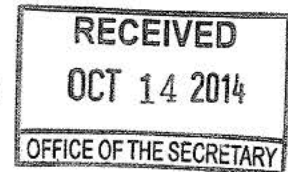


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**UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION**



**SECURITIES EXCHANGE ACT OF 1934
Release No. 71161 / December 20, 2013**

**ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3521 / December 20, 2013**

**ADMINISTRATIVE PROCEEDING
File No. 3-15659**

INITIAL DECISION RELEASE NO. 673

In the Matter of

Thomas D. Melvin, CPA

PETITION FOR REVIEW

Respondent.

COMES NOW Thomas D. Melvin, CPA, by and through undersigned counsel, and requests review by the Commission of the Initial Decision of the hearing officer in the above matter.

On or about September 23, 2014, Mr. Melvin was served, through counsel, with the Initial Decision. Listed below are “the specific findings and conclusions of the initial decision as to which exception is taken, together with supporting reasons for each exception.” (Rule 410(b)).


1. The hearing officer incorrectly concluded that the proceeding was timely filed. The decision of the Tenth Circuit Court of Appeals in *Gibraltar Cas. Co. v. Walters*, 185 F.3d 1103 (10th Cir. 1999) is not binding, is based on statutory language different from the language of the Commission’s Rules of Practice, and is wrongly decided.

The Commission should adopt a reading of its own Rules of Practice consistent with Respondent's position and that of the dissent in *Walters*, i.e. that the time for instituting a proceeding in this matter ran from entry of the final, consented to judgment by the district court since Mr. Melvin waived any right to appeal.

2. The hearing officer incorrectly concluded that a permanent bar was appropriate in this case. The facts alleged in conjunction with Mr. Melvin's prior consent are that he was a non-trading tipper who did not benefit financially from any alleged conduct. Additionally, division counsel acknowledged to the hearing officer that, at a minimum, he expressed no disagreement with a three-year bar. Taking the foregoing into account as well as the *Steadman* factors and the mitigating factors noted by the hearing officer, a three-year bar is appropriate. The allegations forming the basis of the consent by Mr. Melvin, taken as presumptively true, indicate a lack of egregiousness, an isolated event, and little scienter. The fact of the consent judgment and compliance therewith demonstrate that Mr. Melvin has been pro-active in addressing the allegations against him of wrongdoing and that there is little likelihood that future violations might occur.

WHEREFORE, Mr. Melvin respectfully requests that the Commission reverse, modify, set aside or remand for further proceedings the Initial Decision.

This 13th day of October, 2014.


C. BRIAN JARRARD
Ga. Bar No. 389497

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