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UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 79922 / February 1, 2017

INVESTMENT ADVISERS ACT OF 1940
Release No. 4632 / February 1, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-16359

In the Matter of

GLEN ALLAN GALEMMO

Galemmo's Response

To SEC's

ORDER REQUESTING
ADDITIONAL
BRIEFING

Comes Now, Glen Allan Galemmo (Respondent) filing this definitive response in regard to the SEC's February 1, 2017 Order requesting additional briefing on "allegations of misconduct supporting the NRSRO bars entered that extends beyond July 21, 2010" in regards to the D.C. Circuits 2015 decision regarding Koch v. SEC, 793 F.3d, 147, 158 (Finding "impermissibly retroactive" NRSRO and municipal advisor bars imposed based on conduct pre-dating Dodd-Frank") and would respectfully state for the record the following additional facts:

A. Procedural History:

During 1994 Thru 1998, Respondent while living in Raleigh, North Carolina became a SEC registered Broker/Dealer and a Private Equity Trader for other firms while learning the business.

During 1999 Thru 2003, Respondent went out on his own, started his own Investment Firm and was registered as a Broker Dealer and an Investment Advisor.

During 2003 with the changes to SEC Regulations, Respondent decided to sell the "Broker/Dealer" aspect of his firm to a Group from New York city. Then during

2003 Respondent, instructed Luther "Lynn" Shelby the (FNOP) for Queen City Investment Advisers, LLC to close all aspects of this LLC. Mr. Shelby's address and phone number are as follows for verification by Commission through their office of General Counsel. Luther Lynn Shelby at 3424 Poagville Rd., Coldwater, MS 38618. Tel: 314-348-1702.

During the remainder of 2003 Thru 2013 Respondent opened and ran a private placement service for sophisticated investors only called Queen City Investment Fund II, LLC offering a detailed Confidential Private Offering Memorandum outlining the investment strategy as a legitimate contract that each individual was required to review and sign.

Respondent would point out that from 1999 Thru 2013, he never took the test to become registered as a "Commodity Pool Operator." As such Respondent never acted in the capacity of a Commodity Pool Operator at any time.

On January 23, 2015, the Commission issued an order making the findings and imposing remedial sanctions (the "Order") against Glen Allan Galemmo. The Order, among other things, barred Galemmo from association with any Nationally Recognized Statistical Rating Organization ("NRSRO") or municipal advisor. Subsequent to the Order, the Commission issued a statement regarding Koch v. SEC - where the court vacated NRSRO and municipal advisor bars because the conduct that served as the basis for the bars predated the enactment of the Dodd Frank Wall Street Reform and Consumer Protection Act on July 21, 2010 - and invited persons who had been barred from such associations to request the bars be vacated if "all of the conduct relevant to such bar(s) occurred before July 22, 2010.

On April 11, 2016, Galemmo filed a request to vacate the NRSRO and municipal advisor bars entered against him. The Order appears, however, to contain allegations of misconduct supporting the bars that extends beyond July 21, 2010. As a result, the Commission's consideration of Galemmo's request to vacate would be assisted by briefing on the question of whether relevant misconduct continued past July 21, 2010 and, if it did, whether the bars should be vacated notwithstanding such post Dodd-Frank misconduct.

B. Definitive Response:

At this point Respondent would proffer for the Commission the Theory that the above stated Time Line indicates Three (3) important points:

1. Respondent sold the "Broker/Dealer" aspect of his company in 2003. From that point forward although Respondent was a "Licensed Broker" only he officially had his license "Parked" by Mark Marrow, a Lynn Shelby related "broker/Dealer" and never utilized the license again. As such, although he was a licensed "Broker" only during the Commission's relative period in questions "whether relevant misconduct continued past July 21, 2010" ... The answer is emphatically no as his license was officially "parked" and not being utilized from 2003 Thru 2012, at which time the license lapsed and he has not been licensed since.
2. Respondent closed the "Investment Advisor" component of the company through his (FNOP) Luther "Lynn" Shelby in 2003 and closed Queen City Adviser, LLC, with Spicer Jeffrey performing the closing audit.
3. From 1999 Thru 2013 Respondent was not then nor ever was a "Commodity Pool Operator". Period! Rylan Peters was the Licensed Commodity Pool Operator.

As such in summation, Respondent would proffer that personally he was very conscious of the SEC Rules and Regulations throughout his career and structured his business to always be in strict compliance with SEC Requirements. The Commission should note that Respondent was never paid as an investment adviser after 2003 when he started his own "private placement" corporation Queen City Fund II, LLC. However, he was paid in this capacity when he worked for other firms from 1994 to 2003.

