely one count of wire fraud, in violation of 18 U.S.C. § 1343, and one count of filing a false tax return, in violation of 26 U.S.C. § 7206(1). *See* Plea Agreement at 1. The district court accepted Montgomery's plea. *See* Acceptance of Plea of Guilty, Adjudication of Guilt and Notice of Sentencing, *Montgomery* (July 9, 2012), ECF No. 52. In December 2012, Montgomery was sentenced to a sixty-month prison term followed by three years of supervised release. Div. Ex. D; Min. Entry, *Montgomery* (Dec. 27, 2012), ECF No. 88. In January 2013, the district court entered an amended judgment, ordering Montgomery to pay $995,811 in restitution. Div. Ex. E. Although Montgomery did not file a direct appeal, he has pursued multiple collateral attacks against his conviction, which have been unsuccessful. *See, e.g.*, Order on Motion under 28

[5] According to the FINRA BrokerCheck Report regarding Montgomery, he was a registered representative at Wachovia from June 1998 to February 2006, and a registered representative at MSC from April 2006 to July 2009. Div. Ex. A at 1, 4.

U.S.C. § 2255, *Montgomery* (Feb. 6, 2014), ECF No. 100; Order, *Montgomery v. United States*, No. 14-71183 (9th Cir. May 27, 2014).

## Conclusions of Law

Exchange Act Section 15(b)(6) and Advisers Act Section 203(f) empower the Commission to impose a collateral bar[6] against Montgomery, if it is in the public interest, because: at the time of the alleged misconduct, he was associated with a broker-dealer and investment adviser; and within ten years of the commencement of this proceeding, he was convicted of wire fraud, which "involves the violation of [18 U.S.C. § 1343]," and filing a false tax return in violation of 26 U.S.C. § 7206(1), which "involves . . . the taking of a false oath, the making of a false report, . . . [and] perjury," within the meaning of Exchange Act Section 15(b)(4)(B) and Advisers Act Section 203(e)(2). 15 U.S.C. §§ 78*o*(b)(4)(B)(i), (iv), (6)(A)(ii), 80b-3(e)(2)(A), (D), (f); *see Ahmed Mohamed Soliman*, 52 S.E.C. 227, 230-31 (1995); *cf. Don Warner Reinhard*, Exchange Act Release No. 63720, 2011 SEC LEXIS 158, at *21 n.27 (Jan. 14, 2011).

Montgomery does not dispute that the statutory basis for this action has been satisfied or the OIP's allegations. *See* Answer. Rather, he argues that his guilty plea was invalid and that he is challenging his plea in federal court. *See id.* Montgomery cannot, however, use this proceeding to attack the district court's judgment or re-litigate issues already decided in federal court.[7] *See Blinder, Robinson & Co. v. SEC*, 837 F.2d 1099, 1108 (D.C. Cir. 1988); *James E. Franklin*, Exchange Act Release No. 56649, 2007 SEC LEXIS 2420, at *11 (Oct. 12, 2007), *pet. denied*, 285 F. App'x 761 (D.C. Cir. 2008); *Joseph P. Galluzzi*, 55 S.E.C. 1110, 1115-16 (2002).

Thus, there is no genuine issue of material fact and summary disposition is appropriate. *See* 17 C.F.R. § 201.250(b). A sanction will be imposed if it is in the public interest.

## Sanction

The criteria to determine whether a sanction is in the public interest are the *Steadman* factors: the egregiousness of the respondent's actions; the isolated or recurrent nature of the

[6] The maximum sanctions authorized in this proceeding are barring Montgomery from being associated with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, and from participating in an offering of penny stock, which I collectively refer to as a collateral bar. *See* 15 U.S.C. § 78*o*(b)(6)(A), 80b-3(f).

[7] As I previously ruled, "a respondent's appeal of, or collateral challenge to, his conviction is not grounds to defer decision in an administrative proceeding; if Montgomery's conviction is overturned, the remedy is to petition the Commission for reconsideration of any sanction assessed based on the conviction." *Michael D. Montgomery*, 2014 SEC LEXIS 2317, at *5 (citations omitted). Moreover, the district court has rejected Montgomery's post-conviction claim, raised in a 28 U.S.C. § 2255 motion, that he was not competent to enter the plea. *Id.* at *4-5.

