

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

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

**In the Matter of**

**MARK FEATHERS,**

**Respondent.**

**DIVISION OF ENFORCEMENT'S**  
**MOTION FOR SUMMARY DISPOSITION**

**I. INTRODUCTION**

The Division of Enforcement (“Division”) moves pursuant to Rule 250 of the Securities and Exchange Commission’s (“SEC” or “Commission”) Rules of Practice for summary disposition in this follow-on proceeding against Mark Feathers (“Feathers”). There is no genuine issue of material fact that Feathers has been enjoined from violating the antifraud and broker-dealer registration provisions of the federal securities laws, and that it is in the public interest to bar Feathers. The Division requests an order barring Feathers from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, and nationally recognized statistical rating organization, and from participating in any offering of penny stock.

## II. PROCEDURAL BACKGROUND

The Commission instituted this follow-on proceeding on February 18, 2014, with an Order Instituting Proceedings (“OIP”) 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.*, Case No. 5:12-cv-3237-EJD (N.D. Cal.).<sup>1</sup> The district court made extensive factual findings in deciding cross-motions for summary judgment. *Small Business Capital Corp.*, Docket No. 591, 2013 WL 4455850 (N.D. Cal. Aug. 16, 2013). The court permanently enjoined Feathers from future violations of the antifraud provisions of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder and Section 17(a) the Securities Act of 1933 (“Securities Act”), and the broker-dealer registration provisions of Section 15(a)(1) of the Exchange Act. *Small Business Cap. Corp.*, Docket No. 622, 2013 WL 5955669 (N.D. Cal. Nov. 6, 2013) (*see* Declaration of John B. Bulgozdy (“Bulgozdy Dec.”), ¶ 2, Exhibit 1).

Feathers was served with the OIP on February 24, 2014. On October 4, 2019, the Commission remanded this proceeding to provide Respondent with a new hearing before an administrative law judge who did not previously participate in the matter.<sup>2</sup> On January 27, 2020, Respondent served his Answer and Defenses, which incorporated by reference his March 12, 2014 Answer. On February 28, 2014, and again on January 29, 2020, the Division produced all responsive, non-privileged documents to Respondent pursuant to Rule 230 of the Commission’s Rules of Practice. (Bulgozdy Dec., ¶ 6.)

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<sup>1</sup> After the OIP was instituted, the Ninth Circuit affirmed in all respects the district court’s findings. *SEC v. Feathers*, 774 Fed. App’x 354 (9th Cir. 2019), *amended as to costs*, 773 Fed. App’x 929 (Mem) (9th Cir. 2019).

<sup>2</sup> Release No. 87226 (Oct. 4, 2019).

On October 29, 2014, Feathers was named in a 29-count indictment based upon the same conduct that gave rise to the Commission’s allegations in *Small Business Capital Corp.* See *United States v. Mark Feathers*, Case No. 5:14-cr-00531-LHK (N.D. Cal. Oct. 29, 2014). On March 7, 2017, while out on bond, Feathers sent a threatening email to eight individuals<sup>3</sup> with the subject line: “you will need to ask the court for extra marshals to my jury trial,” and in consequence the prosecutors sought revocation of Feathers’ bond. See *United States v. Mark Feathers*, Docket No. 108, at p. 2 (N.D. Cal. Mar. 22, 2017). Feathers’ bond was revoked on March 23, 2017. *Id.*, Docket No. 109 (N.D. Cal. Mar. 23, 2017). Feathers subsequently entered a plea of guilty to one count of the indictment and was sentenced on March 7, 2018.<sup>4</sup> *Id.*, Docket No. 192 (Sentencing Hearing Transcript) (N.D. Cal. Jan. 15, 2020).

### **III. LEGAL ARGUMENT**

#### **A. Summary Disposition is Appropriate Based on the District Court’s Findings**

Rule 250 of the Commission’s Rules of Practice, 17 C.F.R. § 201.250, provides that a party may move for summary disposition of any or all allegations of the OIP, after a respondent’s answer has been filed and documents have been made available to the respondent for inspection and copying. A hearing officer may grant the motion for summary disposition if there is no genuine issue with regard to any material fact and the party making the motion is entitled to a summary disposition as a matter of law. Rule of Practice 250(b).

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<sup>3</sup> The recipients of the email consisted of the court-appointed receiver in *Small Business Capital Corp.*, his counsel, four SEC attorneys, Feathers’ criminal defense attorney at the time, and Feathers’ former criminal defense attorney. *Id.*

<sup>4</sup> Feathers explicitly refers to the criminal case and plea in his Answer and concedes the relevance of the sentencing hearing transcript to this proceeding, noting that a “full copy of the sentencing hearing transcript will be presented to this court.” Respondent’s Answer and Defenses to OIAP, dated January 23, 2020, at p. 2, & p. 3 n.5.

Summary disposition is appropriate here because the facts have been litigated and determined in an earlier judicial proceeding, an injunction has been entered by the district court, and the sole determination concerns the appropriate sanction.<sup>5</sup>

**B. There Is No Genuine Issue With Regard To Any Material Fact That Feathers Should Be Barred From The Securities Industry**

To prevail on this motion for summary disposition, the Division must establish that: (1) Feathers has been enjoined from violating the federal securities laws, and (2) it is in the public interest to impose a bar against Feathers.

**1. Feathers is subject to a permanent injunction**

On November 6, 2013, the district court permanently enjoined Feathers from violations of the antifraud provisions of the federal securities laws – Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and Section 17(a) of the Securities Act – and the broker-dealer registration provisions of Section 15(a)(1) of the Exchange Act. *See Small Business Capital Corp.*, Docket No. 622, 2013 WL 5955669 (N.D. Cal. Nov. 6, 2013); (Bulgozdy Dec., Ex. 1). The injunction provides the statutory basis for this administrative proceeding.<sup>6</sup>

An antifraud injunction is considered to be particularly serious. *See Marshall E. Melton*, 56 S.E.C. 695, 710, 713 (2003). The public interest requires a severe sanction when a respondent's past misconduct involves fraud, because opportunities for dishonesty recur constantly in the securities business. *See Richard C. Spangler, Inc.*, 46 S.E.C. 238,252 (1976).

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<sup>5</sup> *See, e.g. Omar Ali Rizvi*, Initial Dec. Rel. No. 479 (Jan. 7, 2013), 2013 WL 64626 (“Commission has repeatedly upheld use of summary disposition in cases where the respondent has been enjoined and the sole determination concerns the appropriate sanction.”), *notice of finality*, Release No. 69019, 2013 WL 772514 (Mar. 1, 2013).

