

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 2181/January 5, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16134

In the Matter of

JOHN ALLAN RUSSELL

ORDER REGARDING RESPONSE TO
MOTION FOR SUMMARY DISPOSITION

On September 17, 2014, the Securities and Exchange Commission issued an Order Instituting Proceedings (OIP) against Respondent pursuant to Section 203(f) of the Investment Advisers Act of 1940. The OIP alleges that Respondent pled guilty to one count of securities fraud in violation of Colorado law in *People v Russell*, No. 2009CR06137, District Court, City and County of Denver, State of Colorado on July 5, 2013. OIP at 1. On December 5, 2014, the Division of Enforcement (Division) filed its Motion for Summary Disposition (Motion). On December 19, 2014, this Office received Respondent's Response to the Motion via email.¹

In his Response, Respondent requests an extension of time to allow him to gather evidence in support of his claims against summary disposition. In particular, Respondent avers he seeks medical records to show his guilty plea was made while under the influence of medication. To the extent Respondent seeks to contest the validity of his guilty plea with such medical evidence, this is not the right forum for such a challenge. Respondent may not use this administrative proceeding to collaterally attack the judgment of the court in the underlying proceeding. *See Blinder, Robinson & Co. v. SEC*, 837 F.2d 1099, 1108 (D.C. Cir. 1988); *James E. Franklin*, Securities Exchange Act of 1934 Release No. 56649, 2007 SEC LEXIS 2420, at *11 (Oct. 12, 2007), *pet. denied*, 285 F. App'x 761 (D.C. Cir. 2008). Construed either as a motion for extension of time, or as a request to defer the Motion under Commission Rule of Practice 250(b), the Response is not meritorious. 17 C.F.R. §§ 201.161(b)(1), 250(b).

Accordingly, it is ORDERED that Respondent's Response, to the extent it seeks an extension of time to file an opposition to, or to defer decision on, the motion for summary disposition, is DENIED. The Division's reply remains due by January 9, 2015.

Cameron Elliot
Administrative Law Judge

¹ Records indicate that the Response was not filed with the Office of Secretary until December 29, 2014. However, because it appears Respondent sent a hard copy via U.S. mail on December 19, 2014, I will treat the Response as timely filed.