

File No. 3-15755 In the Matter of MARK FEATHERS

Response to Court Order "...for Additional Briefing Regarding the SBA's Motion to Quash"

Respondent is the subject of an SEC OIP. Respondent, not a willing participant in these proceedings, must follow the Commission's so-called "Rules of Practice", as instructed by this court. Logic, and a close examination of these rules, indicates that the rules are written in favor of the Commission itself, a "sovereign agency" of the federal government. The rules themselves, because they have been put together over decades to assist the Commission, is part of Respondent's due-process constitutional arguments here. And the presiding judge, like all SEC administrative law judges, is a W-2 employee of the Commission, only bound by the Commission's rules of conduct, and not by constitutional law, or even by logic, for that matter. Only by the "Rules of Practice".

This court has noted that SBA failed to file a motion-to-quash on a timely basis. Apparently that does not matter much, they are a government agency, and have therefore been given a second chance by the Court with the typical "we'll do anything we want, and herein we now cite the legal precedent which allows us to do this" approach followed by this court as well as all other courts, at all levels of government, of this country, against a *pro se* defendant/Respondent out of deference to government units. SBA was not a party to the civil proceeding "*SEC v. Small Business Capital Corp., et al*". On appearance SEC did not even confer at all with SBA before it commenced a sealed *ex parte prima facie* "pro forma" (aka "made up") action against Respondent. SBA shows no basis to claim work product privilege on any materials it holds pre-June 2012 (commencement of civil litigation) because it did not prepare any of that work "in anticipation of litigation". No SBA officer or agent has produced any declaration asserting such. As to all materials produced by agents, officers, and employees of SBA after June 2012, SBA has not produced any documentation for this court whereby SBA can show that Respondent made overtures to engage SBA in a civil action; there is no basis for SBA's claim of privilege. Feathers was indicted appx. 18 months after an adverse summary judgement against him in civil court.¹ On that basis, all SBA material outlined in Respondent's subpoena request, from August of 2013 through December of 2014, should be provided to Respondent. And, it was DOJ that indicted Respondent. SBA has presented no evidence, or declarations, to this Court to demonstrate that materials after Dec. 2014 were prepared "in anticipation of litigation", rather than SBA preparing these as related to the sale/transfer of the assets of Respondent's SBA-regulated companies. If SBA suddenly now produces such argument, Respondent would like to address the nonsense of that SBA argument, as well. Indeed, Respondent believes that criminal court made a determination that Respondent's civil and criminal cases "were unrelated".² SBA materials prepared/produced during the entire period of the civil proceedings should be provided to Respondent.

¹Feathers was indicted, in short order, after three events in his civil action: (1) SEC lost a Chpt. 7 trial against *pro se* Respondent trying to enforce a disgorgement lien on Respondent's home without a factual or legal basis to support the Commission (facts which were pointed out sharply to SEC in bankruptcy court by the Hon. Elaine Hammond), (2) after SEC lost a motion for sanctions against Respondent for "witness tampering" (in only a 19 minute motion hearing) before Hon. Magistrate James Grewal, and (3) after Respondent submitted a motion to civil court to run his investment funds again which had almost 100% support of so-called "harmed" investors despite Respondent's adverse summary judgment.

²Which begs the question "why SEC has *repeatedly* made reference to Respondent's criminal proceedings". The answer to that is obvious – within SEC all those involved in this OIP, at any level, will shamelessly employ any means to slander, defame, or impeach Respondent in order to bias the Court and the Commissioners against Respondent.

Within the past 12 months, Respondent asked SBA for these same materials via a FOIA request. SBA turned him down; a fact which SBA will not dispute. There is no "other way" to obtain these materials. Respondent, upon receipt of the requested materials, will employ, as appropriate and relevant, these in his *Steadman Factor* defenses.

Respectfully,

A handwritten signature in black ink, appearing to be 'Mark Feathers', written over a horizontal line.

Mark Feathers, *pro se*, Respondent

Dated 6-26-20