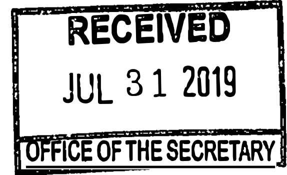

UNITED STATES OF AMERICA
Before the
UNITED STATES SECURITIES AND EXCHANGE COMMISSION

In the Matter of **Mark Morrow,** **Respondent.**	**ADMINISTRATIVE PROCEEDING** **File No. 3-18723**

DIVISION OF ENFORCEMENT'S MOTION FOR SUMMARY DISPOSITION AND MEMORANDUM OF LAW AGAINST RESPONDENT MARK MORROW

July 30, 2019

Division of Enforcement
Securities and Exchange Commission
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EXCHANGE ACT RELEASE

Order Instituting Proceedings pursuant to Section 15(b) of the Securities Exchange Act of 1934 ("Exchange Act") against Respondent Mark Morrow. 1

Joseph S. Amundsen, Exchange Act Release No. 69406, 2013 SEC LEXIS 1148, at *1 n.1 (Apr. 18, 2013), *pet. denied*, 575 F. App'x 1 (D.C. Cir. 2014). 3

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In the Matter of Siris, Exchange Act Rel. No. 71068, 2013 SEC LEXIS 3924 *23 (Dec. 12, 2013) 12

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Shervin Neman and Neman Financial, Inc., Initial Decision Release No. 1369 at 3 (March 18, 2019) (citing cases, including John Francis D'Acquisto, Advisers Act Release No. 1696, 1998 SEC LEXIS 91, at *1-2 & n.1, *7 (Jan. 21, 1998) 4

FEDERAL STATUTUES

Section 15(b) of the Securities Exchange Act of 1934 ("Exchange Act") 1

SEC RULES OF PRACTICE

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[17 C.F.R. § 201.323] 10

Rule 250
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[17 C.F.R. § 201.250(b)] 1, 9, 10

The Division of Enforcement ("Division") moves, pursuant to Rule 250(b) of the Securities and Exchange Commission's ("SEC") Rules of Practice, for summary disposition of the claims in the Order Instituting Proceedings pursuant to Section 15(b) of the Securities Exchange Act of 1934 ("Exchange Act") against Respondent Mark Morrow. The Division requests that Morrow be permanently barred from association with any investment adviser, broker, dealer, municipal securities dealer, municipal adviser, transfer agent, and nationally recognized statistical rating organization.

I. PROCEDURAL BACKGROUND

On September 5, 2018, this matter was instituted pursuant to Section 15(b) of the Exchange Act against Morrow. Morrow was served with the Order Instituting Proceedings ("OIP") on September 12, 2018. The OIP was based upon the entry of a final judgment against Morrow in United States District Court for the Northern District of Georgia on July 24, 2018 including permanent injunctive relief against future violations of the antifraud provisions of the federal securities laws. The OIP pleaded that the Complaint upon which the judgment was entered alleged that Morrow had made false statements to investors in connection with the sale of promissory notes and equity interests in Detroit Memorial Partners, LLC, misused investor funds, and sold unregistered securities. The purpose of the pending proceeding is to determine the truth of the allegations in the OIP and what remedial action is appropriate in the public interest.

On February 14, 2019, the Division filed a motion for a default judgment and the imposition of remedial sanctions against Morrow, who, by that time, still had not filed an answer to the OIP. Morrow filed no opposition to the motion, and, on April 15, 2019, the Commission ordered that Morrow show cause why he should not be deemed in default and the proceeding

determined against him. On May 6, 2019, Morrow filed a response to the show cause order denying certain allegations in the OIP and explaining his failure to timely answer the OIP or respond to the motion for a default judgment on circumstances relating to his criminal conviction and incarceration ("Morrow Response").

