INITIAL DECISION RELEASE NO. 887
ADMINISTRATIVE PROCEEDING
FILE NO. 3-16427

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

In the Matter of ROBERT J. LUNN	INITIAL DECISION September 21, 2015

APPEARANCES: Anne C. McKinley for the Division of Enforcement, Securities and Exchange Commission

John M. Beal for Respondent

BEFORE: Jason S. Patil, Administrative Law Judge

Summary

This initial decision grants the Division of Enforcement's motion for summary disposition and permanently bars Respondent Robert J. Lunn from associating with a broker, dealer, investment adviser, municipal securities dealer, or transfer agent, and from participating in an offering of penny stock.

Procedural Background

On March 10, 2015, the Securities and Exchange Commission issued an Order Instituting Administrative Proceedings (OIP) against Lunn, pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Section 203(f) of the Investment Advisers Act of 1940, based on a jury verdict finding Lunn guilty of five counts of bank fraud in *United States v. Lunn*, No. 12-cr-402 (N.D. Ill.). The OIP was served on March 16, and Lunn filed his Answer on April 23. *Robert J. Lunn*, Admin. Proc. Rulings Release Nos. 2459, 2015 SEC LEXIS 1058 (Mar. 24, 2015); 2589, 2015 SEC LEXIS 1585 (Apr. 27, 2015). I authorized the filing of a motion for summary disposition pursuant to Rule of Practice 250. *Robert J. Lunn*, Admin. Proc. Rulings Release No. 2551, 2015 SEC LEXIS 1409 (Apr. 16, 2015).

On April 29, the Division filed its motion with nine exhibits in support (Exs. A-I). Pursuant to my directive, the Division filed a supplemental brief and additional exhibit (Suppl. Ex. 1) on May 11. *See Robert J. Lunn*, Admin. Proc. Rulings Release No. 2611, 2015 SEC LEXIS 1644 (Apr. 30, 2015). Thereafter, Lunn filed his opposition and an exhibit in support (Lunn Ex. A). He states, in part, that he "takes no position in response to the allegations that there have been violations of the

Investment Advisers Act or the Securities Exchange Act." Opp. at 1. On June 10, the Division filed its reply brief.

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). The facts of the pleadings of the party against whom the motion is made shall be taken as true, except as modified by stipulations or admissions made by him, by uncontested affidavits, or by facts officially noticed pursuant to Rule of Practice 323. 17 C.F.R. § 201.250(a).

The Commission has repeatedly upheld use of summary disposition in cases such as this, where the respondent has been enjoined or convicted and the sole determination concerns the appropriate sanction. *See Gary M. Kornman*, Exchange Act Release No. 59403, 2009 SEC LEXIS 367, at *40-41 (Feb. 13, 2009), *pet. denied*, 592 F.3d 173 (D.C. Cir. 2010); *Jeffrey L. Gibson*, Exchange Act Release No. 57266, 2008 SEC LEXIS 236, at *19-20 & nn.21-24 (Feb. 4, 2008) (collecting cases), *pet. denied*, 561 F.3d 548 (6th Cir. 2009). Under Commission precedent, the circumstances in which summary disposition in a follow-on proceeding involving fraud is not appropriate "will be rare." *John S. Brownson*, Exchange Act Release No. 46161, 2002 SEC LEXIS 3414, at *9 n.12 (July 3, 2002), *pet. denied*, 66 F. App'x 687 (9th Cir. 2003). Moreover, Lunn cannot stop this proceeding based on pending or future challenges to his criminal conviction.[1] *See Elliott v. SEC*, 36 F.3d 86, 87 (11th Cir. 1994); *Blinder, Robinson & Co. v. SEC*, 837 F.2d 1099, 1104 n.6 (D.C. Cir. 1988).