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. *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979), *aff'd on other grounds*, 450 U.S. 91 (1981); *see Gary M. Kornman*, Exchange Act Release No. 59403, 2009 SEC LEXIS 367, at *22 (Feb. 13, 2009), *pet. denied*, 592 F.3d 173 (D.C. Cir. 2010). The Commission's inquiry into the appropriate sanction to protect the public interest is a flexible one, and no one factor is dispositive. *Gary M. Kornman*, 2009 SEC LEXIS 367, at *22. The Commission also considers the deterrent effect of administrative sanctions. *See Schield Mgmt. Co.*, 58 S.E.C. 1197, 1217-18 & n.46 (2006).

In *Ross Mandell*, the Commission directed that before imposing a collateral bar, an administrative law judge must "review each case on its own facts to make findings regarding the respondent's fitness to participate in the industry in the barred capacities," and that the law judge's analysis "should be grounded in specific findings regarding the protective interests to be served by barring the respondent and the risk of future misconduct." Exchange Act Release No. 71668, 2014 SEC LEXIS 849, at *7-8 (Mar. 7, 2014) (internal quotation marks omitted). I find that imposing a collateral bar against Montgomery necessary and appropriate to protect the public for the following reasons.

*Montgomery's Illegal Conduct Involved Two Different Crimes of Fraud*

Montgomery's misconduct was egregious and recurrent. Montgomery pled guilty to wire fraud and filing a false tax return, a form of tax fraud. *See* Plea Agreement at 1. Montgomery admitted the following facts, which I adopt from his plea agreement:

> From approximately 1992 to 2006, Montgomery was the stockbroker for an elderly client, J.M., who invested in excess of $1 million with Montgomery. From at least 2003 through 2007, Montgomery engaged in a scheme to defraud J.M., and the beneficiaries of J.M.'s living trust, using his position as trustee of J.M.'s living trust and attorney-in-fact to fraudulently siphon a substantial amount of money from J.M. and the trust. . . .
>
> [He engaged in these actions] [c]ontrary to his duty as a fiduciary as trustee of the trust . . . .
>
> Beginning in at least 1999, Montgomery paid himself from J.M.'s bank accounts, using his authority as attorney-in-fact and trustee. If there was insufficient money in J.M.'s bank account to pay Montgomery and J.M.'s expenses, Montgomery caused securities to be liquidated in J.M.'s trust brokerage account, after which he caused the proceeds to be wire transferred to . . . J.M.'s bank account. Montgomery then wrote checks to himself or to Montgomery Capital Management, the name under which he operated his business, purportedly for services he rendered as trustee or as attorney-in-fact. In reality, Montgomery provided limited services to J.M. as attorney-in-fact or as trustee of the trust.

Montgomery kept little to no record of the payments he made to himself, or of the services he provided to J.M. or the trust.

**Montgomery's False Statements**

In an undated letter from Montgomery to J.M.'s relatives (who were trust beneficiaries)[,] Montgomery provided a statement of J.M.'s income and outflows for 2003. Under expenses, Montgomery listed $9,200 for "Mike's Services." In truth and fact, Montgomery wrote checks to himself in 2003 totaling $368,658.

In a letter dated May 30, 2006[,] from Montgomery to J.M.'s relatives, Montgomery provided a spreadsheet of J.M.'s finances for 2005. Under expenses, Montgomery listed $8,950 for "Michael Montgomery's Services." In truth and fact, Montgomery wrote checks to himself in 2005 totaling $204,032.

On June 28, 2007, Montgomery signed and filed a 2006 Form 1041 US Income Tax Return for Estates and Trusts for J.M.'s trust. According to the estate tax return, the estate paid only $1,595 in fiduciary fees (i.e., for Montgomery's or anyone else's services) in 2006. In truth and fact, Montgomery wrote checks to himself, after his client died in 2006, totaling $99,977.50.

During routine compliance efforts, Montgomery was asked by the brokerage firms with which he was affiliated, as part of their routine practices to expose conflicts of interest and impermissible relationships, whether he . . . had any outside employment or business relationships. On all such forms, Montgomery falsely stated that he had no such relationships, and thus concealed his ongoing relationship with his client.