On July 2, 2019, the Commission, upon consideration of Morrow's Response, discharged its order and denied the Division's motion to impose remedial sanctions without prejudice. The Commission stated that it would construe Morrow's response to its order to show cause as his answer to the OIP. The Commission ordered the parties to hold a prehearing conference, which the parties completed telephonically on July 16, 2019. On the same day, the Division filed a statement regarding the agreements reached by the parties during their prehearing conference, after confirming that Morrow had an opportunity to review the statement and agreed with it.

II. STATEMENT OF FACTS

This proceeding results from a District Court action that the Commission previously filed against the Respondent. *SEC v. Detroit Memorial Partners, LLC and Mark Morrow*, Case No. 1:13-cv-01817-WSD (N.D. Ga.) (hereinafter, the "SEC action"). Specifically, on May 30, 2013, the Commission filed a complaint against Morrow and an entity under his control, Detroit Memorial Partners, LLC ("DMP"), alleging that they engaged in an offering fraud in violation of Section 17(a) of the Securities Act of 1933 ("Securities Act"), Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 thereunder. (Complaint, hereinafter referred to as "Compl.," attached hereto as Ex. 1.) The Complaint alleged that Morrow authorized the sale of DMP promissory notes using a private placement memorandum that was riddled with misstatements.

On July 24, 2018, the United States District Court for the Northern District of Georgia granted the Division's motion for summary judgment against Morrow and entered a Final Judgment against him (hereinafter "Judgment," attached hereto as Ex. 4).[1] The grant of summary judgment in favor of the Division was based on Morrow's admissions in his Answer (hereinafter "Ans.," attached hereto as Ex. 2) and in his sworn deposition testimony (hereinafter "Morrow Dep.," attached hereto as Ex. 3), in which he admitted all of the essential allegations of the Complaint.

The Division now moves pursuant to Rule 250 for the imposition of remedial sanctions against Morrow in that there are no genuine issues of material fact, and because the established facts support the imposition of the sanctions requested by the Division. The Division submits that the Respondent should be barred from associating with a broker, dealer, investment advisor, transfer agent, nationally recognized statistical rating organization, or investment company pursuant to Section 15(b)(6) of the Exchange Act.

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[1] The SEC's action against Morrow was stayed for a period of time at Morrow's request based on the existence of a parallel criminal proceeding against him by the United States Attorney's Office for the Northern District of Georgia. Civ. Dkt. 197. On December 15, 2015, Morrow was indicted on multiple counts including conspiracy to commit wire fraud relating to the DMP offerings (Count 16). (Indictment attached hereto as Ex. 7.) The allegations in support of Count 16 were substantially identical to those alleged in the SEC action against Morrow. On April 27, 2017, Morrow entered a guilty plea to Count 16. (Minute Sheet for guilty plea proceeding attached hereto as Ex. 8.) On October 18, 2017, Morrow was sentenced to 66 months incarceration, and he is currently serving his sentence. (Judgment and Commitment Order and Amended Judgment and Commitment Order attached hereto as Ex. 9). The Commission may take official notice pursuant to 17 C.F.R. § 201.323 of the docket reports and courts' orders in *SEC v. Detroit Memorial Partners, LLC and Mark Morrow*, Case No. 1:13-cv-01817-WSD (N.D. Ga.), and *United States v. Mark Morrow,* Case No. 1:15-CR-458-LMM-2 (N.D. Ga.). *See Joseph S. Amundsen*, Exchange Act Release No. 69406, 2013 SEC LEXIS 1148, at *1 n.1 (Apr. 18, 2013), *pet. denied*, 575 F. App'x 1 (D.C. Cir. 2014).

The Division sets forth the pertinent facts (and supporting citations) below which demonstrate that the imposition of the requested sanctions is in the public interest. As the citations indicate, the below facts have been established in two ways, either of which would be sufficient for the imposition of the sanctions requested: *first*, the facts have been established through the Respondent's admissions; *second*, the facts have also been established by the District Court's findings in granting summary judgment in favor of the Division (which findings were, themselves, based on Morrow's admissions).[2] The Commission does not permit a respondent to relitigate issues that were addressed in a previous civil proceeding against the respondent, whether resolved by consent, by summary judgment, or after a trial; nor does it permit criminal convictions to be collaterally attacked in its administrative proceedings. *See Shervin Neman and Neman Financial, Inc.*, Initial Decision Release No. 1369 at 3 (March 18, 2019) (citing cases, including *John Francis D'Acquisto*, Advisers Act Release No. 1696, 1998 SEC LEXIS 91, at *1-2 & n.1, *7 (Jan. 21, 1998) (injunction entered by summary judgment)).

