

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

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-15755**

<p><b>In the Matter of</b></p> <p style="text-align:center"><b>MARK FEATHERS,</b></p> <p><b>Respondent.</b></p>
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**DIVISION OF ENFORCEMENT’S REPLY MEMORANDUM**  
**IN SUPPORT OF RENEWED MOTION FOR SUMMARY DISPOSITION**

The Division of Enforcement (“Division”) filed its Renewed Motion for Summary Disposition (“SD Motion”) on July 31, 2020, seeking an order barring Respondent Mark Feathers from the securities industry pursuant to Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”), based on the district court’s findings and injunction in *SEC v. Small Business Capital Corp., et al.* (“*SEC v. SBCC*”), Case No. 5:12-cv-3237-EJD (N.D. Cal.), *aff’d sub nom. SEC v. Feathers*, 774 Fed. App’x 354 (9th Cir. 2019), *amended as to costs*, 773 Fed. App’x 929 (Mem) (9th Cir. 2019). In its SD Motion, the Division established that the public interest factors supported a finding that an industry bar is in the public interest, under the test set forth in *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979), *aff’d on other grounds*, 450 U.S. 91 (1981); *Jason A. Halek*, Release No. 1376, 2019 WL 2071396, at \*3 (May 9, 2019).<sup>1</sup>

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<sup>1</sup> The public interest factors include:

In response to the Division’s SD Motion, Feathers has not produced any evidence to show that there is a dispute as to any material fact. There is no dispute that a permanent injunction has been entered against Feathers for violations of the antifraud and broker-dealer registration provisions of the Securities Act of 1933 and the Securities Exchange Act of 1934. While Feathers seeks to challenge the district court’s findings by submitting the so-called “Stalker Report,” the report is not supported by an affidavit or declaration from the author, and by its terms the document is preliminary and subject to change. As such, it is not admissible evidence. Moreover, Feathers offers the Stalker Report in an effort to attack the district court findings, which is not relevant in this follow-on proceeding. *See Mark Feathers*, Release No. 6768 (June 12, 2020). In addition, Feathers submitted the Stalker Report to the district court in August 2016, and the district court apparently did not find it persuasive and granted the receiver’s motion to terminate the receivership. *See SEC v. SBCC*, Docket No. 1201, “Addenda to Defendant’s Opposition to Receiver’s Motion to Conclude Receivership, etc.” (Aug. 24, 2016). Feathers has not offered any relevant or admissible evidence in opposition to the SD Motion.

As outlined in the SD Motion, the district court found that Feathers committed fraud in violation of the federal securities laws in connection with two offerings of securities, which occurred over a period of years, and that Feathers acted with a high degree of scienter. Indeed,

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The egregiousness of the respondent’s actions, the isolated or recurrent nature of the infraction, the degree of scienter involved, the sincerity of the respondent’s assurances against future violations, the respondent’s recognition of the wrongful nature of his conduct, and the likelihood that the respondent’s occupation will present opportunities for future violations.

*Id.*

Feathers' conduct was so egregious that it led to criminal charges. Feathers resolved the charges by pleading guilty to one felony count of mail fraud. These undisputed facts satisfy the first three prongs of the *Steadman* analysis, and weigh in favor of an industry bar to protect the public interest.

In response to the SD Motion, Feathers has not provided any assurances against future violations, or recognized the wrongful nature of his conduct. To the contrary, Feathers continues to deny that he did anything wrong, and seeks to blame others for his wrongful conduct. These two factors strongly weigh in favor of an industry bar.

Feathers has offered no information on his current employment or plans for the future. To the extent Feathers has indicated an interest in continuing in the business of small business lending, it was that business that led to his fraudulent conduct. In view of Feathers' failure to recognize the wrongful nature of his conduct or provide any assurances, this factor, too, weighs in favor of an industry bar.

The Division has filed its SD Motion supported by relevant and admissible evidence showing that it is in the public interest to bar Feathers from the securities industry. In response, Feathers has not provided any relevant or admissible evidence to put into question any of the evidence supporting the Division's SD Motion. Accordingly, the Division requests that the hearing officer grant the SD Motion and find it is in the public interest to bar Feathers from the securities industry.

Respectfully submitted,  
DIVISION OF ENFORCEMENT  
By its Attorneys:

Dated: August 31, 2020

/s/ John B. Bulgozdy  
John B. Bulgozdy

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**IN THE MATTER OF MARK FEATHERS**  
**ADMINISTRATIVE PROCEEDING FILE NO. [3-15755]**

**SERVICE LIST**

Pursuant to Commission Rule of Practice 151 (17 C.F.R. § 201.151), I certify that the attached:

**DIVISION OF ENFORCEMENT'S REPLY MEMORANDUM**  
**IN SUPPORT OF RENEWED MOTION FOR SUMMARY DISPOSITION**

was served on August 31, 2020 upon the following parties as follows:

**By Email**

Vanessa Countryman, Secretary  
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**By Email**

Honorable James E Grimes  
Administrative Law Judge  
Securities and Exchange Commission  
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**By Email and U.S. Mail**

Mark Feathers

Menlo Park, CA

Email: [REDACTED]

*Pro Se Respondent*

Dated: August 31, 2020

*/s/ Sarah Mitchell*  
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Sarah Mitchell