<sup>6</sup> *See, e.g., Douglas G. Frederick*, Initial Dec. Rel. No. 356 (Sept. 9, 2008), 94 S.E.C. Docket 212, 2008 WL 4146090, *notice of finality*, 94 S.E.C. Docket 977, 2008 WL 4500336 (Oct. 8, 2008).

## 2. The public interest factors support a permanent bar

The criteria for assessing the public interest are found 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). The public interest factors include:

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.* "The existence of an injunction can, in the first instance, indicate the appropriateness in the public interest of a suspension or bar from participation in the securities industry." *Michael V. Lipkin*, *supra*, 2006 WL 2422652 at \*4.

### a. Respondent's violations of the antifraud provisions were egregious, recurrent, and involved a high level of scienter

The first three factors are established by the court's findings in *Small Business Capital Corp.*, Docket No. 591, 2013 WL 4455850 (N.D. Cal. Aug. 16, 2013), and Docket No. 622, 2013 WL 5955669 (N.D. Cal. Nov. 6, 2013). Feathers managed two mortgage investment funds that he established in 2007: Investors Prime Fund, LLC ("IPF"), and SBC Portfolio Fund, LLC ("SPF") (collectively the "Funds"). *Small Business Capital Corp.*, 2013 WL 4455850 at \*1. According to the offering documents of IPF and SPF issued in 2007, the manager of the Funds was Feathers' company, Small Business Capital Corporation ("SBCC"). *Id.*

Beginning in 2009 through 2012, Feathers made several material misstatements, misrepresentations, and omissions to the Funds' investors about fund loans and money transfers, conservative lending standards, and returns to investors. *Id.* at \* 4-9. First, Feathers caused the Funds to represent to investors that there would be no loans from the Funds to the manager SBCC

other than loans secured by real property, but contrary to that representation, Feathers caused the Funds to transfer over \$7 million in cash to SBCC under the guise of a “manager’s note” or “due from” SBCC. *Id.* at \*4-7. Feathers used the money he transferred from the Funds to SBCC to pay SBCC’s expenses and to manage the yield of the Funds. *Id.* at \*6. Feathers made these transfers under the guise of a “due from” SBCC to the Funds. This provided a mechanism for the Funds to transfer money to SBCC, which was not earning any net management fees from the Funds under the terms of the offering documents. In addition, recording expenses as a “due from” effectively converted the excess expenses into an “asset” of the Funds rather than a liability, which allowed the Funds to give the misleading appearance that they were generating net income necessary to pay the target yield of returns to investors. *Id.* at \*6.

Second, Feathers caused the Funds to represent that they adhered to conservative lending standards by only making secured loans, but contrary to that representation, Feathers caused the Funds to make unsecured loans to SBCC, which had no ability to repay the loans. The Funds’ disclosures stated that all loans made by the Funds were to be secured by deeds of trust and the Funds would use conservative 65% or 75% loan-to-value guidelines. *Id.* at \*7. These representations were materially false and misleading, because the loans and money transfers Feathers caused the Funds to make to SBCC were not secured by any real property, and there was no loan-to-value ratio for these unsecured loans. *Id.* Other misrepresentations included falsely informing the Funds’ investors that 0% of the loans were unsecured, when in fact the Funds had transferred substantial money to SBCC in unsecured loans. *Id.* at \*8.

Third, Feathers caused the Funds to represent that member returns would be paid from profits generated by the Funds’ investments, but in fact the Funds were not profitable and Feathers used investors’ money to make “Ponzi-like payments” of returns to investors. *Id.* at \*8-9. Feathers

instructed his employees to maintain monthly payments to investors in IPF and SPF at a return of 7.5% per annum and 9-10% per annum, respectively, without taking into consideration the Funds' net income or actual profitability. *Id.* at \*8.

The court found that there was “abundant evidence demonstrating that Feathers acted intentionally and recklessly in carrying out the misrepresentations and misstatements . . . .” *Id.* at \*10-11. For example, Feathers prepared and distributed the IPF and SPF offering circulars from at least 2009 to 2011 that clearly prohibited loans to SBCC, yet at the same time Feathers caused the Funds to transfer over \$7 million to SBCC. *Id.* at \*10. In addition, “Feathers’ creation and utilization of ‘due from’ and ‘manager’s note’ accounting evinces Feathers’ intent to deceive the investors as to the true amount of cash in the Funds . . . . the ‘due from’ device actively disguised the true financial performance of the Funds.” *Id.* at \*10. Feathers’ “interaction with the auditor of the Funds further evinces an intent to deceive or recklessness in his management of the Funds and representations made to investors.” *Id.* Feathers was advised by his auditor and his lawyer that transferring money from the Funds to SBCC as loans violated the offering documents, yet continued with his unlawful conduct and rejected the advice of these professionals. *Id.* at \*11.

Thus, Feathers made multiple misstatements and omissions, over a period of years, with a high degree of scienter, in violation of the antifraud provisions of the federal securities laws. *See Small Business Capital Corp.*, 2013 WL 5955669, at \*2. (*See also* Bulgozdy Dec., Exhibit 2.)<sup>7</sup>

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<sup>7</sup> At the sentencing hearing in the criminal case, the Judge recited the elements of the crime to which Feathers pled guilty:

[]Mr. Feathers has pled guilty to Count 20 of the indictment, and he has, by pleading guilty, agreed that he knowingly participated in the scheme to defraud, in a scheme or plan for obtaining money or property by making false promises or statements, that he knew that the promises or statements were false when made, that the promises or statements were material, that is they would reasonably influence a person to part with

**b. Feathers operated an unregistered broker-dealer**

Feathers also violated the broker-dealer registration provisions of the Exchange Act. Feathers and SBCC actively solicited new investments in IPF and SPF, and Feathers and SBCC employed investor representatives who were paid a salary and commission for sales of securities of IPF and SPF. *Id.* at \*14-15. Feathers and SBCC had been selling IPF and SPF securities regularly for years, with sales of at least \$46 million of securities in these Funds. *Id.*

**c. Feathers has neither recognized the wrongful nature of his conduct, nor provided credible assurances against future violations**

Feathers refuses to recognize that he did anything wrong, although the district court made explicit findings which were affirmed in all respects by the Ninth Circuit. *See 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 2013, the district court found that there was “no evidence” that Feathers recognized the wrongful nature of his conduct. *Small Business Capital Corp.*, 2013 WL 5955669, at \* 2. Feathers’ refusal to acknowledge the wrongful nature of his conduct has persisted to the present. In his Answer dated January 23, 2020, Feathers argues that since “June 2012 there has been a cascade of injustices against” him, that he “eventually took a plea in criminal court to a single government-manufactured count of mail fraud,” that he “operated legitimate business enterprises,” and that he is “*not guilty of charges* outlined in the OIPA of 2014.”<sup>8</sup> In subsequent filings in this matter, Feathers defiantly refuses to recognize that he did anything wrong. For example, in an April 7, 2020 filing, Feathers requested an investigation of the Commission’s staff in connection

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money or property, that he acted with intent to defraud, and that an essential part of his scheme was in connection with and involving the use of the mail.