[2] Morrow is also collaterally estopped from controverting those facts established in the parallel criminal proceeding, in which he was convicted upon a plea of guilty to Count 16 of the Indictment, but it is unnecessary to analyze those facts because Morrow's admissions and the Court's findings in the SEC action provide ample grounds for granting the Division's motion for summary disposition and determining that the public interest favors the imposition of the remedies sought.

A. The Formation of Detroit Memorial Partners

Mark Morrow resided in Cincinnati, Ohio, and held a number of securities licenses, including series 7, 9, 26 and 42 licenses. (Compl. ¶ 12; Ans. ¶ 12; Judgment at 3.) Morrow has been in the securities industry since 1987, and he was associated with Landmark Investment Group, a registered broker dealer, from 1999 to October 2012. (Compl. ¶ 12; Ans. ¶ 12; Judgment at 3-4).

In 2007, Morrow incorporated defendant Detroit Memorial Partners ("DMP") as a Delaware limited liability company in order to pursue the acquisition of cemeteries in Michigan. (February 1, 2013 Deposition of Mark Morrow, hereinafter "Morrow Dep.") at 47:4-47:5; Compl. ¶ 16; Ans. ¶ 16; Judgment at 4.) At all times relevant to the claims in the Complaint, Morrow was the managing member of DMP. (Morrow Dep. at 20:15-:25; Ans. ¶¶ 1, 17; Judgment at 4.) As managing member, Morrow maintained complete operational control over DMP. (Ans. ¶ 17; Judgment at 4.)

Morrow recruited David Shipper to be an equity holder in DMP, initially giving him 50% of DMP, but later promising him a 47% share in DMP in exchange for $1.5 million and Shipper's agreement to manage the cemeteries after they were acquired. (Morrow Dep. at 138:14-139:2; Judgment at 4.)

B. The Formation of Midwest Memorial Group

Morrow convinced a wealthy businessman to invest approximately $22 million to be used towards the acquisition of the Michigan cemeteries. (Ans. ¶ 20; Judgment at 4.) DMP and an entity owned by the businessman, Westminster Memorial Group ("Westminster"), formed Midwest Memorial Group, LLC ("MMG") to be the actual purchaser of the cemeteries. DMP owned 49% of MMG and Westminster owned 51%. (Compl. ¶ 21; Ans. ¶ 21; Judgment at 4.) The MMG operating agreement contained a "waterfall" provision with respect to MMG distributions of profit

that gave Westminster certain preferences over DMP, including the right of Westminster to recoup 100% of its capital contribution before DMP was entitled to any distributions. (Compl. ¶ 22; Ans. ¶ 22; Judgment at 4.)

C. DMP Issued Fraudulent, Unregistered Promissory Notes in 2007

In addition to the $22 million investment from Westminster, Morrow needed approximately $10 million to make a successful bid to acquire the cemeteries. (Compl. ¶ 24; Ans. ¶ 24; Judgment at 5.) Morrow authorized Angelo Alleca to offer promissory notes issued by DMP to raise the additional money (Ans. ¶ 24; Judgment at 5.) From October-December 2007, Alleca and his advisors at Summit Wealth Management ("Summit") sold approximately $9.5 million worth of DMP promissory notes to approximately 99 clients of Summit. (Compl. ¶ 25; Ans. ¶ 25; Judgment at 5.) DMP issued and sold the promissory notes in order to fund its purchase of an interest in MMG, which would, in turn, purchase 28 cemeteries from a Michigan conservatorship. (Morrow Dep. at 18:4-19:6, 49:25-51:1; Judgment at 5.) Morrow authorized DMP's note sales and reviewed drafts of the placement memorandum that was used to sell the notes. (Morrow Dep. at 50:16-51:1, 97:14-99:17, 102:25-104:8, 119:22-121:14; Private Placement Memorandum of DMP marked as Exhibit 16 during the Morrow Dep. (hereinafter "PPM" or "placement memorandum," attached hereto as Ex. 4); Judgment at 5.)