The findings and conclusions in this initial decision are based on the record and on facts officially noticed pursuant to Rule of Practice 323. *See* 17 C.F.R. § 201.323. In particular, I have taken official notice of the filings in the criminal proceeding, *United States v. Lunn*. The parties' filings and all documents and exhibits of record have been fully reviewed and carefully considered. Preponderance of the evidence has been applied as the standard of proof. *See Steadman v. SEC*, 450 U.S. 91, 101-04 (1981). All arguments and proposed findings and conclusions that are inconsistent with this initial decision have been considered and rejected.

Findings of Fact

1. Lunn, age 65 at the time of the OIP, is a resident of Chicago, Illinois. OIP at 1; Answer at 1.

2. From 1970 through at least 2004, Lunn was employed in the securities industry by a variety of registered broker-dealers and investment advisers. OIP at 1; Answer at 1.

[1] If Lunn succeeds in overturning his conviction, he may request the Commission to vacate any sanctions ordered in this proceeding (or to dismiss the proceeding, if it is still pending). *See, e.g., Jilaine H. Bauer, Esq.*, Securities Act Release No. 9464, 2013 SEC LEXIS 3132 (Oct. 8, 2013); *Kenneth E. Mahaffy, Jr.*, Exchange Act Release No. 68462, 2012 SEC LEXIS 4020 (Dec. 18, 2012).

3. From approximately April 1996 to October 2004, Lunn was a registered principal of Chicago, Illinois-based Lunn Partners Securities, LLC, a registered broker-dealer that Lunn owned and operated.[2] During the same period, Lunn also owned and operated Chicago-based Lunn Partners, LLC, a registered investment adviser. OIP at 1; Answer at 1.

4. Until 2004, Lunn held the following securities licenses with FINRA: general securities sales supervisor, general securities principal, and registered representative. OIP at 1-2; Answer at 1.

5. On January 30, 2004, the National Association of Securities Dealers (NASD) alleged that Lunn Partners Securities permitted a registered person (Lunn) to perform duties as a sales supervisor and general securities representative, in that he acted as a managing director, while his registration status with NASD was inactive due to his failure to timely complete the regulatory element of NASD's continuing education rule; and failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with the applicable rules of the NASD, with respect to the NASD's continuing education rule. Ex. F at 16; Ex. G at 8-9.

6. On March 8, 2004, without admitting or denying the NASD allegations, Lunn and his firm Lunn Partners Securities consented to a fine of $5,000. Ex. F at 16-17; Ex. G at 8-9.

7. Lunn Partners Securities withdrew its registration on September 27, 2004. Ex. F at 2.

8. On April 9, 2009, the Illinois Secretary of State issued a consent order, which stated in part:

    a. Lunn "entered into an [i]nvestment [a]dvisor relationship with an Illinois Investor" but "was not registered as an investment advisor representative in Illinois during the pertinent time." *Robert J. Lunn*, Illinois Sec. Dept. File No. 0400750, 2009 Il. Sec. LEXIS 114, at *2 (Apr. 9, 2009).[3]

    b. "Section 12.C of the Act [of the Illinois Securities Law of 1953] provides, *inter alia*, that it shall be a violation of the Act for any person 'to act as a dealer, salesperson, investment adviser, or investment adviser representative, unless registered as such, where such registration is required, under the provisions of this Act.'" *Id.*

    c. "Section 12.D of the Act provides, *inter alia*, that it shall be a violation of the Act for any person [t]o fail to file with the Secretary of State any application, report or

[2] According to the FINRA BrokerCheck Report on Lunn Partners Securities, the firm was formed in Illinois on June 10, 1997. Ex. F at 1.

[3] I take official notice of the consent order. *See* 17 C.F.R. § 201.323.

document required to be filed under the provisions of this Act or any rule or regulation made by the Secretary of State pursuant to this Act or to fail to comply with the terms of any order of the Secretary of State issued pursuant to Section 11 hereof." *Id.* at *3.

d. "[T]he following shall be adopted as the Secretary of State's Conclusion of Law: That Respondent Robert J. Lunn by his conduct described herein violated Sections 12.C and 12.D of the Act." *Id.* (formatting altered).

e. Lunn "shall be prohibited in whatever capacity from offering or selling any securities in the state of Illinois, and . . . shall be prohibited from engaging in the business of a registered investment advisor or registered investment advisor representative in the State of Illinois." *Id.* at *4.