*See Bulgozdy Dec.*, ¶ 5, Exhibit 2. *See also United States v. Mark Feathers*, Case No. 5:14-cr-00531-LHK, Docket No. 192 (Hearing Transcript) (N.D. Cal. Jan. 15, 2020), at pp. 45-46).

<sup>8</sup> *See Respondent’s Answer* at pp. 2, 3 (emphasis in original).



with the filing of the injunctive action *Small Business Capital Corp.*<sup>9</sup> In an April 17, 2020 filing, Feathers argued that the Funds’ securities offerings made in 2009 through 2012 were “ostensibly exempt from federal securities laws . . . .”<sup>10</sup> In a May 1, 2020 filing, Feathers claimed that various federal agencies operating as a “cabal” had engaged in unconstitutional and occasionally criminal actions and methods . . . .”<sup>11</sup> Feathers’ continued argument that his conduct did not amount to violations of the securities laws demonstrates that he has not meaningfully recognized the wrongful nature of his conduct, and he has not provided any assurances against future misconduct. *See, e.g., Peter Siris*, S.E.C. Release No. 71068, 2013 WL 6528874, at \*7 (Dec. 12, 2013), *pet. for review denied*, *Siris v. SEC*, 773 F.3d 89 (D.C. Cir. 2015); *Jose P. Zollino*, Release No. 2579, 2007 WL 98919, at \*6 (Jan. 16, 2007).

**d. Likelihood of future violations**

In issuing its injunction, the district court found: “As to the fourth factor, Feathers did not show that he would not re-enter the brokerage industry if he were able, and in his Response indicated that in the future he would hire a securities attorney so as not to violate securities law.” *Small Business Capital Corp.*, 2013 WL 5955669, at \* 2. Feathers’ failure to acknowledge his guilt or show remorse demonstrates there is a significant risk, given the opportunity, that Feathers would commit future misconduct. Absent a bar, Feathers could seek to engage in the sale of

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<sup>9</sup> *See* Respondent’s Motion Request dated April 7, 2020 at p. 1.

<sup>10</sup> *See* Respondent’s Answer to Court’s 4-17-20 Order and Request to Modify Subpoena, at p. 1 n.2 (sent April 17, 2020).

<sup>11</sup> *See* Respondent’s Request to Stay SEC Administrative Proceedings While Pursuing Subpoenas dated May 1, 2020 at p.1.

securities, acting as an unregistered broker-dealer. *See, e.g., Jose Zollino*, 2007 WL 989919, at \*6, *Peter Siris*, 2013 WL 6528874, at \*6-7.<sup>12</sup>

#### IV. CONCLUSION

Based on the undisputed facts, it is in the public interest to bar Respondent from the securities industry. Respondent has been enjoined against future violations of the antifraud and broker-dealer registration provisions of the federal securities laws. There is no genuine issue with regard to any material fact that Respondent's conduct was egregious, recurrent, and involved a high degree of scienter. Respondent has neither acknowledged his wrongdoing nor provided assurances against future violations, and his previous occupation presents opportunities for future violations. Accordingly, the Division's motion for summary disposition should be granted, and Feathers should be barred from the securities industry.

Dated: July 14, 2020

Respectfully submitted,

/s/ John B. Bulgozdy

John B. Bulgozdy

Lynn Dean

Senior Trial Counsel

Division of Enforcement

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<sup>12</sup> During Feathers' criminal sentencing, the court expressed concern about how long Feathers would be out of the securities industry. In response to a question about Feathers' future ability to work in the securities industry, Feathers' counsel stated: "I think there would be a lifetime bar by the SEC, your Honor." (Bulgozdy Dec. at ¶ 5, Exhibit 2.)

**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 MOTION FOR SUMMARY DISPOSITION**

was served on July 14, 2020 upon the following parties as follows:

**By Email**

Vanessa Countryman, Secretary  
Securities and Exchange Commission  
100 F. Street, N.E., Mail Stop 1090  
Washington, DC 20549-1090  
Facsimile: (703) 813-9793  
Email: [apfilings@sec.gov](mailto:apfilings@sec.gov)

**By Email**

Honorable James E Grimes  
Administrative Law Judge  
Securities and Exchange Commission  
100 F Street, N.E., Mail Stop 2557  
Washington, DC 20549-2557  
Email: [alj@sec.gov](mailto:alj@sec.gov)

**By Email and U.S. Mail**

Mark Feathers  
[REDACTED]  
Menlo Park, CA [REDACTED]  
Email: [REDACTED]  
***Pro Se Respondent***

Dated: July 14, 2020

*/s/ Sarah Mitchell* \_\_\_\_\_  
Sarah Mitchell

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

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

**In the Matter of**

**MARK FEATHERS,**

**Respondent.**

**DECLARATION OF JOHN B. BULGOZDY IN SUPPORT OF MOTION FOR  
SUMMARY DISPOSITION AND REQUEST FOR OFFICIAL NOTICE**

I, John B. Bulgozdy, declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am one of the attorneys representing the Division of Enforcement in this action. I have personal knowledge of the following facts and, if called as a witness, would testify competently thereto.

2. Attached hereto as Exhibit 1 is a certified copy of the Order Granting in Part and Denying in Part Plaintiff's Motion for Injunctive Relief and Monetary Remedies entered on November 6, 2013 in *SEC v. Small Business Capital Corp., et al.*, Civil Action No. 5:12-cv-03237-EJD, Docket No. 622 (N.D. Cal. Nov. 6, 2013). This decision is reported at 2013 WL 5955669 (N.D. Cal. Nov. 6, 2013).