The placement memorandum stated that "[t]he Notes . . . will be secured by real property and equity interest in 28 Michigan cemeteries," and that DMP "recently purchased the assets of twenty eight cemeteries located throughout the state of Michigan." (Morrow Dep. at 119:22-120:2; PPM at MDM0001073; Judgment at 5.) It also stated that "[i]ndependent of the amounts raised in th[e Note] offering, [DMP] will, after completing the purchase transaction, have equity in real property and cemeteries and other assets available to use to pay principal or interest on the Notes."

(Morrow Dep. 119:22-120:2; PPM at MDM 0001080; Judgment at 5.) The placement memorandum further stated that DMP "is in the business of owning and managing cemeteries." (Morrow Dep. 119:22-120:2; PPM at MDM 0001073; Judgment at 5.) These statements were all false when they were made. (Morrow Dep. at 21:4, 130:14-134:14, 136:7-:23, 138:17-139:2; Judgment at 6.)

In fact, the Notes were never secured, DMP had no assets at all when the Notes were first sold, and DMP never even planned to own any cemeteries. (Morrow Dep. at 21:4, 130:14-134:14, 136:7-:23, 138:17-139:2; Judgment at 6.) Even MMG did not own any cemeteries when Morrow authorized the sale of notes under the private placement memorandum. (Morrow Dep. at 58:5-59:1; Judgment at 6.) Morrow admitted all these facts in sworn testimony.

D. Morrow Raised Money from Additional Equity Investors in 2008

Morrow, with the help of Angelo Alleca, also recruited several other equity investors, who contributed another $3 million to DMP. (Morrow Dep. at 62:7-65:15; Judgment at 6.) In connection with those investments, Morrow circulated a DMP operating agreement, dated March 1, 2008, which set forth the revised equity shares of each investor. (Morrow Dep. at 48:10-49:9; DMP Managing Member Limited Liability Company Operating Agreement marked as Exhibit 5 during the Morrow Dep. [Dkt. 12-1, Ex. C], hereinafter, "the March 1, 2008 operating agreement," attached hereto as Ex. 5; Judgment at 6.) The March 1, 2008 operating agreement listed Morrow as the sole managing member of DMP. (Ex. 5; Judgment at 6.) Morrow did not tell the equity investors about the promissory note offering, claiming instead that he had borrowed the money personally. (Morrow Dep. at 52:16-20; 170:13-171:4; Judgment at 6.)

E. DMP Issued a Second Round of Promissory Notes in 2012

DMP authorized Alleca to sell a second round of promissory notes in 2012, shortly before many of the initial notes were due to mature. (Ans. ¶ 39; Judgment at 6.) Morrow knew of and authorized the 2012 Offering. (Compl. ¶ 40; Ans. ¶ 40; Judgment at 6.) DMP used a two-page "Fact Sheet" in connection with the 2012 Offering. (Compl. ¶ 41; Ans. ¶ 41; Judgment at 6.) The Fact Sheet stated that the funds raised would be used to retire DMP's debt. (Compl. ¶ 41; Ans. ¶ 41; Judgment at 6.) The funds that were raised in the second round of note offerings were used to make redemptions of some prior note holders. (Compl. ¶ 43; Ans. ¶ 43; Judgment at 6.)

The Fact Sheet failed to disclose that Westminster had a preference with regard to distributions from MMG's cemetery operations. (Compl. ¶ 45; Ans. ¶ 45; Judgment at 7.) The Fact Sheet stated, "Since acquired, DMP management has increased sales over 120%" and "DMP is excited about continuing operations." (Compl. ¶ 46; Ans. ¶ 46; Judgment at 7.) The Fact Sheet did not disclose that cemetery operations had not been profitable or that DMP and Westminster had been required to satisfy ongoing capital calls in order to fund operations. (Compl. ¶ 47; Ans. ¶ 47; Judgment at 7.)