Montgomery was deposed by an official from the Washington Department of Financial Services on December 30, 2008. During that deposition, under oath, Montgomery made the following claims and statements:

> Montgomery admitted that he charged the estate for everything related to his contact with the client, including visiting him in the facility in which the client received care, even though none of the instruments or relationships between Montgomery and the client specifically authorized such payment.
>
> Montgomery admitted that the money he paid himself from his client's holdings and the trust were income to Montgomery.
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> Montgomery falsely stated, [during] a deposition he gave to the Washington Department of Financial Institutions, that the client's sister and an attorney approved the payments that Montgomery made to himself. In truth and fact, Montgomery discussed getting paid with the relatives, but [he] failed to disclose to them the full extent or amount he was taking.

> Between 2004 and 2007, Montgomery paid himself a substantial amount of money for services he claimed to provide to J.M. and the trust. Montgomery's federal individual income tax records reveal, however, that he intentionally failed to report any of this money for years 2004 through 2007. Between January of 2004 and July 16, 2006, Montgomery wrote $598,916.50 in checks to himself from his client's accounts, purportedly for services to his client. Following the client's death on July 18, 2006, Montgomery wrote an additional $243,745 in checks to himself from the client's estate, purportedly for "estate services." Montgomery knowingly failed to report any of the monies on his federal individual income tax returns.
>
> If Montgomery had accurately reported the income on his tax returns, he would have reported substantially more income for the years 2004 through 2007. For purposes of [his] plea, [Montgomery admitted that] on April 15, 2005, [he] caused a federal individual tax return for himself to be filed that falsely understated his income in a material amount for tax year 2004. . . . [In a] deposition taken by the Washington State Department of Financial Institutions, Montgomery admitted that he had approximately ten to fifteen thousand dollars a month in income for 2004. In his 2004 joint federal individual income tax return, [however,] Montgomery claimed only $20,109 in income, before deductions.
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> From 2005 through 2007, Montgomery caused $654,600 to be sent by wire from his client's Charles Schwab account to his client's Key Bank account. . . . Montgomery used these proceeds to write himself checks as part of his scheme.

Plea Agreement at 5-8 (internal capitalization, formatting, and paragraph numbering altered or omitted).

It would be hard to describe conduct more egregious than stealing money while acting in the capacities of trustee and attorney-in-fact to someone particularly vulnerable because of health and age. *Cf.* Plea Agreement at 5-9; Def.'s Sentencing Mem. at 2. The egregious nature of Montgomery's misconduct is underscored by the $995,811 in restitution that he was ordered to pay, which included $890,583 in losses to J.M.'s relatives. *See* Div. Ex. E at 5; Def.'s Sentencing Mem. at 12.

Further, Montgomery's criminal misconduct included making false statements to the government and others concerning financial matters and involved concealing assets and lying about their existence. As the Commission has explained, this type of misconduct "is highly relevant in our inquiry where we are required to consider the public interest and determine whether an individual is fit to work in an industry where honesty and rectitude concerning financial matters is critical." *Don Warner Reinhard*, 2011 SEC LEXIS 158, at *21; *see Ahmed Mohamed Soliman*, 52 S.E.C. at 231 (criminal conviction for tax law violations involving "fraud and deceit" is a "serious" offense which "shows a lack of honesty and judgment and indicates that [respondent was] unsuited to function in the securities industry").

*Degree of Scienter*

Montgomery's level of scienter was high, as he "acted with the intent to defraud" and "engaged in a scheme to defraud" J.M and J.M.'s beneficiaries. Plea Agreement at 2, 5; *see Aaron v. SEC*, 446 U.S. 680, 686 n.5 (1980) (scienter refers to "a mental state embracing intent to deceive, manipulate, or defraud" (internal quotation marks omitted)); *United States v. McNeil*, 320 F.3d 1034, 1040 (9th Cir. 2003) (wire fraud offense involves "the specific intent to defraud"). Also, Montgomery "made and signed a tax return for the year 2004 that he knew contained false information as to a material matter." Plea Agreement at 2; *see Kawashima v. Holder*, 615 F.3d 1043, 1054-55 (9th Cir. 2010) (conviction of filing a false tax return under 26 U.S.C. § 7206(1) necessarily involves "fraud or deceit"); *United States v. Boulware*, 384 F.3d 794, 810 (9th Cir. 2004) (false tax return offense under § 7206(1) involves, among other requirements, that the defendant did not believe the return, statement, or other document to be true and correct as to every material matter; and the defendant falsely subscribed to the return, statement, or other document willfully, with the specific intent to violate the law).