3. The Division requests that the Court take official notice, pursuant to Rule 323 of the Commission's Rules of Practice, of the Order Granting Plaintiff's Motion for Summary Judgment;

Denying Defendants' Motion for Summary Judgment, entered on August 16, 2013 in *SEC v. Small Business Capital Corp., et al.*, Civil Action No. 5:12-cv-03237-EJD, Docket No. 591, 2013 WL 4455850 (N.D. Cal. Aug. 16, 2013).

4. The Division requests that the Court take official notice, pursuant to Rule 323 of the Commission's Rules of Practice, of the proceedings in *United States v. Mark Feathers*, 14-cr-00531-LHK (N.D. Cal.).

5. Attached hereto as Exhibit 2 are excerpts of the Transcript of Proceedings Before the Honorable Lucy H. Koh, United States District Judge, on March 7, 2018, in *United States v. Mark Feathers*, 14-cr-00531-LHK, Docket No. 192 (N.D. Cal. Jan. 15, 2020), consisting of pages 1, 27-28, 45-46, and 62.

6. On February 28, 2014, and again on January 29, 2020, the Division produced all responsive, non-privileged documents to Respondent pursuant to Rule 230 of the Commission's Rules of Practice.

I declare under penalty of perjury that the foregoing is true and correct.

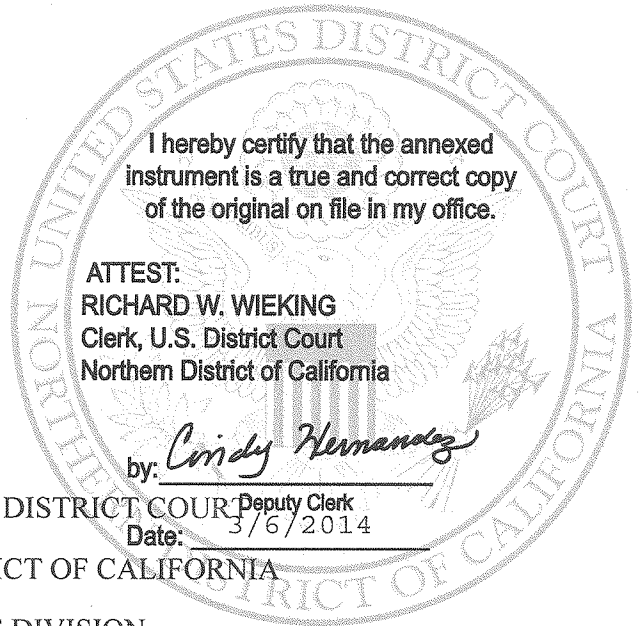
Executed on July 14, 2020 in Los Angeles, California.

/s/ John B. Bulgozdy  
John B. Bulgozdy

# **EXHIBIT 1**

United States District Court  
For the Northern District of California

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I hereby certify that the annexed instrument is a true and correct copy of the original on file in my office.

ATTEST:  
RICHARD W. WIEKING  
Clerk, U.S. District Court  
Northern District of California

by: *Cindy Hernandez*

UNITED STATES DISTRICT COURT, Deputy Clerk  
Date: 3/6/2014  
NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

SECURITIES AND EXCHANGE )  
COMMISSION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
SMALL BUSINESS CAPITAL CORP.; )  
MARK FEATHERS; INVESTORS PRIME )  
FUND, LLC; and SBC PORTFOLIO FUND, )  
LLC, )  
 )  
Defendants. )

Case No.: 5:12-CV-03237-EJD

**ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION FOR INJUNCTIVE RELIEF AND MONETARY REMEDIES**

[Re: Docket Item No. 602]

In this civil enforcement action brought under several federal securities laws, presently before the Court is Plaintiff Securities and Exchange Commission's ("SEC" or "Plaintiff") Motion for Injunctive Relief and Monetary Remedies against Defendant Mark Feathers ("Feathers" or "Defendant") for violations of the Securities Act of 1933 (the "Securities Act") and the Securities Exchange Act of 1934 (the "Exchange Act"). Plaintiff requests a three-pronged remedy, which includes a permanent injunction against violations of specific provisions of federal securities law, disgorgement of a total amount of \$7,782,961.07, and a civil penalty in the amount of \$300,000.

The Court, having entered Summary judgment against Defendant Feathers on August

1 16, 2013, and having fully reviewed and considered the SEC's Motion, along with all other  
2 pleadings and exhibits submitted by the parties, and heard oral arguments presented by both parties  
3 at the hearing on October 22, 2013, and good cause appearing, orders that the SEC's Motion for  
4 Injunctive Relief and Monetary Remedies against Defendant Mark Feathers is GRANTED in part  
5 and DENIED in part.

6 **I. Permanent Injunction**

7 In the hearing, the SEC presented its arguments in support of the permanent injunction  
8 against Defendant from future violations of Section 17(a) of the Securities Act, 15 U.S.C. §77q(a),  
9 Section 10(b) of the Exchange Act, 15 U.S.C. §78j(b), and Rule 10-b thereunder, 17 C.F.R.  
10 §240.10b-5, and Section 15(a)(1) of the Exchange Act, 15 U.S.C. §78o(a)(1). The Securities Act  
11 and Exchange Act provide for injunctive relief upon a proper showing that there is a reasonable  
12 likelihood of future violations of the securities law. In its argument supporting an injunction, the  
13 SEC included the factors articulated by the Ninth Circuit Court of Appeals in SEC v. Murphy, 626  
14 F.2d 633 (9th Cir. 1980), which the Court can use to assess the likelihood of future violations. In  
15 Murphy, the Ninth Circuit noted that the existence of past violations may give rise to an inference  
16 that there will be future violations, but the Court must assess the totality of the circumstances  
17 surrounding the defendant and his violations to predict the likelihood of future violations, which  
18 include factors such as: (1) the degree of scienter involved; (2) the isolated or recurrent nature of  
19 the infraction; (3) the defendant's recognition of the wrongful nature of his conduct; (4) the  
20 likelihood, because of defendant's professional occupation, that future violations might occur; and  
21 (5) the sincerity of his assurances against future violations. Id. at 655.

22 During the hearing, the Court provided Defendant Feathers with the opportunity to respond  
23 to the Murphy elements presented by the SEC. Defendant Feathers addressed only the two last  
24 factors listed above. Feathers expressed to the Court that in his career he has always followed the  
25 rules, and will continue to do so in the future. Feathers further presented to the Court that he is  
26 currently employed at a printing company.



