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February 10, 2016

By First Class Mail

Brent J. Fields, Secretary
Securities and Exchange Commission
100 F Street, NE
Mail Stop
Washington, DC 20549

David Stoelting, Esq.
Securities and Exchange Commission
New York Regional Office
200 Vesey Street, Room 400
New York, NY 10281-1022

Re: *In the Matter of Donald J. Anthony, et al. (Richard D. Feldmann)*
Admin. Proc. File No. 3-15514

To whom it may concern,

I am pro bono counsel to Respondent Richard D. Feldmann. I write to request that the Commission, in the exercise of its discretion, provide certain limited relief to Mr. Feldmann. More specifically, I write to request that the Commission exercise its authority to adjust the disgorgement amount and any corresponding prejudgment interest that is part of the Commission's April 3, 2014 Order against him, in order to more fairly and equitably reflect his liability.

Mr. Feldmann quickly settled the proceedings against him, allowing the Enforcement Division to deploy its resources elsewhere and sparing the Commission and the Staff the burden and expense of protracted proceedings. Although Mr. Feldmann had a variety of potential defenses, he had no resources with which to defend himself in the matter. Nonetheless, Mr. Feldmann engaged with the Enforcement Division but was unable to persuade the Staff to reduce its settlement demands. As part of the April 3, 2014 Order, Mr. Feldmann consented to a disgorgement amount of $299,000 and prejudgment interest of $44,384.87. This amount reflected all of the commissions that Mr. Feldmann had earned on certain transactions that were the focus of the Order Instituting Administrative Proceedings.

Certain other respondents proceeded to hearing or ignored the proceedings and defaulted. In an Initial Decision dated February 25, 2015, Chief Administrative Law Judge Brenda Murray found that all of the "Selling Respondents" (except for certain individual respondents not relevant to this request) "had requisite scienter to violate the antifraud provisions by at least February 1, 2008" and ordered such respondents to "disgorge all commissions earned on sales after that date," i.e., February 1, 2008, as well as prejudgment interest from March 1, 2008. (Initial Decision at p. 115). Mr. Feldmann was at all times a "Selling Respondent" according to the Staff's theory of the case.

On April 9, 2015, Chief ALJ Murray issued an "Order on Motions to Correct Manifest Errors of Fact in the Initial Decision." In that Order, Chief Judge Murray reinforced her holding that the Selling Respondents should only be liable to disgorge commissions on sales after February 1, 2008 and also specifically excluded so-called "trailing commissions," which were monies that may have been received after February 1, 2008 but which arose from sales that had occurred prior to that date.

The overwhelming bulk of the $299,000 in commissions that Mr. Feldmann consented to disgorge arose out of sales that took place prior to February 1, 2008. It is now clear that had Mr. Feldmann refused to settle (and thereby put the Staff to the burden and expense of proving its case against him) or simply ignored the proceedings and defaulted, the amount that he would have been ordered to disgorge would be only a small fraction of $299,000, and the amount of prejudgment interest would also be correspondingly lower. Indeed, from the information that I have received from the Staff, it appears that the value of the sales that Mr. Feldmann made after February 1, 2008 represent a mere 2% of his total sales. It is therefore apparent that Mr. Feldmann's disgorgement amount could well have been less than $10,000 if he had defaulted and refused to acknowledge the proceedings or if he had fought the case at hearing.

For these reasons, and in the interests of justice and fairness, we ask that the Commission grant Mr. Feldmann relief and modify his disgorgement and prejudgment interest amounts in accordance with Chief ALJ Murray's findings of fact and law and in accordance with the punishments levied against all of the other "selling respondents" in the case.

We submit that under all of the facts and circumstances, the requested relief is consistent with the public interest, investor protection and the equities involved. It would also be consistent with the Commission's recent efforts to consider vacating collateral bars in appropriate cases that arise out of relevant conduct that occurred prior to July 22, 2010, the effective date of the Dodd-Frank Wall Street Reform and Consumer Protection Act. *See also, e.g., In the Matter of Peter F. Comas*, Securities Exchange Act Rel. No. 49894 (June 18, 2004), Admin. Proc. File No. 3-9803 (vacating a collateral bar in the interests of justice).

Thank you for your time and attention to this matter.

Sincerely,

Sean T. Haran

cc: John Graubard, Esq. (by First Class Mail and Email)
Michael Birnbaum, Esq. (by First Class Mail and Email)