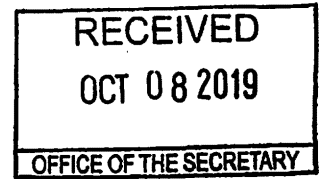


**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITY EXCHANGE COMMISSION**



**ADMINISTRATIVE PROCEEDING**

**File No. 3-17352**

<p><b>In the Matter of</b></p> <p style="text-align: center;"><b>SAVING2RETIRE, LLC, AND MARIAN P. YOUNG,</b></p> <p><b>Respondents.</b></p>	<p><b>RESPONDENTS SAVING2RETIRE, LLC AND MARIAN P. YOUNG'S PETITION FOR REVIEW OF INITIAL DECISION AND MOTION FOR STAY</b></p>
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Pursuant to Rule 410 of the Rules of Practice, Respondents Saving2Retire, LLC (S2R) and Marian P. Young make this Petition for Review of the August 26, 2019 Initial Decision (Release No. 1384)..

Pursuant to Rule 401 of the Rules of Practice, Respondents also seek a stay of the Final Decision pending a full investigation of bias toward Respondents to be conducted by the U.S Department of Justice.

First I express gratitude and appreciation for the opportunity given in the second hearing.

Especially I express gratitude for the clarification of the facts and issues in the Initial Decision under the leadership of the Chief Justice, Brenda P. Murray.

The subjects for this Petition for Review is the Broken Windows Policy, Bias, and Penalties and Record Keeping requirements for the startup company run by Respondents.

## **BROKEN WINDOWS**

While Respondents have sought the directive for targeting it's firm from Division staff in it's Discovery Request of 12/10/2018 (i.e. Item 4. Produce any directive or notice that instructed Division staff to target Saving2Retire, respondents for examination); the response from Division was this information was "protected attorney-client privilege and work product doctrine as well as deliberative process privilege". The request for production was denied by Judge Murray.

(Release No. 6518). Since this information was relevant to Respondent's defense; the Commission may review was this a violation of the Constitution Amend. V, XIV, Due Process? Nevertheless, for this Petition Respondents presents public record speeches by former and current Commissioners, as well as other knowledgeable participant SEC insiders. Judge Murray has referred to a directive in the Initial Decision.

Much has been written about this discredited policy since the high profile case of Eric Garner's death brought the policy to the attention of the American public. His last words before succumbing to the chokehold of the NY city police officer; "I Can't Breathe" is a good summation of this policy. Broken Windows was primarily an urban policing strategy for low level crimes that ended up targeting primarily the Black community in urban cities such as NY. Targeting professionals with this strategy and especially a professional Black woman under this approach is very troubling.

Many in The Commission have also expressed concern with this policy and it's adverse effects:



Commissioner Michael S. Piwowar: Excerpts from “Remarks to the Securities Enforcement Forum, October 14, 2014.” “One particular problem has been the vastly increasing complexity of the laws and rules that govern the securities industry. ...But more regulations do not necessarily result in better outcomes. It is under these circumstances, in which there is a high level of complexity and at times significant ambiguity, that a broken windows approach to enforcement may not achieve the desired result. If every rule is a priority, then no rules is a priority. If you create an environment in which regulatory compliance is the most important objective for market participants, then we will have lost sight of the underlying purpose for having regulation in the first place. Rather than enabling vital important economic activity, we will have unnecessarily shackled it- and our country will be far worse off from the absence of such activity.”

Commissioner Hester M. Peirce - excerpts from “Annual Rocky Mountain Securities Conference, May 11, 2018:

“The vast majority of SEC enforcement actions are straightforward - Ponzi schemes, offering frauds, elder frauds, affinity frauds, and accounting frauds. From 2013 to 2016, the SEC embraced a “broken windows” philosophy of enforcement. This philosophy was well-intentioned — punish the small violations to make sure that people are always on their toes and to demonstrate that the SEC is serious about enforcement. The SEC has a range of tools — some of which are easier, less disruptive, cheaper, and faster to use than enforcement — to address problems it identifies. The unsurprising result of the broken windows approach — one that aligned perfectly with our metrics of choice — was that the SEC brought a lot of enforcement actions with lots of penalties. But the end goal is better functioning markets and investor

protection.