F. The SEC Civil Action

On May 30, 2013, the Commission filed suit against DMP and Morrow, alleging that they had violated the anti-fraud and registration provisions of the federal securities laws. (Compl. ¶¶ 1-70.) After the case was stayed as a result of a parallel criminal proceeding, the Commission obtained summary judgment against Morrow. (Judgment at 3 (discussing procedural history of case), 12 (awarding summary judgment to the SEC).) The final judgment permanently enjoined Morrow from violating the anti-fraud provisions of the securities laws,

ordered him to pay disgorgement and prejudgment interest, and imposed a civil penalty. (Judgment at 15-21.)

DMP's debt and equity investors collectively invested $26,755,800.30 in DMP. (Judgment at 7; Dkt 166-1.) The Receiver appointed in the SEC action collected $18,782,383.41 for return to investors. (Judgment at 7; Dkt 166-1.) Consequently, the net amount of investor losses resulting from Morrow's fraud was $7,973,413.89. (Judgment at 7.) The district court ordered disgorgement against Morrow in this amount, plus prejudgment interest of $1,056,843.60, calculated at the statutory rate for delinquent federal debts, adding up to $9,030,260.49. (Judgment at 7, 18). In addition, the district court imposed a $1,000,000.00 civil penalty against Morrow, bringing the total monetary relief ordered against him to $10,030,260.49. (Judgment at 14-15, 20.) In imposing the civil penalty, the Court stated: "Morrow's behavior falls into the Third Tier as it 'involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement,' and the violation 'directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons.' The Court further weighs the following facts: (1) the evidence that over 100 people were harmed by Morrow's fraud, which totaled investments of almost $27 million, and (2) the net losses to investors of almost $8 million." (Judgment at 14.)

III. ARGUMENT

A. Summary Disposition is Appropriate Pursuant to Rule 250

1. Standard for Summary Disposition

Rule 250(b) of the Commission's Rules of Practice, 17 C.F.R. § 201.250(b), provides that after a respondent's answer has been filed and documents have been made available to the respondent for inspection and copying, a party may move for summary disposition of any or all

allegations of the OIP.[3] A hearing officer may grant the motion for summary disposition if the "undisputed pleaded facts, declarations, affidavits, documentary evidence or facts officially noted pursuant to Rule 323 show that there is no genuine issue with regard to any material fact and that the movant is entitled to summary disposition as a matter of law." SEC Rule of Practice Rule 250(b), 17 C.F.R. § 201.250(b).[4]

Summary disposition is "generally proper in 'follow-on' proceedings like this one, where the administrative proceeding is based on a criminal conviction or a civil injunction." *George Charles Cody Price*, Initial Dec. Rel. 1018, 2016 WL 3124675 (June 3, 2016); *accord Omar Ali Rizvi*, Initial Dec. Rel. No. 479, 2013 WL 64626 (Jan. 7, 2013) (the "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*, 105 S.E.C. Docket 3126, 2013 WL 772514 (Mar. 1, 2013); *Daniel E. Charboneau*, Initial Dec. Rel. No. 276, 84 S.E.C. Docket 3476, 2005 WL 474236 (Feb. 28, 2005) (summary disposition granted and penny stock bar issued based on injunction), *notice of finality*, 85 S.E.C. Docket 157, 2005 WL 701205 (Mar. 25, 2005); *Currency Trading Int'l Inc.*, Initial Dec. Rel. No. 263, 83 SEC Docket 3008, 2004 WL 2297418 (Oct. 12, 2004) (same), *notice of finality*, 84 S.E.C. Docket 440, 2004 WL 2624637 (Nov. 18, 2004). In addition, under SEC precedent, the circumstances when summary

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[3] In its order of July 2, 2019, the Commission construed the Respondent's May 6, 2019 response to its Order to Show Cause as his answer to the OIP. In addition, the Division offered to provide documents to the Respondent pursuant to Rule 230, but the Respondent declined. (Statement of the Parties Following Prehearing Conference at 1-2 (July 16, 2019).

