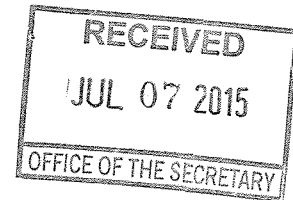


UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 71993/April 22, 2014

INVESTMENT ADVISORS ACT OF 1940
Release No. 3820/April 22, 2014

ADMINISTRATIVE PROCEEDING
File No. 3-15850



In the Matter of

MATTHEW D. SAMPLE,

Respondent.

**REPLY BRIEF IN SUPPORT OF MATTHEW D. SAMPLE'S REVIEW OF DENIAL OF
HIS REQUEST FOR LIMITED REINSTATEMENT**

A handwritten signature in cursive script that reads "Edwin J. Tomko".

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July 6, 2015

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List of Authorities

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Robert Hardee Quarles, Securities Exchange Act Release No. 66530, (March 7, 2012).....7

I. Introduction

Mr. Sample requests limited relief from a bar for the sole purpose of employment with a specified employer, with limited duties and responsibilities that exclude him from the activities that were the subject of his consent to the injunction and bar, and with heightened supervision.

By granting Mr. Sample's request, the Commission can satisfy all investor concerns. The relief requested provides an opportunity for recoupment by the harmed investors while, at the same time, protects the investing public as a whole. The investing public will be protected by the application of the injunction and the continued existence of the bar. Mr. Sample does not request removal of the bar. Rather, he requests to re-enter the industry in a very narrow and specific manner, with no responsibilities for the activities that were part of his previous violation and with heightened supervision. This is precisely what the Commission recognizes to be the appropriate method to approach relief from a bar order.¹

In re Lewis, the Commission chastised the applicant for requesting a total release before requesting limited relief², as Mr. Sample does here. A period of limited relief is necessary for the individual to create a satisfactory clean record if the individual hopes to get the entire bar lifted.

In most of these matters the lifting of the bar was the last in a series of incremental grants of relief... that is, the petitioner earlier had been permitted to associate without restriction.³

¹ See, e.g. *In the Matter of Salim B. Lewis*, Securities Exchange Act Rel. No. 51817, 85 SEC Docket 2472 (June 28, 2005), at n. 40, (citing four instances of lifting certain elements of the bar before considering a total removal).

² *Lewis*, 85 SEC Docket 2472, at n. 39. "We believe, based on our experience, that it is advisable for barred individuals to pursue this approach before moving to vacate their bar." (citations omitted)

³ *In the Matter of Stephen S. Wien*, Exchange Act Rel. No. 49000, 81 SEC Docket 3758 (December 29, 2003) .

II. Responses to Statement in Opposition

A. Change in Circumstances

Mr. Sample presents two items that qualify as changes in circumstances. First, he has a standing offer of employment from a reputable organization that will provide enhanced supervision. Second, he has a commitment from a third party to finance an advanced payment to the investors upon Mr. Sample's re-employment with his former employer. These options were not available to Mr. Sample at the time he consented to the bar. Had they been, Mr. Sample may have taken a different position in the negotiations. The requirement of change in circumstances is satisfied in this instance.

B. The Nature of Mr. Sample's Conduct

The Division of Enforcement argues that Mr. Sample's acts were "egregious" based upon the sanctions to which he consented. They reference in the footnote 18, page 10 of the Statement in Opposition that all conduct that violated the antifraud provisions is "especially serious" and "warrants the severest sanctions." Under this logic, all cases with allegations of fraud are "egregious" without any regard to the depth and breath of the conduct itself. That definition, in effect, makes the term "egregious" meaningless.

Mr. Sample has never, and does not now, attempt to diminish his behavior that resulted in the sanctions. However, that behavior should be evaluated by comparison to the behavior of other offenders and not based upon the sanctions to which he consented. There were only five victims, all friends and acquaintances of Mr. Sample. There was no mass marketing or solicitation. The behavior occurred during a period of Mr. Sample's life when [REDACTED]. The Commission should look at the

man, the facts of the violation and the circumstances of the time period to determine whether any violator's acts are egregious.