1 The Court weighed all the factors and found that Feathers did not meet his burden to rebut  
2 the SEC's presentation. In the Order previously issued by this Court, the Court found that Feathers  
3 violated the antitrust provisions of the federal securities laws in the past. The Court further found  
4 that the SEC produced substantial evidence of Feathers' scienter and there were multiple instances  
5 of misrepresentation, thus satisfying the first two factors. There is no evidence presented in the  
6 pleadings or in the hearing that Feathers recognizes the wrongful nature of his conduct, thus  
7 meeting the third factor. As to the fourth factor, Feathers did not show that he would not re-enter  
8 the brokerage industry if he were able, and in his Response indicated that in the future he would  
9 hire a securities attorney so as not to violate securities law. For the fifth factor, while not  
10 recognizing his past wrongs, Feathers claims that as he has done in the past, he will continue to  
11 follow rules in the future. As a result of the Court's careful balancing of the Murphy factors and  
12 the conclusion that the SEC has met its burden to predict the likelihood of a future violation, the  
13 injunction should issue.

14 IT IS HEREBY ORDERED that Defendant and his agents, servants, employees, attorneys,  
15 and all persons in active concert or participation with them who receive actual notice of this Final  
16 Judgment by personal service or otherwise are permanently restrained and enjoined from violating,  
17 directly or indirectly, Section 10(b) of the Exchange Act [15 U.S.C. §78j(b)] and Rule 10b-5  
18 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of  
19 interstate commerce, or of the mails, or of any facility of any national securities exchange, in  
20 connection with the purchase or sale of any security:

21 (a) to employ any device, scheme, or artifice to defraud;

22 (b) to make any untrue statement of a material fact or to omit to state a material fact  
23 necessary in order to make the statements made, in the light of the circumstances under  
24 which they were made, not misleading; or

25 (c) to engage in any act, practice, or course of business which operates or would operate as  
26 a fraud or deceit upon any person.

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1 IT IS HEREBY FURTHER ORDERED that Defendant and his agents, servants,  
2 employees, attorneys, and all persons in active concert or participation with them who receive  
3 actual notice of this Final Judgment by personal service or otherwise are permanently restrained  
4 and enjoined from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)] in the offer or  
5 sale of any security by the use of any means or instruments of transportation or communication in  
6 interstate commerce or by use of the mails, directly or indirectly:

7 (a) to employ any device, scheme, or artifice to defraud;

8 (b) to obtain money or property by means of any untrue statement of a material fact or any  
9 omission of a material fact necessary in order to make the statements made, in light of the  
10 circumstances under which they were made, not misleading; or

11 (c) to engage in any transaction, practice, or course of business which operates or would  
12 operate as a fraud or deceit upon the purchaser.

13 IT IS FURTHER ORDERED that Defendant, and his officers, agents, servants, employees,  
14 attorneys, subsidiaries and affiliates, and those persons in active concert or participation with them,  
15 who receive actual notice of this Final Judgment, by personal service or otherwise, and each of  
16 them, be and hereby are permanently restrained and enjoined from violating Section 15(a) of the  
17 Exchange Act, 15 U.S.C § 78o(a), by making use of the mails or any means or instrumentality of  
18 interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or  
19 sale of, any security, without being registered as a broker or dealer in accordance with Section  
20 15(b) of the Exchange Act, 15 U.S.C. § 78o(b).

21 **II. Disgorgement of Ill-Gotten Gains**

22 The SEC requests that the Court order Feathers to disgorge ill-gotten gains of  
23 \$7,497,402.51, which is the total amount of cash that Feathers caused the funds to transfer to his  
24 company, SBCC, plus prejudgment interest from the date of the Receivership, totaling  
25 \$285,558.56, for a total disgorgement amount of \$7,782,961.07. These transfers were used to pay  
26 SBCC expenses and manage the yield of the fund, which allowed the funds to give the misleading  
27 appearance that they were generating a net income sufficient to pay the target yield returns, and  
28

1 was both contrary to the representations in the offering documents and not disclosed to investors.  
2 The Court found that these misrepresentations were material.

3 “[A] district court has broad equity powers to order the disgorgement of ill-gotten gains  
4 obtained through the violation of the securities laws. Disgorgement is designed to deprive a  
5 wrongdoer of unjust enrichment, and to deter others from violating securities laws by making  
6 violations unprofitable.” SEC v. Platforms Wireless, 617 F.3d 1072, 1096 (9th Cir. 2010) (quoting  
7 SEC v. First Pac. Bancorp, 142 F.3d 1186, 1191 (9th Cir. 1998)). To establish an appropriate  
8 disgorgement amount, the SEC need only show a “reasonable approximation” of profits or investor  
9 losses causally connected to the violations. Id. Then, the burden shifts to defendant to demonstrate  
10 that the figure is not reasonable. Id. The Court finds that the amount of \$7,497,402.51 is proper,  
11 as it is directly related to the misrepresentations, the misrepresentations associated with it were  
12 material, and Feathers has not demonstrated that the figure is unreasonable.

13 The court has noted, “[t]he ill-gotten gains include prejudgment interest to ensure that the  
14 wrongdoer does not profit from the illegal activity.” SEC v. Cross Fin. Services, Inc., 908 F. Supp.  
15 718, 734 (C.D. Cal. 1995). The decision regarding whether to grant prejudgment interest is subject  
16 to the court’s broad discretion, taking into account the need to compensate the wronged parties for  
17 actual damages, considerations of fairness and the relative equities of the award, the remedial  
18 purposes of the statute involved, and such other principles the Court finds relevant. SEC v. Olins,  
19 762 F. Supp. 2d 1193, 1198 (N.D. Cal. 2011). Here, the Court determines that it is appropriate to  
20 order Feathers to pay prejudgment interest, calculated pursuant to 26 U.S.C. §6621, on the cash  
21 that he transferred from the Funds to pay SBCC’s expenses and target yield returns.