An enforcement program that insists on pursuing minor violations imposes unwarranted costs on companies and individuals. The effects of an investigation or proceeding on a private party can be devastating. For the individual under investigation, professional careers, reputations, and personal relationships can suffer. As the SEC's canons of ethics put it: "The power to investigate carries with it the power to defame and destroy." This price is too high for violations that are minor. The SEC must do its job, but we should save our enforcement program — with the great weight it carries — for violations of a sufficiently serious nature to warrant the expense to us and to those whom we pursue. Today, ....the Commission is focusing its resources on key areas of concern, such as the protection of retail investors and cybersecurity.

Andrew N. Vollmer, *Four Ways to Improve SEC Enforcement*, 43:4 Sec. Reg. L. J. 333, 336 (2015) ("Once the government charges a private party, the person is labeled publicly as a law breaker, even if a small group of knowledgeable practitioners appreciates that the legal theory is new and untested, and faces severe and frequently career or business ending sanctions. The private party must incur the costs, distress, and adverse publicity associated with a defense or succumb and settle, and the pressure to settle is overwhelming even when the SEC case lacks merit.").

Steven Peikin, co-director of the SEC's enforcement division, indicated the regulator would drop the "broken windows" strategy of pursuing many cases over even the smallest legal violations, and may also pull back from trying to make some companies admit to wrongdoing as a condition of settling with the SEC. Wall Street Journal New York, N.Y. [New York, N.Y.]26 Oct 2017

Established Facts Supported by the Initial Decision that are relevant to Petition:

- “The evidence does not show that any client was defrauded or harmed”. Judge Murray
- “She registered the firm in good faith”. Judge Murray
- The registration of Respondents is terminated.
- From 2011 to 2015 Respondents had approximately \$4 to 4.5 million in assets under management.
- The website was completed in September 2013, the firm never advised a single internet client (“there was no explicit guidance from the Commission on when an internet adviser had to start advising internet clients” Judge Murray).
- In January 2015 Respondents files an amended for ADV and requested de-registration.
- On alleged registration violation “ I am not sure I could decide the matter on the current record, at least not in the Division’s favor. Division never proved that more than 14 of S2R clients were invested in DFA funds. Arguably, if the Divisions’s grouping are wrong, S2R could have fewer that 20 clients and maybe even fewer than 15”. Judge Murray

This enforcement proceeding has been against a terminated registration, startup status company, with 0 clients & 0 revenues. This proceeding is on a private individual described under the broken windows policy presented by SEC insiders. There was no finding of a registration violation, so Respondents was wrongly charged. The other stated violations concern the record keeping of the startup Savings2Retire, LLC. With a financial services career of close to 30 years

of dealing with clients, Respondent has always worked hard, served clients, and operated with integrity. In the 30 years of dealing with clients there has been no violation or any suggestion of a violation. Yet it is Respondent who is run out of a business she had hoped would secure her retirement.

This enforcement proceeding has been a crushing ordeal; the stress along is overpowering for a small individual whose total life was the business. As a senior citizen it is especially damaging as the peak earning years were spent defending these claims or building the business. The cost includes The opportunity cost of 10 years of diminished income, diminished choices while waiting for the outcome.

*The 2019 SEC Commission's Congressional Budget Justification Plan lists the Vision and Values of the SEC : Transparency, Integrity, Excellence, Accountability, Effectiveness, Teamwork, and Fairness .* Respondents respectfully ask the Commission to view these Petition exceptions through the lens of these values.

Does the stated SEC Value of Accountability extend to the devastating effect of the broken windows policy on private individuals? Does this meet the requirement of the stated SEC Value of Fairness? Respondent is respectfully asking the Commission to review and dismiss this enforcement proceeding with the end of the broken windows policy of 2016-2017.

## **BIAS**

Exception is taken to the non-consideration in Respondents view of the presence of bias. Judge Murray has indicated no bias, however there has never been any investigation of Respondents

defense of bias. The prevalence of bias should further support the complete dismissal of this enforcement proceeding and entertain a discussion of recompense to Respondents for the hardship endured.

Besides the incidents outlined in Respondent's brief submitted on May 28, 2019; consider the policy of Broken Windows and how it was administrated. Was staff given guidelines that would be relevant to Respondent's defense? Information that Respondent could not obtain.