[4] Under Rule 323, a hearing officer may take notice of "any material fact which might be judicially noticed by a district court of the United States..." 17 C.F.R. § 201.323; *see, e.g. David S. Cacchione*, Release No. 2152, 2014 SEC LEXIS 4868, at *8 n.4 (Dec. 19, 2014) (taking official notice of criminal case docket and record).

disposition is not appropriate "will be rare" where, as here, the bar is sought in a follow-on proceeding in a matter involving fraud. *Robert J. Lunn*, Initial Dec. Rel. No. 887, 2015 WL 5528212, at *1 (Sept. 21, 2015), *notice of finality*, Release No. 4270, 2015 WL 7253000 (Nov. 17, 2015) (citing *John S. Brownson*, Exchange Act Release No. 46161, 2002 SEC LEXIS 3414, at *9 n.12 (July 3, 2002), *pet. denied*, 66 F. App'x 687 (9th Cir. 2003).

Moreover, where, as here, facts have been litigated and determined in an earlier judicial proceeding, a respondent may not revisit them in an administrative proceeding. *See Peter J. Eichler, Jr.*, Initial Dec. Rel. No. 1032, 2016 WL 4035559 (July 8, 2016) ("It is well established that the Commission does not permit a respondent to relitigate issues that were addressed in a previous civil proceeding against the respondent, whether resolved by summary judgment, by consent, or after a trial") (collecting cases); *accord Robert Burton*, Initial Dec. Rel. No. 1014, 2016 WL 3030850 (May 27, 2016); *James E. Franklin*, Exchange Act Release No. 56649 (Oct. 12, 2007), 91 S.E.C. Docket 2708, 2713 & n.13, 2007 WL 2974200, *petition for review denied*, 285 F. App'x 761 (D.C. Cir. 2008).

2. **Morrow Should Be Barred from the Securities Industry**

The Commission should grant the Division's motion for summary disposition and bar the Respondent from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization (NRSRO), pursuant to Section 15(b)(6) of the Exchange Act. It is in the public interest to impose these sanctions against him.

There are several well-recognized factors that are to be considered in determining the appropriate remedy in the public interest. Those factors are: (1) the egregiousness of the Respondent's actions; (2) the isolated or recurrent nature of the infractions; (3) the degree of

scienter involved; (4) the sincerity of the Respondent's assurances against future violations; (5) the Respondent's recognition of the wrongful nature of the conduct; and (6) the likelihood that the Respondent's occupation will present opportunities for future violations. *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979); *In the Matter of Bernath*, Initial Decision Release No. 993 at 4, 2016 SEC LEXIS 1222 *10-11 (April 4, 2016) (*Steadman* factors used to determine whether a bar is in the public interest, in a case where sanctions were imposed by summary disposition). The Commission also considers the age of the violation, the degree of harm to investors and the marketplace resulting from the violation, and the deterrent effect of administrative sanctions. *Bernath*, at *4 and *11, *citing In the Matter of Schield Mgmt Co.*, 58 S.E.C. 1197, 1217 n.46, 2006 SEC LEXIS 195, at *35-36 (Jan. 31, 2006) (revoking adviser's registration and barring majority owner from association), and *In the Matter of Melton*, 56 S.E.C. 695, 698, 2003 SEC LEXIS 1767, at *4-5 (July 25, 2003). The Commission has held that "conduct that violates the antifraud provisions of the securities laws is especially serious and subject to the severest of sanctions under the securities laws." *In the Matter of Siris*, Exchange Act Rel. No. 71068, 2013 SEC LEXIS 3924 *23 (Dec. 12, 2013), *quoting In the Matter of Bugarski*, Exchange Act Release No. 66842, 2012 SEC LEXIS 1267, at *18 n.26 (Apr. 20, 2012) (imposing industry and penny stock bars), *quoting Melton*, 56 S.E.C. at 713.