C. Victim Support

The Enforcement Division belittles the fact that two of the five injured investors support this request for limited reinstatement.⁴ Mr. Sample does not present those requests as interests to be placed above that of the investing public, but only as proof that some of the investors are supportive of this limited request.

III. Limited Relief Requested

As stated above, Mr. Sample is not requesting a total lifting of the bar.⁵ The Commission recognizes that limited removal is appropriate in some circumstances, and that the limited removal is often a prerequisite for a total removal. What Mr. Sample presents as a change in circumstances is not a speculative plan. The elements are in place for his job and his access to funds. In addition, all the safeguards that the Commission should require for protection of the investing public are in place: limited relief with the bar remaining in place; enhanced supervision; no access to retail customers or to customers' funds and an injunction prohibiting violations of the securities statutes.

A single violation over a limited period of time to a limited number of victims does not demand a "life sentence" of exclusion from every activity in the securities industry. Even criminals are allowed periods of probation during which they are monitored and evaluated.

⁴ Division of Enforcement's Statement in Opposition To Petition For Review, pg. 8, fn. 13.

⁵ The majority of the cases cited in the Division of Enforcement's Statement concern requests for a complete removal of the bar.

The Commission has established the procedure for evaluating every matter on its own facts and circumstances. The Commission stated in *Quarles*⁶:

This approach “ensures that the Commission, in furtherance of the public interest and investor protection, retains its continuing control over such barred individuals’ activities.” We have held, however, that we “will act in response to those situations in which, under all the facts and circumstances, the equitable need for relief, consistent with the public interest and investor protection, warrants vacating or modifying a Commission bar order.”⁷

IV. Conclusion

Mr. Sample respectfully requests the Commission grant his request for a limited lifting of the bar consistent with the guidelines set forth in the documents presented by Mr. Sample in support of his request, specifically:

- to be employed by Kingsroad Financial Insurance Services, Inc.;
- in a position where he has no contact with retail customers;
- in a position where he has no access to investors funds; and
- in a position where he is supervised by officers and employees of Kingsroad Financial Insurance Services, Inc.

⁶ *In the Matter of Robert Hardee Quarles*, Securities Exchange Act Release No. 66530, (March 7, 2012).

⁷ *Id.* (citation omitted)

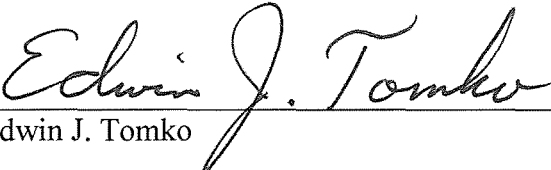
CERTIFICATE OF SERVICE

I certify that on July 6, 2015, I caused a copy of the foregoing Reply Brief in Support of Matthew D. Sample's Review of Denial of His Request for Limited Reinstatement to be sent by a commercial express delivery service, addressed to:

Brent J. Hall
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

and served by email to:

Kenneth H. Hall
Assistant Chief Counsel
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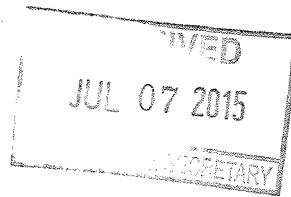
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July 6, 2015

Via Federal Express

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

Re: In the Matter of Matthew D. Sample – File No. 3-15850
Reply Brief in Support of Matthew D. Sample's Review of Denial of His Request
for Limited Reinstatement

Dear Mr. Secretary,

Enclosed please find Matthew D. Sample's Reply Brief in Support of Matthew D. Sample's Review of Denial of His Request for Limited Reinstatement.

If you have any questions, please contact me.

Sincerely,

Edwin J. Tomko