22 IT IS HEREBY FURTHER ORDERED that Defendant is liable for disgorgement of  
23 \$7,497,402.51, representing profits gained as a result of the conduct alleged in the Complaint,  
24 together with prejudgment interest thereon in the amount of \$285,558.56, for a total of  
25 \$7,782,961.07. Defendant shall satisfy this obligation by paying \$7,782,961.07 to the SEC within  
26 90 days after entry of this Final Judgment.<sup>1</sup>

27 <sup>1</sup> Defendant may transmit payment electronically to the Commission, which will provide  
28 detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from

1 **III. Civil Penalty**

2 Sections 20(d) of the Securities Act and 21(d)(3)(A) of the Exchange Act provide the  
 3 district court with authority to impose civil penalties for violations of the Acts. There are three  
 4 tiers of penalties possible and the amount of the penalty is to be determined by the court. SEC v.  
 5 Olins, 762 F. Supp. 2d at 1199. While the Court may order a “first-tier” penalty “in light of the  
 6 facts and circumstances” of the case, a higher, “second-tier,” penalty is only warranted for a  
 7 violation “involv[ing] fraud, deceit, manipulation, or deliberate or reckless disregard of a  
 8 regulatory requirement,” and a “third-tier” penalty is only warranted where there is a further  
 9 showing that “such violation directly or indirectly resulted in substantial losses or created a  
 10 significant risk of substantial losses to other persons.” Id. (quoting 15 U.S.C. § 77t(d)). To assess  
 11 the appropriate amount of civil penalty, courts look to the Murphy factors. See SEC v. Abacus  
 12 Intern. Holding Corp., No. C 99-02191, 2001 WL 940913, \*5 (N.D. Cal. August 16, 2001).

13 Here, the SEC requests the Court impose as a “third-tier” civil penalty in the amount of  
 14 \$150,000 for each fund, totaling \$300,000. For the reasons articulated earlier in regards to the  
 15 Murphy factors, the Court finds it appropriate to order a “second-tier” civil penalty, because the

16  
 17 a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>.  
 18 Defendant may also pay by certified check, bank cashier’s check, or United States postal money  
 19 order payable to the Securities and Exchange Commission, which shall be delivered or mailed to:

20 Enterprise Services Center  
 21 Accounts Receivable Branch  
 22 6500 South MacArthur Boulevard  
 23 Oklahoma City, OK 73169

24 and shall be accompanied by a letter identifying the case title, civil action number, and name of this  
 25 Court; Mark Feathers as a defendant in this action; and specifying that payment is made pursuant to  
 26 this Final Judgment.

27 Defendant shall simultaneously transmit photocopies of evidence of payment and case  
 28 identifying information to the Commission’s counsel in this action. By making this payment,  
 Defendant relinquishes all legal and equitable right, title, and interest in such funds and no part of  
 the funds shall be returned to Defendant. The Commission shall hold the funds (collectively, the  
 “Fund”) and may propose a plan to distribute the Fund subject to the Court’s approval. The Court  
 shall retain jurisdiction over the administration of any distribution of the Fund. If the Commission  
 staff determines that the Fund will not be distributed, the Commission shall send the funds paid  
 pursuant to this Final Judgment to the United States Treasury.

The Commission may enforce the Court’s judgment for disgorgement and prejudgment  
 interest by moving for civil contempt (and/or through other collection procedures authorized by  
 law) at any time after 90 days following entry of this Final Judgment. Defendant shall pay post  
 judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

1 violation involved misrepresentation, and in its discretion orders a civil penalty in the amount of  
2 \$10,000 against Defendant.

3 IT IS FURTHER ORDERED that Defendant shall pay a civil penalty in the amount of  
4 \$10,000 to the SEC pursuant to Section 20(d) of the Securities Act, 15 U.S.C. §77t(d), and Section  
5 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3). Defendant shall make this payment within 90  
6 days after entry of this Final Judgment.

7 IT IS FURTHER ORDERED that this Court shall retain jurisdiction over this action for the  
8 purpose of implementing and carrying out the terms of all orders and decrees which may be entered  
9 herein and to entertain any suitable application or motion for additional relief within the  
10 jurisdiction of this Court.

11  
12 **IT IS SO ORDERED**

13 Dated: Nov. 6, 2013

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15 EDWARD J. DAVILA  
16 United States District Judge  
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--Case Participants: John M. McCoy, III (mccoyj@sec.gov), Eric James Adams (eric.adams@sba.gov), Susan Frances Hannan (hannans@sec.gov), Loraine L. Pedowitz (lpedowitz@allenmatkins.com), Stephen Donald Pahl (spahl@pahl-mccay.com, tmeek@pahl-mccay.com), Ted Fates (bcrfilings@allenmatkins.com, jbatiste@allenmatkins.com, tfates@allenmatkins.com), Lynn Marie Dean (deanl@sec.gov), Kim Anh Bui (kbui@allenmatkins.com), David Robert Zaro (dzaro@allenmatkins.com), John Brian Bulgozdy (bulgozdyj@sec.gov, delgadilloj@sec.gov, larofiling@sec.gov, mitchells@sec.gov), Stephen D. Pahl (spahl@pahl-mccay.com), Thomas A. Seaman (tom@thomasseaman.com), Magistrate Judge Nathanael M. Cousins (audrey\_barron@cand.uscourts.gov, maria\_radwick@cand.uscourts.gov)

--Non Case Participants:

--No Notice Sent:

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Subject:Activity in Case 5:12-cv-03237-EJD Securities and Exchange Commission v. Small Business Capital Corp. et al Order on Motion for Permanent Injunction

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## U.S. District Court

### California Northern District

#### Notice of Electronic Filing

The following transaction was entered on 11/6/2013 at 11:42 AM PST and filed on 11/6/2013

**Case Name:** Securities and Exchange Commission v. Small Business Capital Corp. et al

**Case Number:** 5:12-cv-03237-EJD

**Filer:**

**Document Number:** 622

#### Docket Text:

**Order granting in part and denying in part [602] Motion for Permanent Injunction and Monetary Remedies. Signed by Hon. Edward J. Davila.(ejdlc3, COURT STAFF) (Filed on 11/6/2013)**

**5:12-cv-03237-EJD Notice has been electronically mailed to:**

**David Robert Zaro dzaro@allenmatkins.com**

**Eric James Adams eric.adams@sba.gov**

#### ECF DOCUMENT

I hereby attest and certify this is a printed copy of a document which was electronically filed with the United States District Court for the Northern District of California.