Montgomery received a bachelor's degree in economics with a grade point average of 3.7, earned Series 63 and 65 securities licenses, and worked for top-notch financial firms since 1991. *See* Div. Ex. A at 1, 4; Div. Ex. B at 3; Answer, Ex. A at 2; Def.'s Sentencing Mem. at 9. Montgomery had the capacity to understand and deliberately plan and execute the scheme to defraud J.M. and J.M.'s beneficiaries, and thus his scienter was particularly high.

*Failure to Recognize Wrongdoing or Provide Assurances Against Future Wrongdoing*

Montgomery's guilty plea in the criminal case could be taken as an acknowledgement of wrongdoing; however, he is seeking to withdraw that plea so at the present time Montgomery does not admit any wrongdoing. *See* Answer. In this proceeding, Montgomery has not offered any assurances against future violations, has not expressed remorse for his misconduct, and has not demonstrated that he recognizes his wrongdoing. Failure to make assurances against future violations and to recognize wrongdoing demonstrates the threat of future violations. *See Christopher A. Lowry*, 55 S.E.C. 1133, 1144 (2002); *cf. Gann v. SEC*, 361 F. App'x 556, 560 (2d Cir. 2010) (affirming permanent associational bar and stating "if [respondent] doesn't know right from wrong in this industry, how can he avoid wrongdoing in the future?").

Additionally, Montgomery's failure to cooperate with a FINRA investigation is an aggravating factor that supports the imposition of a collateral bar. Div. Ex. A at 7-10; *see John W. Lawton*, Advisers Act Release No. 3513, 2012 SEC LEXIS 3855, at *46 (Dec. 13, 2012) ("Regulatory efforts to detect violative conduct require full cooperation by persons associated with each of the professions covered by the collateral bar. Persons who fail to cooperate with such efforts may be deemed presumptively unfit for employment in the securities industry because such non-cooperation frustrates . . . efforts to detect misconduct, and such inability in turn threatens investors and markets." (internal quotation marks omitted; omission in original)).

*Likelihood of Opportunities for Future Wrongdoing*

Nothing in the record provides any assurance that Montgomery would not repeat his prior conduct following his incarceration. Absent a collateral bar, Montgomery would be permitted in the future to continue activities related to the securities industry, which would present opportunities for future violations. Although "[c]ourts have held that the existence of a past violation, without more, is not a sufficient basis for imposing a bar[,] . . . 'the existence of a violation raises an inference that it will be repeated.'" *Tzemach David Netzer Korem*, Exchange Act Release No. 70044, 2013 SEC LEXIS 2155, at *23 n.50 (July 26, 2013) (quoting *Geiger v. SEC*, 363 F.3d 481, 489 (D.C. Cir. 2004)) (alteration in internal quotation omitted). Montgomery has offered no evidence to rebut that inference.

Securities professionals routinely gain access to sensitive financial and investment information and potentially market-moving information about securities, issuers, and potential transactions. *John W. Lawton*, 2012 SEC LEXIS 3855, at *43-44. As a result, they must "take on heightened responsibilities to safeguard that information and to avoid temptations to fraudulently misuse their access for inappropriate—but potentially lucrative or self-serving—ends." *Id.* at *44. Montgomery's conduct shows that he is incapable of taking on any such heightened responsibilities in any capacity in the securities industry; thus, a collateral bar is warranted. This sanction also furthers the Commission's interest in deterring others from committing similar misconduct.

## Order

Pursuant to Commission Rule of Practice 250, I GRANT the Division of Enforcement's Motion for Summary Disposition.

Pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Section 203(f) of the Investment Advisers Act of 1940, I ORDER that Michael D. Montgomery is BARRED from associating with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, and from participating in an offering of penny stock, including acting as any promoter, finder, consultant, agent, or other person who engages in activities with a broker, dealer, or issuer for purposes of the issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock.

This Initial Decision shall become effective in accordance with and subject to the provisions of Rule 360. *See* 17 C.F.R. § 201.360. Pursuant to 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. *See* 17 C.F.R. § 201.111. If a motion to correct a manifest error of fact is filed by a party, then that 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.

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Brenda P. Murray
Chief Administrative Law Judge