C. Conclusion:

Respondent would request the Commission to take note of several points and answer questions that he has on several points as follows:

1. Respondent believes from his review of February 23, 2016 Koch v. SEC notification on the impermissibly retroactive application of municipal advisor bars predating Dodd-Frank would only be referring to licensing requirements which Respondent has addressed in this formal filing. If this Commission is requesting financial information relating to Respondent's criminal case then the Commission needs to be more specific. Moreover, Respondent is placing the Commission on notice that no proper loss calculation has ever been performed in Respondent's criminal case. So an accurate client/victim loss is under dispute in the Sixth Circuit Court of Appeals in United States v. Galemmo, Appeal No. 16 4053.

2. In the past Commission has sent SEC related material to the law offices of Benjamin Dusing and Angela Hayden at BGD LAW in Covington, Kentucky. (See, Exh. 1). This law firm and these lawyers have not represented Respondent since November 17, 2014. (See, Exh. 2). As such all future filings by the SEC must be served on Respondent at Glen Galemmo, Fed. Reg. No. 72093-061, LSCI Butner - Durham B, P.O. Box 999, Butner, NC 27509.

3. Respondent would like to notify the Commission that he has an active case with the United States Commodity Futures Trading Commission in United States District Court, Southern District of Ohio, Western Division, before Judge Michael Barrett, U.S.D.J. in U.S.C.F.T.C. v. Glen Galemmo, Case No. 1:14-cv-738. Respondent would point out for the Commission in Judge Barrett's most recent Order in this case filed 3/30/2016, Doc. #18, that the U.S.C.F.T.C. moved for Default Judgement and on page 4 of the Order: "This Court finds that the meritorious defense factor weighs in favor of setting aside the default.". As in essence Respondent has supplied ample evidence that he was not a commodities pool operator under the Commodity Exchange Act and disputes some of the factual basis for the Commissions claims. See, Exh. 3.

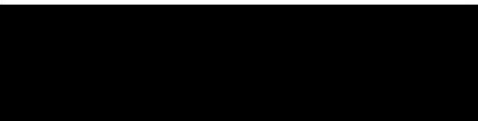
4. Respondent would request a complete copy of his entire SEC File No. 74124 and Administrative Proceeding File No. 3-16359 as former retained counsel refuses to provide the file on this Administrative Proceeding and Respondent is left guessing what the Commission actually wants. Of course Respondent is willing to pay for file reproduction costs and mailing to this address.

5. On a final note Respondent has offered to become a whistle blower under the SEC's Whistle Blower Program, See TCR submission number TCR 1460560238218, as respondent has in excess of Three (3) dozen individuals that are currently involved in Insider trading, Fraudulent Acts against the United States of America, and Income Tax violations. However, Sean McKessy sent a May 2, 2016 letter to Respondent referring him to a website. Respondent is advising the Commission that if they would like the Information from Respondent that they will have to send a hard copy of the questionnaire as Respondent is in Federal Prison with no computer access to the worldwide web. What was Chief McKessy thinking? See, Exh. 4.

In closing Respondent would like to thank the Commission Thru Ms. Lynn M Powalski, Deputy Secretary for the opportunity to clarify his position. Further stating that Respondent has been and will continue to be forthcoming in any requests or assistance that Respondent can be to the Commission on this case and others.

Respectfully Submitted by,

Date: 2/13/2016
Executed under the Pains
and Penalties of Perjury
Pursuant to 28 USC §1746




Glen Galemme, Pro Se
Fed. Reg. No. 72083-061
LCSI Butner - Durham B
P.O. Box 999
Butner, NC 27509

Certificate of Service

This is to certify that Petitioner has placed into the Institutional prison mailing system a copy of the enclosed filing via First Class U.S. Postal mailing for delivery to the U.S Post Office of LSCI Butner's choosing. Petitioner requests the Commission and parties to be mindful of the fact that LSCI Butner is a part of the 5 Institutional Federal Medical Complex located at Butner, North Carolina and as such utilizes a single Federal Medical Complex mail room for sorting of incoming and outgoing U.S. Postal mail. As such LSCI Butner prisoner mail goes through the Butner Medical Complex mailing facility to the U.S. Post Office at the time and location of FBOP Butner's choosing for timely filing. With these operating factors in mind this filing is timely filed pursuant to *Houston v. Lack*, 487 U.S. 266 (1988) and the "Prison Mail Box Rule" delineated therein!

