

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION



In the Matter of

Karen Bruton and Hope Advisors, LLC,

Respondents.

Administrative Proceeding
Files No. 3-18790 and 3-18789

DIVISION OF ENFORCEMENT'S NOTICE OF SUPPLEMENTAL AUTHORITY

The Division brings to this Court's attention the Commission's decision in *In the Matter of Saad*, Exchange Act Rel. No. 86751 (Aug. 23, 2019). *Saad* refutes respondents' arguments that bars designed to protect against future misconduct are penalties under *Kokesh v. SEC*, 137 S. Ct. 1635 (2017). In particular, *Saad* holds that *Kokesh*'s test for determining whether a "pecuniary sanction" operates as a penalty under the statute of limitations in 28 U.S.C. § 2462 has no bearing on the analysis whether congressionally authorized sanctions such as those at issue in this case are permissible. See Op. 3 ("[I]t makes no sense to extend [*Kokesh*'s] compensation-based test to nonpecuniary sanctions—which by their nature do not compensate victims"); *id.* at 6 ("It is nonsensical to say that a sanction Congress explicitly authorized—complete with a test to determine its permissibility in each case—is always punitive, rendering it categorically impermissible under that same congressional scheme."). *Saad* also explains that unlike the disgorgement remedy at issue in *Kokesh*, bars can be justified *solely* on the remedial ground of guarding against future harm. Op. 16. Finally, the Commission ruled that extending *Kokesh* beyond its terms would improperly undermine the "Commission's efforts to guard against harm to the public by imposing bars justified by the need to protect investors and others

dealing with financial professionals.” Op. 20. For these reasons and others more fully stated in the Commission’s *Saad* opinion, respondents’ *Kokesh*-based challenge to the sanctions the Division seeks fails as a matter of law.

DIVISION OF ENFORCEMENT

By its Attorney:



Joshua A. Mayes
Senior Trial Counsel
Atlanta Regional Office
Securities and Exchange Commission
950 E. Paces Ferry Rd., Suite 900
Atlanta, GA 30326
Telephone: 404.842.5747
Email: mavesj@sec.gov

Dated: August 26, 2019.

CERTIFICATE OF SERVICE

On August 26, 2019, I sent via UPS overnight service and electronic mail the original and three copies of the foregoing to:


Vanessa Countryman, Acting Secretary
U.S. Securities & Exchange Commission
100 F. Street, NE
Washington, DC 20549

On August 26, 2019, I sent via UPS overnight service and electronic mail a copy of the foregoing to:

Hon. Carol Fox Foelak
U.S. Securities & Exchange Commission
100 F. Street, NE
Washington, DC 20549

On August 26, 2019, I sent via UPS and electronic mail a copy of the foregoing to:

Mary Gill and Timothy Fitzmaurice
Alston & Bird
One Atlantic Center
1201 West Peachtree St.
Suite 4900
Atlanta, GA 30309-3424


Joshua A. Mayes