9. On May 30, 2012, a federal grand jury indicted Lunn in *United States v. Lunn*, the criminal case underlying this administrative proceeding. It charged him with five counts of bank fraud in violation of 18 U.S.C. § 1344. It alleged that between May 2001 and September 2004, Lunn knowingly devised and participated in a scheme to defraud a bank and two of his investment advisory clients and to obtain money by materially false and fraudulent pretenses, representations, promises, and omissions. Ex. A; OIP at 2; Answer at 1.

10. On October 17, 2014, the jury in the criminal case returned a verdict finding Lunn guilty on each count of the indictment. OIP at 2; Answer at 1.

11. Specifically, the jury found that Lunn defrauded a bank in connection with lines of credit that he obtained personally and loans that he obtained for two investment advisory clients. Suppl. Ex. 1 at 1. In denying Lunn's motion for judgment of acquittal or a new trial, the district court determined that the record contained sufficient evidence to support the jury's verdict on each count, as discussed further below. *Id.* at 2.

12. The court also rejected Lunn's claim that he did not knowingly defraud the bank:

> [Lunn] states that his "defense was that he did not knowingly deceive [the bank], meaning that all representations that he made to [the bank] were made in good faith. Specifically, [Lunn] contends that he "believed that the representations made to the bank by or on behalf of [two investment advisory clients] were correct and were authorized" and "that he was not deceiving [the bank] when he applied for the line of credit and extensions to the line of credit." [Lunn]'s beliefs, however, are not supported by any law or evidence presented at trial.

Id. at 3 (internal citations omitted).

13. The government's sentencing memorandum stated that the pre-sentence investigation report "calculated that the loss caused by Lunn [wa]s $3,220,000." *United States v. Lunn*, ECF No. 84, at 1.

14. To date, Lunn has not been sentenced in the criminal case.

Conclusions of Law

The Commission may bar a respondent from the securities industry under certain circumstances, including where: 1) the respondent was convicted of a felony or misdemeanor offense within ten years from the date of the OIP, 2) such offense arises out of the business of an investment adviser or involves the misappropriation of funds; 3) the respondent was associated with a broker-dealer and investment adviser at the time of the misconduct; and 4) an industry bar would serve the public interest.[4] 15 U.S.C. §§ 78*o*(b)(4)(B)(ii)-(iii), (6)(A)(ii); 80b-3(e)(2)(B)-(C), (f).

Lunn was convicted in October 2014 of bank fraud; his offense arose out of the business of an investment adviser and involved the misappropriation of funds; and at the time of his alleged misconduct, he was associated with a broker-dealer and investment adviser. Findings of Fact (FOF) Nos. 2-3, 9-11; Ex. A; Suppl. Ex. 1 at 1-2; *see* 15 U.S.C. § 80b-2(a)(6) (the term "convicted" includes a verdict under Advisers Act); *Gregory Bartko*, Exchange Act Release No. 71666, 2014 SEC LEXIS 841, at *28-29 (Mar. 7, 2014) (same under Exchange Act). Thus, an industry bar is authorized here.

