

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION  
Washington, DC 20549

ADMINISTRATIVE PROCEEDINGS RULINGS  
Release No. 661/December 16, 2010

ADMINISTRATIVE PROCEEDING  
File No. 3-13908

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In the Matter of	:	
	:	
SHERWIN BROWN and	:	ORDER
JAMERICA FINANCIAL, INC.	:	

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Under consideration is a Motion to Correct a Manifest Error of Fact (Motion to Correct), filed December 15, 2010, by Respondents Sherwin Brown (Brown) and Jamerica Financial, Inc. (Jamerica) (jointly, Respondents). Respondents' filing relates to the November 29, 2010, Initial Decision (ID) in this matter. The Motion to Correct is untimely. Additionally, it does not identify a patent misstatement of fact in the ID. Thus, it must be dismissed.

**BACKGROUND**

The Securities and Exchange Commission (Commission) instituted this proceeding with an Order Instituting Proceedings on May 21, 2010, pursuant to Sections 203(e) and 203(f) of the Investment Advisers Act of 1940 (Advisers Act). The proceeding is a "follow-on" proceeding, based on Respondents' permanent injunction from future violations of the antifraud provisions of the federal securities laws – Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and Sections 206(1) and 206(2) of the Advisers Act, as well as from violating the recordkeeping provisions of the Advisers Act – Section 204 and Rule 204-2 thereunder, in SEC v. Brown, No. 06-cv-1213 (JRT/FLN) (D. Minn. May 3, 2010). The undersigned issued an Initial Decision revoking Jamerica's registration as an investment adviser and barring it and Brown from association with any investment adviser. Sherwin Brown, Initial Decision No. 408 (A.L.J. Nov. 29, 2010).

The wrongdoing that underlies Respondents' injunctions related to Brawta Ventures, LLC (Brawta), a purported private investment firm organized by Brown. The ID found facts as found by the court in SEC v. Brown, for example, that "[a] total of \$869,633 was transferred out of the Brawta checking account for non-investment purposes, including payments to a lawn care service, electronics stores, and computer stores and repayments of a personal loan owed by Brown." ID at 5.

## MOTION TO CORRECT

The Motion to Correct challenges as erroneous a fact found by the court in SEC v. Brown on which the ID relied: “A total of \$869,633 was transferred out of the Brawta checking account for non-investment purposes.”

Pursuant to 17 C.F.R. § 201.111(h), “[a]ny motion to correct must be filed within ten days of the initial decision.” Respondents’ Motion to Correct was filed sixteen days after the initial decision and is thus untimely. Respondents state that they received the ID on December 14, 2010.<sup>1</sup> However, 17 C.F.R. § 201.111(h) does not make an allowance for such a delay.

Additionally, pursuant to 17 C.F.R. § 201.111(h), “[a] motion to correct is properly filed . . . only if the basis for the motion is a patent misstatement of fact in the initial decision.” However, Respondents’ Motion to Correct does not identify a patent misstatement of fact in the ID. The fact that Respondents state is erroneous was found by the court that imposed the injunction on them, and the Commission does not permit a respondent to relitigate issues that were addressed in a previous civil proceeding against the respondent. See James E. Franklin, 91 SEC Docket 2708, 2713 & n.13 (Oct. 12, 2007); John Francis D’Acquisto, 53 S.E.C. 440, 444 & n.9 (1998); Demitrios Julius Shiva, 52 S.E.C. 1247, 1249 & nn.6-7 (1997).<sup>2</sup> Accordingly, the Motion to Correct must be dismissed.

IT IS SO ORDERED.

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Carol Fox Foelak  
Administrative Law Judge

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<sup>1</sup> The ID was sent to them at their address in Boca Raton, Florida, by Certified Mail, Return Receipt No. 7009 0820 0000 0032 7288. The U.S. Postal Service website and the signed Return receipt show that the item was delivered on December 4, 2010.

<sup>2</sup> Nor does the pendency of an appeal preclude the Commission from action based on an injunction. See Franklin, 91 SEC Docket at 2714 n.15.