Consideration of each of the *Steadman* factors supports the imposition of the requested sanctions. Morrow's misconduct was egregious, repeated, and involved a high degree of scienter. Morrow has been a participant in the securities industry for nearly three decades. His experience in the industry means that he is likely to have the opportunity to commit further violations of the securities laws absent a bar.

Morrow contends that he was drawn into making bad decisions as a result of Angelo Alleca's loss of investor funds through unauthorized risky trading. But Morrow currently has a judgment exceeding $10 million as a result of his misconduct.[5] Allowing a securities professional who committed fraud as a result of financial pressure to re-enter the industry, when that individual faces a judgment of this magnitude, would expose the investing public to unwarranted risk.

Morrow's minimization and rationalization of his conduct also represents a risk factor. Morrow contends that he was drawn into the fraud solely as a result of Angelo Alleca's misconduct, but this claim is belied by the facts. Morrow writes: "What went wrong with Detroit Memorial Partners is simple, I gave Angelo Alleca a ten million dollar account and in one single night he lost approximately 6.2 million dollars." (Morrow Response at 1). In fact, Morrow was complicit in numerous blatant misstatements and material omissions in the DMP offering before Alleca misused the account to which Morrow refers. Lying to investors to make an offering seem more attractive than it actually is in the hope that everything will turn out fine is classic fraud. Morrow was complicit in such lies. Investors lost a net amount of $8 million in connection with the fraudulent offering, and were subjected to the emotional distress that goes along with being victimized. Morrow's claim that he was less culpable than his criminal co-defendant, Angelo Alleca, is irrelevant in determining the appropriate sanctions. Morrow's conduct was culpable enough.

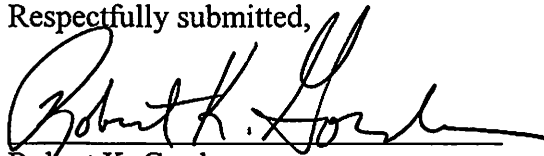
[5] Morrow is also subject to an order of restitution in the amount of $7,194,045.27, imposed jointly and severally with Angelo Alleca, in the parallel criminal prosecution. (See Ex. 9 hereto). The judgment in the SEC action provides that any amounts that Morrow pays toward the restitution ordered in the criminal case shall be credited toward the disgorgement amount ordered in the civil action. (Judgment at 18).

CONCLUSION

Accordingly, for the foregoing reasons, the Division respectfully requests that its motion for summary disposition of this action be granted against the Respondent pursuant to Rule 250 of the Commission's Rules of Practice and that Mark Morrow be permanently barred from association with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent or nationally recognized statistical rating organization.

Dated: July 30, 2019

Respectfully submitted,



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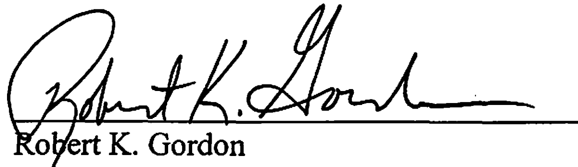
CERTIFICATE OF SERVICE

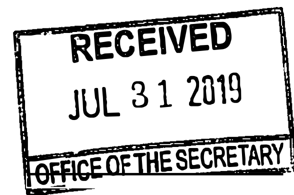
I certify that on July 30, 2019, I caused the foregoing **MOTION BY DIVISION OF ENFORCEMENT FOR SUMMARY DISPOSITION AND MEMORANDUM OF LAW AGAINST RESPONDENT MARK MORROW** to be served on the following persons by the method of delivery indicated below:

By UPS
Secretary Vanessa A. Countryman
Securities and Exchange Commission
100 F Street N.E.
Washington, DC 20549-1090

By United States Mail
Mark Morrow
Inmate No. [redacted]
[redacted]
State Route [redacted]
Ashland, KY [redacted]



Robert K. Gordon



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

ADMINISTRATIVE PROCEEDING
File No. 3-18723

In the Matter of **Mark Morrow,** **Respondent.**	**DECLARATION OF ROBERT K. GORDON IN SUPPORT OF DIVISION OF ENFORCEMENT'S MOTION FOR SUMMARY DISPOSITION AGAINST RESPONDENT MARK MORROW**

I, Robert K. Gordon, declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am an attorney at law admitted to practice law in Georgia and New York. I am employed as a Senior Trial Counsel for the Division of Enforcement ("Division") at the ARO. I have personal knowledge of each of the facts set forth in this Declaration and, if called as a witness, could and would competently testify thereto.