In his Answer, Lunn denied certain allegations in the OIP, specifically, that he: 1) defrauded a financial institution and investment advisory clients; 2) used most "funds for his own benefit, including $1.4 million to make payment to unrelated complaining advisory clients"; 3) misrepresented the purpose of a loan obtained in the name of one of his investment advisory clients; and 4) caused a loan application with a forged signature to be submitted on behalf of another investment advisory client without the client's knowledge, authorization, or consent. Answer at 1-2; *see* OIP at 2. The jury verdict and district court's findings in the criminal case establish that Lunn knowingly, and with the intent to defraud, defrauded a financial institution by means of false or fraudulent pretenses, representations, or promises. Ex. I at 13, 17-18; Suppl. Ex. 1. The district court made specific findings regarding the sufficiency of the evidence, including that two clients testified that they did not authorize Lunn to take out loans in their names, and Lunn admitted that he signed the clients' names on the various loan documents. Suppl. Ex. 1 at 2. It also rejected Lunn's claim that he did not knowingly defraud the bank. *Id.* at 3. Although a respondent may present mitigating evidence in a follow-on proceeding, a collateral attack on the findings and conclusions of the jury and district court is impermissible, and I may consider those findings and conclusions in determining the appropriate sanction. *See Daniel Imperato*, Exchange Act Release No. 74596, 2015 SEC LEXIS 1377, at *22 (Mar. 27, 2015); *Phillip J. Milligan*, Exchange Act Release No. 61790, 2010 SEC LEXIS 1163, at *13 (Mar. 26, 2010).

[4] Section 15(b) of the Exchange Act also authorizes a penny stock bar in the same circumstances. 15 U.S.C. § 78*o*(b)(6)(A).

In his opposition, Lunn maintains his situation is analogous to that of the respondent in *Gary L. McDuff*, Exchange Act Rel. No. 74803, 2015 SEC LEXIS 1657 (Apr. 23, 2015), where the Commission ruled that a law judge could not rely on a default judgment as a basis for finding that the respondent acted as unregistered broker or dealer at the time of his misconduct, and could not rely on an indictment's allegations in determining whether sanctions are in the public interest unless those allegations had preclusive effect. *See* Opp. at 4. This argument is unconvincing. Unlike *McDuff*, there is no default judgment in the underlying proceeding, the jury instructions and verdict make clear that Lunn's conviction was based on knowingly fraudulent conduct, and the district court made specific findings regarding the trial evidence.

The remaining issue is whether barring Lunn from the securities industry serves the public interest.

Sanction

The Division seeks a permanent industry bar as well as a penny stock bar against Lunn. The appropriateness of any remedial sanction in this proceeding is guided by the *Steadman* factors: 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. *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*, 2009 SEC LEXIS 367, at *22. The Commission's inquiry into the appropriate sanction to protect the public interest is flexible, and no one factor is dispositive. *Gary M. Kornman*, 2009 SEC LEXIS 367, at *22. The Commission also considers the age of the violation, the degree of harm to investors and the marketplace resulting from the violation, and the deterrent effect of administrative sanctions. *See Schield Mgmt. Co.*, Exchange Act Release No. 53201, 2006 SEC LEXIS 195, at *35 (Jan. 31, 2006); *Marshall E. Melton*, Exchange Act Release No. 48228, 2003 SEC LEXIS 1767, at *4-5 (July 25, 2003).

After analyzing the public interest factors in light of the protective interests served, I have determined that it is appropriate and in the public interest to bar Lunn from participation in the securities industry to the fullest extent possible. *See Ross Mandell*, Exchange Act Release No. 71668, 2014 SEC LEXIS 849, at *7-8 (Mar. 7, 2014).

1. The egregious and recurrent nature of Lunn's misconduct

Lunn was convicted of five counts of bank fraud. The jury found that Lunn defrauded a bank in connection with lines of credit that he obtained personally and loans that he obtained for two investment advisory clients. Suppl. Ex. 1 at 1. In denying Lunn's motion for judgment of acquittal or a new trial, the district court found that:

> The record contains sufficient evidence to support the jury's verdict on each count. Both [clients] testified that they did not authorize [Lunn] to take out loans in their names, and [Lunn] admitted that he signed [the clients'] names on the various loan documents. With respect to the lines of credit that [Lunn] obtained personally, he submitted or caused to be submitted false financial statements. In

> the financial statements dated December 31, 2000 and December 31, 2003, [Lunn] falsely claims to own stock in Lehman Brothers and Morgan Stanley worth millions of dollars, which he knew that he had sold years earlier in the 1990's. Officers and directors from the bank testified that they relied on the false information when issuing [Lunn] the lines of credit.