Respectfully Submitted by,

Date: 2/13/2016
Executed under the Pains
and Penalties of Perjury
Pursuant to 28 USC §1746


Glen Galemme, Pro Se
Fed. Reg. No. 72083-061
LSCI Butner - Durham B
P.O. Box 999
Butner, NC 27509



The Law Offices of Benjamin G. Dusing, PLLC

50 East Rivercenter Blvd
Suite 820
Covington, KY 41011
(513)322-1900
ahayden@bgdlaw.com
www.bgdlaw.com

February 23, 2016

Glen Galemmo, 72083-061
FCI Butner Low
Federal Correctional Institution
P.O. Box 999
Butner, NC 27509

RE: SEC

Dear Mr. Galemmo:

Enclosed please find correspondence from the SEC sent to you in car of our office.

Very truly yours,



Angela M. Hayden

AMH
Enclosures



50 East RiverCenter Blvd
Suite 820
Covington, KY 41011
P. (513)322-1900
bdusing@bgdlaw.com
www.bgdlaw.com

November 17, 2014

Mr. Glen Galemmo (72083-061)
FCI Butner Low
Federal Correctional Institution
P.O. Box 999
Butner, NC 27509

RE: Termination of Representation
United States v. Galemmo
Bah v. Galemmo, et al.
Wilner v. Galemmo, et al.,
Capannari v. Galemmo, et al.

Dear Glen:

We wish to take this opportunity to thank you for allowing us to represent you in the above-referenced matters. This letter is to inform you that our legal relationship is now concluded. In order to conclude this matter, we will be filing motions/notices to withdraw as counsel for you and the various business entities. As you know, there are outstanding bills in all of these matters.

We are closing our file but will maintain a copy of the file, which will be kept for a period of 7 years. The file will then be destroyed unless you request that we store the file for a longer period of time. If you wish us to store the file for a longer period of time, you must instruct us to do so in writing within five days of the date of this letter.

As we discussed, we will continue to represent your wife, Kristine Galemmo, as it pertains to the claims made against her in the Bah and Capannari matters and with respect to the forfeiture proceedings. We will communicate directly with her regarding those matters.

If you have any questions please let us know.

November 17, 2014
Page 2

Very truly yours,
BGD Law



Benjamin G. Dusing

BGD/amh

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

U.S. Commodity Futures
Trading Commission,

Plaintiff,

v.

Glen Galemmo,

Defendant.

Case No. 1:14cv738

Judge Michael R. Barrett

ORDER

This matter is before the Court upon Plaintiff U.S. Commodity Futures Trading Commission's Motion for Default Judgment. (Doc. 12). Defendant Glen Galemmo has filed a letter opposing the Commission's Motion (Doc. 14), along with a Sealed Document in support (Doc. 15 SEALED). The Commission then filed a Reply. (Doc. 16). Defendant has recently filed a Traverse Reply based on Newly Discovered Financial Factual Data. (Doc. 17). In addition, the Court held a hearing on the Motion for Default Judgment. (Doc. 13). Defendant is proceeding *pro se* in this matter.

The Commission filed its Complaint on September 15, 2014. (Doc. 1). The Commission is seeking injunctive relief, a civil penalty and other equitable relief based on violations of the Commodity Exchange Act, 7 U.S.C. §§ 1, *et seq.* As described in the declaration attached to the Application for Default, Defendant executed a waiver of service of the summons on September 30, 2014. (Doc. 10-1, Eugene Smith Decl., ¶ 1; Doc. 4). Defendant is currently serving a fifteen-year sentence as a result of his guilty plea in criminal proceedings before this Court. *United States v. Glen Galemmo*, Case

No. 1:13-cr-00141-HJW.

Between September and February, the parties engaged in settlement discussions. (Id., ¶¶ 5-12). The Commission filed two motions for extensions of time on behalf of Defendant. (Docs. 5, 8). The Commission understood that Defendant was not represented by counsel. (Id., ¶5). When Defendant did not respond to the Commission's proposed terms of a consent order, and did not respond to the Complaint in a timely fashion, the Commission filed its Motion for Default.

Federal Rule of Civil Procedure 55(c) provides: "The court may set aside an entry of default for good cause, and it may set aside a default judgment under Rule 60(b)." When deciding whether to set aside a default, the court should consider three factors: (1) whether the default was the result of the defendant's willful or culpable conduct; (2) whether the plaintiff would be prejudiced by setting aside the judgment; and (3) whether the defendant presented any meritorious defenses following the default. *United Coin Meter Co., Inc. v. Seaboard Coastline R.R.*, 705 F.2d 839, 844-45 (6th Cir. 1989); see also *Dassault Systèmes, SA v. Childress*, 663 F.3d 832, 839 (6th Cir. 2011) (applying factors in context of a motion to set aside an entry of default under Rule 55(c)).