Respondent believes bias is underlying the proceeding lasting so long. Is this the way everyone is treated?: Request for de-registration ignored; enforcement proceeding on a terminated registration, no history of wrongdoing, no evidence of wrong doing. A Division Director informs California regulator of a proceeding on "failure to comply with a criminal or civil statute" even before an investigation is started. Using the word criminal was meant solely to defame Respondent and caused CA to bar registration after 20 years of no problems. This was a startup firm in the early stages with 0 clients and 0 revenues; the formal system of record keeping just proved to be one of the last things to get to with all the other priorities of a one woman firm. Would everyone be crushed and put through a multi -year proceeding? The standard of record keeping use for large firms was used to judge this non operational company. The system in place for Saving2Retire was adequate for a company with 0 clients and 0 revenues. Division suspicions were bias based as well as many of the interpretations presented as evidence. Any attempt to get answers through Respondent's local congressional office have been rebuffed by SEC staff. Respondent's answer to the OIP submitted May 28, 2019 outlines' other concerns of bias.



The notion of the interpretation to an ended telephone call with an examiner is insufficient in the determination of no bias. In the mind of Respondent the call was over.

Because the several inquiries and attempted oversight from Respondent's local congressional office were rebuffed by SEC staff; it is necessary to submit Respondent May 28, 2019 brief to the U.S. Department of Justice for a full holistic investigation. Bias is not one incident and it may include policy and procedures which the Department of Justice will be better suited to investigate.

If the Commission does not agree that this enforcement proceedings be dismissed with the end of the broken windows policy; then I respectfully request that Respondent's bias claim be submitted to the Department of Justice for a full investigation before any final decision. The Department of Justice has expertise in the nuances of bias and Respondent believes it will provide objectivity.

## **PENALTIES**

Exception is taken to the penalties. The debilitating effects of this enforcement process is penalty enough; that fact has already been acknowledged by many in the SEC family. Much has been written from the Commission on it's devastation. Its especially excoriating when applied to the elderly, who can not make the same income at the age 60. Respondent has applied and received social security to make ends meet; knowing that applying early you loose approximately 20% of your benefits. Adding any lien to Respondent's home to resolve a penalty means the continuing hardship of this process.

The lost of livelihood is an enormous penalty, especially the livelihood support for retirement. 20 years of work gone. The business was small but Respondent was able to operate with integrity to serve others; not selling them something to make a commission. This lost of 20 years of honest work; Is this reflective of the SEC Value of Fairness? Added to that in an electronic age where negative reports last for a lifetime online.

### Penalties Pertaining To Record Keeping

Another area for review is the one size fits all approach to record keeping. S2R was a startup company.

Exception is taken to the finding of violation Section 203A: by “registering in reliance on the internet adviser exemption but not advising and internet client for several years”.

Any 60 year old starting a new venture will never be as fast as a 40 year old; researchers have found that the brain’s response time begins to decline at age 24. Respondent single handedly built the website even though she had no such experience. Respondent is proud of those efforts of taking an idea to do something good and bring it from an idea to creating and launching that idea. It took a lot of hard work and devotion; at the same time maintaining a small advisory business. This business could have been what today is a Robo Adviser for primarily the Black community. A community that is largely struggling financially and needs the help.

### Record Keeping

Respondent has never read a business source or government rule that set a definite timeframe for a company to be in a startup status. Its analogous to novel fiction writers; what if fiction

writer *A* take 5 years to complete their novel and writer *B* takes two years to complete their novel. Which is the better novel? The metric of time to complete would not be use here as in any business. Business formation by individuals is more of an art than a science. To impose judgement of an enforcement proceeding for a startup with 0 clients, 0 revenues, is using a subjective criteria imposed on established companies. The target market of African Americans was never going to be an easy sell for investment advise. It required Respondent to spend time on seminars to educate. Is this Fair to impose a penalty for a startup that had not developed its infrastructure?

The Petition for Review is asking for review of the above items: Broken Windows policy, record keeping for startups, bias and penalties. Respondent is requesting these factors yield a dismissal of the entire enforcement proceeding with no penalties besides those already suffered.

If the Commission does not agree with Broken Windows dismissal than Respondent respectfully is asking Respondent's brief submitted on May 28, 2019 which outlines Respondent's concerns of bias be forward to the Department of Justice for a full investigation and your final decision stayed pending the conclusion of that investigation.

Respectfully submitted,

Marian P. Young  
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[REDACTED]@comcast.net  
(Private residence)  
9/19/2019

**CERTIFICATE OF SERVICE**

In accordance with Rule 150 of the Commission's Rule of Practice, I hereby certify that on September 19, 2019, I served a true and correct copy of the foregoing document on the following persons by the method indicated:

By Fax

Office of the Secretary  
703-813-9793

By Mail

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Securities and Exchange Commission  
100 F Street, NE  
Washington DC. 20549

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Respectfully submitted,

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