Suppl. Ex. 1 at 2. As shown, his misconduct was egregious and recurrent. It involved defrauding a financial institution, taking out loans for clients without their authorization, and forging client signatures.

The Commission considers conduct involving fraud and dishonesty to be particularly serious and subject to severe sanctions, even if the underlying conviction is not, per se, a securities law violation. *See, e.g.*, *Peter Siris*, Exchange Act Release No. 71068, 2013 SEC LEXIS 3924, at *23 (Dec. 12, 2013) (the Commission has "repeatedly held that conduct that violates the antifraud provisions of the securities laws is especially serious and subject to the severest of sanctions under the securities laws" (internal quotation marks omitted)), *pet. denied*, 773 F.3d 89 (D.C. Cir. 2014); *Gary M. Kornman*, 2009 SEC LEXIS 367, at *23 ("The securities industry presents a great many opportunities for abuse and overreaching, and depends very heavily on the integrity of its participants. Indeed, the importance of honesty for a securities professional is so paramount that we have barred individuals even when the conviction was based on dishonest conduct unrelated to securities transactions or securities business." (internal quotation marks and footnote omitted)); *Ahmed Mohamed Soliman*, 52 S.E.C. 227, 231 (1995) (criminal conviction for tax law violations involving "fraud and deceit" is a "serious" offense which "shows a lack of honesty and judgement [sic] and indicates that [the respondent was] unsuited to function in the securities industry"); *Richard C. Spangler, Inc.*, 46 S.E.C. 238, 252 (1976) ("When the past misconduct involves fraud, fidelity to the public interest requires us to be mindful of the fact that the securities business is one in which opportunities for dishonesty recur constantly and that this necessitates specialized legal treatment." (internal footnote omitted)).

2. Scienter

Lunn's misconduct evinced a high degree of scienter—intent to defraud. *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" (citation omitted)); Ex. I at 13, 18 (jury instruction that bank fraud conviction required finding of intent to defraud); Suppl. Ex. 1 at 3 (the district court rejected Lunn's claim that he did not knowingly defraud the bank). The crime of which he was convicted necessarily involved knowing wrongfulness, *see* 18 U.S.C. § 1344, and considerable scienter is apparent from his scheme of taking out loans in clients' names.

3. Lack of assurances against future violations and recognition of the wrongful nature of his conduct

"If [a respondent] doesn't know right from wrong in this industry, how can he avoid wrongdoing in the future?" *Gann v. SEC*, 361 F. App'x 556, 560 (2d Cir. 2010). "[A]s the Supreme Court has recognized, the 'degree of intentional wrongdoing evident in a defendant's past conduct' is an important indication of the defendant's propensity to subject the trading

public to future harm." *John W. Lawton*, Advisers Act Release No. 3513, 2012 SEC LEXIS 3855, at *33 (Dec. 13, 2012) (quoting *Aaron*, 446 U.S. at 701), *called into question on other grounds by Koch v. SEC*, 793 F.3d 147 (D.C. Cir. 2015). Thus, although "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). Lunn has provided no evidence or persuasive argument to rebut that inference.

Lunn has not provided any meaningful assurances against future violations. His participation in this proceeding reflects that he has not accepted any responsibility for his wrongdoing. *See, e.g.*, Opp. at 4 ("this case involves a relatively small number of offending incidents that were a very small part of a very large investment operation" with "$3 billion under management"); *see generally* Answer. His plea of not guilty in the criminal case underscores his lack of recognition of wrongdoing. His refusal to accept responsibility for his actions supports the need for a bar in order to prevent him from committing the same violations in the future.

Further, in addition to his criminal conduct, Lunn has engaged in other acts of wrongdoing, by violating Illinois and NASD rules governing securities industry conduct. FOF Nos. 5-6, 8. This reflects that Lunn is not fit to remain in the securities industry.

4. Opportunities for future violations

Lunn spent over thirty years working in the securities industry. Although Lunn maintains that he does not intend to "establish a broker or dealer operation of any sort," he has not indicated an intention to stay out of the securities industry, including the investment advisory business. Opp. at 3-4. If Lunn were to reenter or continue working in the securities industry, his occupation would present considerable opportunities for future violations.