Date Filed: MAR 6 2014

RICHARD W. WIEKING, Clerk

By Cerdy Hernandez Deputy Clerk

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5:12-cv-03237-EJD Please see Local Rule 5-5; Notice has NOT been electronically mailed to:

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Regional Trial Counsel  
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Los Angeles, CA 90036

Mark Feathers  
[REDACTED]  
Los Altos, CA 94024

Michele Wein Layne  
US Sec & Exchg Comm  
5670 Wilshire Blvd 11FL  
Los Angeles, CA 90036-3648

The following document(s) are associated with this transaction:

Document description: Main Document

Original filename: 12-3237 Order re Motion for Remedies 11.6.2013.pdf

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[STAMP CANDStamp\_ID=977336130 [Date=11/6/2013] [FileNumber=10134374-0]  
[b2ef25aa4ece2011b10facb1946dc1743a367e223fcfc152ad2a7013c673697bc0f7  
48afcd8dc1a3e2d2f5f66bfb0636e0cf586eef3ded0a6e743968519582e]]

# **EXHIBIT 2**



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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA, ) CR-14-00531-LHK  
)  
PLAINTIFF, ) SAN JOSE, CALIFORNIA  
)  
VS. ) MARCH 7, 2018  
)  
FEATHERS, ) PAGES 1-62  
)  
DEFENDANT )  
)  
\_\_\_\_\_ )

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE LUCY H. KOH  
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S

FOR THE PLAINTIFF: BY: MARISSA HARRIS  
U.S. ATTORNEYS OFFICE  
NORTHERN DISTRICT CALIFORNIA  
150 ALMADEN BLVD., STE. 900  
SAN JOSE, CA 95113

FOR THE DEFENDANT: BY: EUGENE G. ILLOVSKY  
MATTHEW CARTER DIRKES  
BOERSCH & ILLOVSKY LLP  
1611 TELEGRAPH AVENUE, SUITE 806  
OAKLAND, CA 94612

PROBATION:

OFFICIAL COURT REPORTER: SUMMER FISHER, CSR, CRR  
CERTIFICATE NUMBER 13185

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
TRANSCRIPT PRODUCED WITH COMPUTER

1 THE GOVERNMENT.

2 THE COURT: BUT THE TEN-YEAR-OLD TWINS WERE ON THE  
3 PAYROLL AS EMPLOYEES, THEY WERE NOT ON THE PAYROLL AS --

4 MR. ILLOVSKY: MAY HAVE BEEN. MAY HAVE BEEN. THERE  
5 WEREN'T ANY DISCLOSURES ABOUT THAT THAT WERE VIOLATED.

6 THE COURT: SO I HAVE A QUESTION ABOUT HOW LONG  
7 MR. FEATHERS IS NOT ALLOWED TO PERFORM FINANCIAL OFFERINGS. IS  
8 IT JUST FOR THE THREE-YEAR PERIOD OF SUPERVISED RELEASE? IS HE  
9 EVEN PROHIBITED?

10 THE ONLY REASON I RAISE THIS IS ONE OF THE VICTIMS,  
11 WILLARD PHEE, SAYS THAT MR. FEATHERS SHOULD BE BARRED FOR AT  
12 LEAST 25 YEARS. I DON'T KNOW IF THAT'S AN OUTLANDISH REQUEST  
13 OR WHAT. IS HE AT ALL? IS THERE ANY RESTRICTION ON HIS  
14 ABILITY TO --

15 MS. HARRIS: YOUR HONOR, I KNOW THAT IN THE CIVIL  
16 CASE AN INJUNCTION WAS PLACED AGAINST HIM. YOU PRESUMED, AND I  
17 DON'T KNOW WHETHER IT WAS RIGHT OR WRONG TO PRESUME THAT THAT  
18 WOULD HAVE INCLUDED A DISBARMENT FROM ANY INVOLVEMENT WITH  
19 OFFERINGS OF SECURITIES. IT WOULD HAVE BEEN INHERENT IN THAT  
20 TYPE OF AN ACTION BY THE SEC.

21 I CAN FIND OUT THAT INFORMATION. I MEAN, I WOULD THINK  
22 THAT HE SHOULD BE DISBARRED FROM EVER HANDLING THESE TYPES OF  
23 FINANCIAL INSTRUMENTS EVER AGAIN.

24 THE COURT: I ASSUME THAT'S HANDLED BY THE CIVIL  
25 CASE. THE CRIMINAL CASE JUST HAS HIM NOT EMPLOYED AS A

1 SECURITIES BROKER FOR HIS TERM OF THREE YEARS OF SUPERVISED  
2 RELEASE. AND I DON'T THINK WE WOULD HAVE JURISDICTION BEYOND  
3 THE SUPERVISED RELEASE TERM ANYWAY, SO THAT WOULD BE SOMETHING  
4 THAT'S UP TO THE SEC.

5 MR. ILLOVSKY: I THINK THERE WOULD BE A LIFETIME BAR  
6 BY THE SEC, YOUR HONOR.

7 THE COURT: OKAY. ALL RIGHT.

8 AND AS I SAID, I DON'T KNOW IF THAT WAS AN OUTLANDISH  
9 REQUEST BY MR. PHEE, I WAS JUST CURIOUS BECAUSE HE PUT IT IN  
10 HIS LETTER.

11 ALL RIGHT. WELL, THIS IS AN 11(C)(1)(C), THAT'S A BINDING  
12 PLEA AGREEMENT. IF I DON'T SENTENCE ACCORDING TO THIS PLEA  
13 AGREEMENT, MR. FEATHERS CAN WITHDRAW HIS GUILTY PLEA AND THE  
14 GOVERNMENT CAN WITHDRAW ITS SENTENCING OFFER.

15 I AM GOING TO SENTENCE WITHIN THE PARTY'S AGREED UPON  
16 SENTENCE. SO LET ME HEAR FROM ANYONE WHO WANTS TO SPEAK.

17 MS. HARRIS: FIRST, LET ME JUST CONFIRM, ARE THERE  
18 ANY VICTIMS IN THE AUDIENCE THAT WISH TO BE HEARD? YES, SIR.

19 MR. RAINERI: I DON'T HAVE A LOT TO ADD BECAUSE I'M  
20 NOT AN ATTORNEY.

21 THE COURT: OKAY. CAN YOU PLEASE STATE AND SPELL  
22 YOUR NAME.

23 MR. RAINERI: YES. MY NAME IS SYD. THAT'S S-Y-D.  
24 LAST NAME IS RAINERI, R-A-I-N-E-R-I.

25 THE COURT: OKAY. GO AHEAD, PLEASE.

1 SENTENCING GUIDELINE CALCULATION THAT'S IN YOUR BINDING PLEA  
2 AGREEMENT.

3 I WILL JUST SAY THAT WHAT IS MITIGATING IS THAT  
4 MR. FEATHERS HAS PLED GUILTY, IT WOULD HAVE BEEN AN EXTREMELY  
5 COMPLICATED TRIAL, AND THAT HE HAS SUFFERED A GREAT LOSS AS A  
6 RESULT OF BOTH CASES.