The Court concludes that there is good cause to set aside the entry of default in this matter. There is no evidence that Defendant's failure to answer or otherwise respond to the Commission's Complaint was willful or due to culpable conduct. Based on the declaration attached to the Application for Default, Defendant signed a waiver of service of the summons and engaged in discussions in an attempt to resolve the matter. The Court also notes that Defendant appeared by telephone for the hearing on the Commissioner's Motion for Default Judgment. (See Doc. 13). The Sixth Circuit has

instructed: "Where the defaulting party and counsel have not shown disrespect for the court, or have given evidence of respect for the court's process by their haste in acting to set aside the default, the courts have been inclined towards leniency." *Shepard Claims Serv., Inc. v. William Darrah & Assocs.*, 796 F.2d 190, 194 (6th Cir. 1986). Therefore, this factor weighs in favor of setting aside the default.

There is nothing in the record which would indicate that the Commission would be prejudiced by setting aside the judgment. Prejudice in this context must result in more than delay alone: "the delay must result in tangible harm such as loss of evidence, increased difficulties of discovery, or greater opportunity for fraud or collusion." *Thompson v. Am. Home Assur. Co.*, 95 F.3d 429, 434 (6th Cir. 1996) (citing *INVST Financial Group v. Chem-Nuclear Systems, Inc.*, 815 F.2d 391, 398 (6th Cir. 1987)). The Court notes that the Commission seeks a permanent injunction which would prohibit Glemmo and any of his agents, servants, employees, assigns and persons in active concert or participation with him to engage in conduct which violates the Commodity Exchange Act or trading commodity futures. However, there is no indication in the record that Glemmo or anyone working in concert or participation with him is currently engaged in this activity. Moreover, the Commission is seeking a civil penalty with the goal of deterrence. The Court notes that Commission's goal is still realized regardless of when any penalty is entered. Therefore, the Court finds that the "prejudice" factor weighs in favor of setting aside the default.

Finally, "[I]n order to establish a 'meritorious defense,' the defendant must state 'a defense good at law' which is sufficient if it contains 'even a hint of a suggestion which, if proven at trial, would constitute a complete defense.'" *Thompson*, 95 F.3d at

434 (citing *INVST Financial Group*, 815 F.2d at 398-99). "[E]ven conclusory assertions may be sufficient to establish the hint of a suggestion" needed to present a meritorious defense." *Dassault Systemes*, 663 F.3d at 843. In his letter filed in response to the Commissioner's Motion, Defendant argues that the amount of the Commission's civil monetary penalty is not supported by law. Defendant also argues that he was not acting as a "commodity pool operator" under the Commodity Exchange Act. In his Traverse Reply, Defendant also disputes some of the factual basis for the Commission's claims. Therefore, this Court finds that the "meritorious defense" factor weights in favor of setting aside the default.

Based on the foregoing, Plaintiff U.S. Commodity Futures Trading Commission's Motion for Default Judgment (Doc. 12) is DENIED.

IT IS SO ORDERED.

s/Michael R. Barrett
JUDGE MICHAEL R. BARRETT



DIVISION OF
ENFORCEMENT

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

May 2, 2016

Sean McKessy, Chief
Office of the Whistleblower
Fax: (703) 813-9322
Phone: (202) 551-4790

Glen Galemmo
P.O. Box 999
Butner, NC 27509

TCR Submission number: TCR1460560238218
Submission dated: April 4, 2016

Dear Mr. Galemmo:

Thank you for the information that you submitted under the SEC's Whistleblower Program. We greatly appreciate your bringing this matter to our attention. The success of the whistleblower program depends on individuals providing the Commission with specific, timely, and credible information.

Members of the staff of the Division of Enforcement may contact you for additional assistance or information. In addition, we encourage you to submit any additional supporting information or materials that you believe will assist us in analyzing and fully understanding this matter.

On August 12, 2011 the final Whistleblower rules went into effect. It is now required that you submit a signed Form-TCR (including the declarations page) in order to be considered for a whistleblower award. You are encouraged to submit the form using our online questionnaire, which you can access at www.sec.gov/whistleblower. That website also has a link to a pdf of the Form-TCR that you may also complete and sign and send to us via hard copy at Office of the Whistleblower, 100 F Street, NE, Mail Stop 5971, Washington, DC 20549 or fax it to (703) 813-9322.

Thank you again for taking the opportunity to submit your information to us. Efforts by persons such as yourself are critical to the success of this program.

Please do not hesitate to contact the Office of the Whistleblower if you have any questions or concerns.

Best regards,


Sean McKessy