5. Other considerations

Neither a sentence nor a restitution amount has been set in the criminal proceeding yet. However, it appears that the degree of harm to investors and the marketplace was substantial, with millions of dollars in losses caused by Lunn's fraud. *See Toby G. Scammell*, Advisers Act Release No. 3961, 2014 SEC LEXIS 4193, at *28 n.44 (Oct. 29, 2014); FOF No. 13.

Also, industry bars have long been considered effective deterrence. *See Guy P. Riordan*, Exchange Act Release No. 61153, 2009 SEC LEXIS 4166, at *81 & n.107 (Dec. 11, 2009) (collecting cases). An industry bar, as opposed to a more limited bar, will prevent Lunn "from putting investors at further risk and serve as a deterrent to others from engaging in similar misconduct." *Montford and Co.*, Advisers Act Release No. 3829, 2014 SEC LEXIS 1529, at *86-87 (May 2, 2014), *pet. denied*, 793 F.3d 76 (D.C. Cir. 2015). This is because:

> The proper functioning of the securities industry and markets depends on the integrity of industry participants and their commitment to transparent disclosure.

> Securities industry participation by persons with a history of fraudulent conduct is antithetical to the protection of investors. . . .
>
> We have long held that a history of egregious fraudulent conduct demonstrates unfitness for future participation in the securities industry even if the disqualifying conduct is not related to the professional capacity in which the respondent was acting when he or she engaged in the misconduct underlying the proceeding. The industry relies on the fairness and integrity of all persons associated with each of the professions covered by the collateral bar to forgo opportunities to defraud and abuse other market participants.

John W. Lawton, 2012 SEC LEXIS 3855, at *42-43 (internal footnote omitted).

For these reasons, the public interest factors justify a permanent industry bar and penny stock bar against Lunn.[5] However, because the underlying misconduct occurred before the July 22, 2010, effective date of the Dodd-Frank Wall Street Reform and Consumer Protection Act, I decline to bar Lunn from associating with a municipal advisor or nationally recognized statistical rating organization. *See* Pub. L. No. 111-203, §§ 4, 925(a), 124 Stat. 1376, 1390, 1850-51 (2010); *Koch*, 793 F.3d at 157-58 (holding that the Commission cannot apply Dodd-Frank to bar a respondent from associating with municipal advisors and rating organizations based on conduct predating Dodd-Frank, because such an application is impermissibly retroactive).

Ruling

It is ORDERED that, pursuant to Rule of Practice 250, the Division of Enforcement's motion for summary disposition against Respondent Robert J. Lunn is GRANTED.

It is FURTHER ORDERED that, pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Section 203(f) of the Investment Advisers Act of 1940, Robert J. Lunn is permanently BARRED from associating with a broker, dealer, investment adviser, municipal securities dealer, or transfer agent; and from participating in an offering of penny stock, including acting as a 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.

[5] Under Section 15(b)(6)'s plain language, the Commission is authorized to impose the full range of available permanent bars, including the penny stock bar, against Lunn if, in relevant part, at the time of the alleged misconduct, he was associated with a broker or dealer, *or* was participating in an offering of penny stock. 15 U.S.C. § 78*o*(b)(6)(A); *see, e.g.*, *Peter Siris*, 2013 SEC LEXIS 3924, at *19-20 (Commission imposed full range of permanent bars against the respondent based on his participation in an offering of penny stock at the time of the alleged misconduct, without requiring a separate broker-dealer nexus). Under the circumstances of this proceeding, imposing the full range of available permanent bars best comports with the statute's remedial purpose and is in the public interest for the reasons discussed.

This initial decision shall become effective in accordance with and subject to the provisions of Rule of Practice 360, 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 of Practice 111, 17 C.F.R. § 201.111. 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 occur, the initial decision shall not become final as to that party.

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Jason S. Patil
Administrative Law Judge