2. Attached as **Exhibit 1** is a true and correct copy of the complaint filed by the SEC on May 30, 2013 in *SEC v. Detroit Memorial Partners, LLC and Mark Morrow*, Case No. 1:13-cv-01817-WSD (N.D. Ga.), (the "SEC action" or "Civ. Dkt."), Civ. Dkt. No. 1.

3. Attached as **Exhibit 2** is a true and correct copy of the answer of Defendant Mark Morrow in the SEC action, Civ. Dkt. 15.

4. Attached as **Exhibit 3** is a true and correct copy of a transcript of the deposition of Mark Morrow taken on February 1, 2013 in the SEC action.

5. Attached as **Exhibit 4** is a true and correct copy of the Private Placement Memorandum of DMP marked as Exhibit 16 during the deposition of Mark Morrow in the SEC action.

6. Attached as **Exhibit 5** is a true and correct copy of the DMP Managing Member Limited Liability Company Operating Agreement marked as Exhibit 5 during the deposition of Mark Morrow in the SEC action.

7. Attached as **Exhibit 6** is a true and correct copy of the Final Order and Judgment against Mark Morrow in the SEC action, Civ. Dkt. 228.

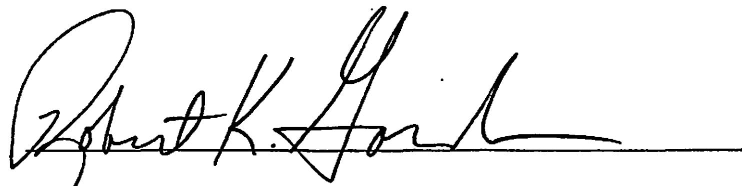
8. Attached as **Exhibit 7** is a true and correct copy the Indictment against Mark Morrow in *United States v. Mark Morrow,* Case No. 1:15-CR-458-LMM-2 (N.D. Ga.) ("the criminal case")..

9. Attached as **Exhibit 8** is a true and correct copy of the Minute Sheet for the guilty plea hearing in the criminal case regarding Mark Morrow's plea of guilty to Count 16 of the Indictment.

10. Attached as **Exhibit 9** are true and correct copies of the Judgment and Commitment Order and Amended Judgment and Commitment Order entered against Mark Morrow in the criminal case.

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

Executed on July 30, 2019 in Atlanta, Georgia.



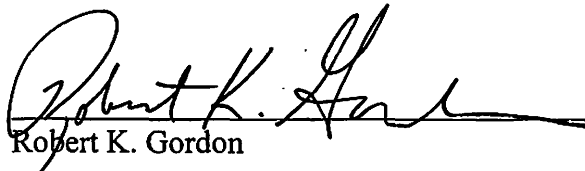
Robert K. Gordon

CERTIFICATE OF SERVICE

I certify that on July 30, 2019, I caused the foregoing **DECLARATION OF ROBERT K. GORDON IN SUPPORT OF DIVISION OF ENFORCEMENT'S MOTION FOR SUMMARY DISPOSITION AGAINST RESPONDENT MARK MORROW** to be served on the following persons by the method of delivery indicated below:

By UPS
Secretary Vanessa A. Countryman
Securities and Exchange Commission
100 F Street N.E.
Washington, DC 20549-1090

By United States Mail
Mark Morrow
Inmate No. [redacted]
[redacted]
State Route [redacted]
Ashland, KY [redacted]



Robert K. Gordon