

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

Administrative Proceedings Rulings
Release No. 6771 / July 1, 2020

Administrative Proceeding
File No. 3-15755

In the Matter of
Mark Feathers

**Order Denying Motion to
Reconsider Administrative
Proceedings Rulings Release
No. 6768**

Respondent Mark Feathers seeks reconsideration of an order I issued on June 12, 2020. In the order, I declined to rule on the admissibility of a report prepared by Annette M. Stalker for Feathers's criminal trial.¹ I also explained that if Feathers wished to rely on the report during summary disposition briefing, he would need to show that it is relevant and provide a declaration from Stalker affirming that she would testify consistent with her unsworn report.²

In his reconsideration motion, Feathers does not offer any valid basis to conclude that he should not be required to show that the Stalker report is relevant.³ Irrelevant evidence is inadmissible in Securities and Exchange

¹ See *Mark Feathers*, Admin. Proc. Rulings Release No. 6768, 2020 SEC LEXIS 1794 (ALJ June 12, 2020) (the Stalker Order).

² *Id.*

³ The Securities and Exchange Commission's evaluation of motions to reconsider its decisions is informed by federal court practice, under which a motion to reconsider constitutes an "exceptional remedy." *Reuben D. Peters*, Securities Exchange Act of 1934 Release No. 51237, 2005 WL 424918, at *1 & nn.6-7 (Feb. 22, 2005); see *KPMG Peat Marwick LLP*, Exchange Act Release No. 44050, 2001 WL 223378, at *1 n.7 (Mar. 8, 2001). A motion to reconsider seeks to "correct manifest errors of law or fact or ... present[] ... newly discovered evidence." *Peters*, 2005 WL 424918, at *1. I operate under the assumption that similar standards govern my discretion to reconsider.

Commission proceedings and, as previously noted, the Stalker report does not appear to be relevant.⁴ In fact, by asserting in his motion that the report “wholly rebuts the very basis for” the district court’s underlying action, Feathers reinforces the notion that the report is irrelevant.⁵

Moreover, although Feathers argues that he should not have to submit a declaration from Stalker, apparently because (1) he is a felon, (2) he cannot pay Stalker for her declaration, and (3) she is a licensed CPA (regulated, Feathers says, by the Commission), he does not explain why any of these factors support his argument, let alone why they would present a basis for reconsideration. Indeed, by asking that I “make an exception to the Commission’s Rules of Practice” and admit the Stalker report, Feathers tacitly concedes that the report is inadmissible.

Feathers’s reconsideration motion is DENIED.

James E. Grimes
Administrative Law Judge

Served by e-mail on all participants.

Feathers’s motion fails because, as is discussed, he does not identify any error, manifest or otherwise, in the Stalker Order.

⁴ 17 C.F.R. § 201.320; *see* Stalker Order at *2.

⁵ *See* Stalker Order at *3 n.16.