7 HE'S NOT ABLE TO SEE HIS TWO SONS AND HIS STEPSON, HIS  
8 WIFE IS DIVORCING HIM, THEY HAVE SOLD THEIR HOME, THEY HAVE  
9 SOLD ALL THOSE CARS THAT I MENTIONED BEFORE, THE LAND ROVER,  
10 THE HARLEY DAVIDSON, THE CHRYSLER MINIVAN, I GUESS THE WIFE HAS  
11 KEPT THE MERCEDES, AND THIS HAS TAKEN A HUGE TOLL ON HIM, AND I  
12 DO RECOGNIZE THE DIFFICULTY OF HIM BEING PRO SE IN HIS SEC  
13 CASE, AND IT EXTENDED FOR A LONG PERIOD OF TIME, AND I  
14 CERTAINLY UNDERSTAND THE DRAIN.

15 AND I APPLAUD THE FACT THAT SO MUCH HAS BEEN REPAID TO THE  
16 INVESTORS AT SUCH A HIGH RATE OF REIMBURSEMENT. AND I  
17 RECOGNIZE THAT SOME OF THE INVESTORS ARE VERY HAPPY, ESPECIALLY  
18 THE EARLY ONES WHO DID GET PAYMENT, ALTHOUGH I SUGGEST THAT  
19 SOME OF THE PAYMENT THEY RECEIVED WERE JUST THE INVESTMENTS  
20 FROM THE LATER INVESTORS.

21 BUT I DO UNDERSTAND MANY OF THEM ARE SATISFIED, AS WAS THE  
22 GENTLEMAN MR. SYD RAINERI WHO TESTIFIED TODAY AND THE LETTERS  
23 THAT I READ FROM VICTIMS.

24 BUT, I MEAN, MR. FEATHERS HAS PLED GUILTY TO COUNT 20 OF  
25 THE INDICTMENT, AND HE HAS, BY PLEADING GUILTY, AGREED THAT HE

1 KNOWINGLY PARTICIPATED IN THE SCHEME TO DEFRAUD, IN A SCHEME OR  
2 PLAN FOR OBTAINING MONEY OR PROPERTY BY MAKING FALSE PROMISES  
3 OR STATEMENTS, THAT HE KNEW THAT THE PROMISES OR STATEMENTS  
4 WERE FALSE WHEN MADE, THAT THE PROMISES OR STATEMENTS WERE  
5 MATERIAL, THAT IS THEY WOULD REASONABLY INFLUENCE A PERSON TO  
6 PART WITH MONEY OR PROPERTY, THAT HE ACTED WITH INTENT TO  
7 DEFRAUD, AND THAT AN ESSENTIAL PART OF HIS SCHEME WAS IN  
8 CONNECTION WITH AND INVOLVING USE OF THE MAIL.

9 THAT IS WHAT HE HAS PLED TO, THAT IS WHAT HE HAS  
10 STIPULATED TO, SO I BEAR THAT IN MIND AS WELL.

11 WITH REGARD TO THE OBSTRUCTION OF JUSTICE, LET ME JUST GET  
12 TO THAT POINT. UNFORTUNATELY MR. FEATHERS, WHILE HE WAS IN  
13 THIS CRIMINAL CASE BEING REPRESENTED BY RITA BOSWORTH OF THE  
14 FEDERAL PUBLIC DEFENDER'S OFFICE, SENT THREATENING E-MAIL TO  
15 HER, TO HIS PRIOR LAWYER IN THE CRIMINAL CASE, TO THE RECEIVER,  
16 TO THE ATTORNEY FOR THE RECEIVER, AND TO FOUR SEC ATTORNEYS.

17 YOU KNOW, SOME OF THESE PEOPLE HAD ALREADY BEEN SUED BY  
18 MR. FEATHERS, ONE WAS VERBALLY ASSAULTED IN COURT BY  
19 MR. FEATHERS PRIOR TO INDICTMENT IN THE CRIMINAL CASE. AND YOU  
20 KNOW, THE PSR KIND OF MINIMIZES THE E-MAILS BY SAYING OH, BUT  
21 THE LITIGATION, HE, YOU KNOW, IT GROUND HIM DOWN.

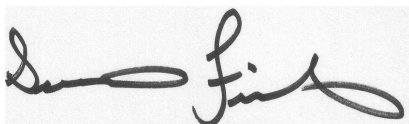
22 BUT I JUST WANT TO REPEAT, THIS WAS THE FOOTNOTE IN AN  
23 EARLIER DRAFT OF THE ORDER I ISSUED, YOU KNOW, THAT HE SOUGHT  
24 LEAVE TO SUE THE RECEIVER ON SEVERAL OCCASIONS, HE FILED A  
25 COMPLAINT AGAINST THE RECEIVER'S COUNSEL WITH THE STATE BAR TO

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CERTIFICATE OF REPORTER

I, THE UNDERSIGNED OFFICIAL COURT  
REPORTER OF THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH  
FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY  
CERTIFY:

THAT THE FOREGOING TRANSCRIPT,  
CERTIFICATE INCLUSIVE, CONSTITUTES A TRUE, FULL AND  
CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN AS  
SUCH OFFICIAL COURT REPORTER OF THE PROCEEDINGS  
HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED  
TRANSCRIPTION TO THE BEST OF MY ABILITY.



SUMMER A. FISHER, CSR, CRR  
CERTIFICATE NUMBER 13185

DATED: 1/15/20

**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:

**DECLARATION OF JOHN B. BULGOZDY IN SUPPORT OF MOTION FOR  
SUMMARY DISPOSITION AND REQUEST FOR JUDICIAL NOTICE**

was served on July 14, 2020 upon the following parties as follows:

**By Email**

Vanessa Countryman, Secretary  
Securities and Exchange Commission  
100 F. Street, N.E., Mail Stop 1090  
Washington, DC 20549-1090  
Facsimile: (703) 813-9793  
Email: [apfilings@sec.gov](mailto:apfilings@sec.gov)

**By Email**

Honorable James E Grimes  
Administrative Law Judge  
Securities and Exchange Commission  
100 F Street, N.E., Mail Stop 2557  
Washington, DC 20549-2557  
Email: [alj@sec.gov](mailto:alj@sec.gov)

**By Email and U.S. Mail**

Mark Feathers

[REDACTED]  
Menlo Park, CA 94025

Email: [REDACTED]

*Pro Se Respondent*

Dated: July 14, 2020

*/s/ Sarah Mitchell*  
\_\_\_\_\_  
Sarah Mitchell