

UNITED STATES OF AMERICA
Before The
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-19733

In the Matter of;

Nicholas J. Genovese

Respondent,

MOTION FOR EXTENSION OF TIME

I, Nicholas J. Genovese am making this Motion for Extension of Time to file my Opposition Brief to the Division's Motion for Summary Disposition, due to the Extraordinary circumstances outlined below;

1. I have requested Discovery from Andrew Mirceau Vasilescu and the Division almost ten times, including my last Motion dated and Filed on March 3, 2024. This was an extensive and comprehensive filing requesting Discovery in order to defend myself against the charges the SEC Commission has charged me with. In Jarkesy as well as other cases the SEC had no problem providing Discovery to the Respondents, yet in my case, maybe because I am ProSe, the Division has decided to stone wall me with statements like Vasilescu keeps harping " We have provided everything that is not privileged..." etc.

Yet on April 29, 2024 I received a response from SEC FOIA for all the documents relevant to my SEC case and low and behold the SEC FOIA has identified 112 BOXES/14 GB of data that is responsive to my request. These are NOT in a privilege Log nor are they Privileged.

So it would seem that Andrew Mircea Vasilescu has perjured himself to the Commission and to myself in knowingly and falsely stating to me and the commission that he/they have provided all the discovery. When the SEC FOIA Dept. has shown that they didn't just find 2 or 6 documents, they found 112 BOXES of Discovery withheld by Vasilescu in Bad Faith intentionally and maliciously. I have started a complaint to the New York Bar Association and to the Inspector General of the SEC for Vasilescu's intentional and willful deception in this matter.

2. I requested through the SEC FOIA on February, 29, 2024 All documents related/relevant to my case, specifically (listed in the FOIA Request dated 03/03/2024);

- a. All Material relating to my person, including past and pending investigations or past and pending legal matters.
- b. All emails and investigative notes, paper, reports, letters, computer files, photographs, and sound recordings, in the possession, custody or control of the SEC.
- c. All communication between Alexander Mircea Vasilescu SEC Attorney and Joshua Naftalis SDNY Asst US Attorney including emails, notes, papers, reports, letters, computer files, photographs and sound recordings, in Alexander Mircea Vasilescu's and/or the SEC's possession, custody or control.
- d. All records and reports and/or information compiled for law enforcement purposes.
- e. All correspondence (letters, emails, reports, records between the SEC and the following SEC Attorneys; Alexander Mircea Vasilescu, James Hanson, and the US Attorneys Office of the Southern District of New York.
- f. All wiretap transcripts.
- g. All "Brady" material related to SDNY case 18-cr-0183 in the possession, custody or control of the SEC and/or Alexander Mircea Vasilescu.

3. On April 29, 2024 I received a response from SEC FOIA outlining that they found approximately 14 Gigabytes of

electronically maintained records(equivalent to 112 boxes of records). *Exhibit A*

SEC FOIA states they found "Investigatory Records".

4. SEC FOIA goes on to state in their April letter it may take" thirty six months or more before they can begin a search in Complex Track".

5. SEC Attorney Alexander Mircea Vasilescu and the Division states in its Opposition to Discovery Motion dated March 3,2024 (page 1) "... the Division produced all Non-Privileged documents to Genovese".

Obviously this is a FALSE statement by Vasilescu (again) and further evidence, from Vasilescu's own SEC FOIA, that there is over 112 Boxes of Evidence relevant to my case.

6. I filed an extension and comprehensive motion for Discovery and Sanctions with the Commission on March 3,2024. To date I have not had a response from the Commission.

7. I have also filed a separate Motion to compel Vasilescu and the Division to produce a Privilege Log, so they will show what is Privileged and what is not privileged. To date none has been produced.

8. Vasilescu goes on to state in his Opposition Motion to Discovery and Sanctions dated March 12, 2024, that "the Division produced all non-privileged documents from the investigation on a USB thumb drive & separately the same documents on a DVD disc. Yet the list of documents on the CD Disc does NOT contain what I have requested in numerous Motions for Discovery in the Civil case and in the Commission case. The list I provided Vasilescu and the Division in my Motion for Discovery, dated March 3, 2024 outlines voluminous records that Vasilescu try's to paint as ALL RECORDS ARE PRIVILEGED. When in fact he is denying my request in order to secure a quick rigged conviction by NOT providing discovery that is legally due to me.

9. Vasilescu goes on to show how he has DENIED me Discovery by producing Ex Parte Communications/emails (Exhibit 2 in Declaration the May filing by Vasilescu) from "decisional employees". These employees included David J. Gottesman, Chloe Olivia, Elizabeth McFadden, & Ljsa Helvin. The bulk are from Gottesman being the town crier warning all of his coworkers that a "ProSe Defendant" in an SEC Commission filing, correctly has asserted the SEC's Vasilescu has denied me Discovery and I am seeking Sanctions for the fraud Vasilescu is perpetrating against the commission, against the American people as as well me.

The emails go on with Lisa Helvin, falsely and prejudiciously accusing me, a Pro Se defendant of "baseless allegations" when she hasn't even acquainted herself with the case fully. I can subpoena her and she will undoubtedly affirm that fact. In this March 30th email 2024 they redact other peoples names. I wonder if they are emailing the SDNY ? Who are they hiding ? What are they hiding? The constant stonewalling of providing Discovery as required per SEC regulations is very perplexing and it begs what are they hiding?

In actuality, Exhibit 2 of Vasilecu's April 2, 2024 Declaration, contains 4 emails and they are all duplicates in content. Its the same email from Gottesman 4 times. I don't know why he thinks sending 4 duplicate emails helps prove anything but its quite clear if you read just one of those emails that the SEC counsels & staff are prejudiced against ProSe individuals and considers all of their filings/allegations "baseless" even though they have never read all of the material in the case !These emails show total bias to a ProSe defendant in front of the SEC Commission.

In Vasilescu's April 2, 2024 Declaration he goes on to cry about how unfair it was of me to tell the truth about his deliberate intimidation and violent outburst at a defendant in our pre-hearing conference. I will let my written statement on this violent call from Vasilescu to attempt to intimidate a defendant and to scare a defendant with violence, that I made to the Commission & Inspector General on Feb. 29, 2024 stand for itself.

10. In Vasilescu's April 2, 2024 where he has inserted "exparte communications" the SEC Rules of Practice Rule 201.120 & Rule 120 Prohibits Ex parte Communications. I request that the Commission NOT consider those emails whatsoever.

Exhibit 1 April 2, 2024 Declaration

I would like to state that the statement made by Vasilescu, (No. 2) where Vasilescu states he is attaching a copy of my July 13, 2020 filing in my SEC civil case (18-cv-942) (Exhibit 1), leads the commission on falsely once again to lead them to believe that Vasilescu provided all non privileged Discovery. Nothing could be further from the truth. The discovery provided to me on that

DVD disc were outlined in Vasilescu's April 2, 2024 Opposition to Respondents Motion for Discovery & Sanctions. The bulk of the "discovery" were copies of SEC filings that I already had received, including copies of my case in SDNY. There were copies of a bank account and a brokerage account BUT all in all it was mainly copies of SEC filings. I guess in order to make it appear that they complied and provided Discovery they padded the disc with all of the SEC & SDNY filings even a huge transcript of the SDNY case.

Given what Vasilescu listed in the April 2, 2024 Opposition to Discovery & Sanctions, it completely proves my point that Alexander Mircea Vasilescu not only did not comply with the Rules of Practice to provide all Discovery to me, he has perjured himself in that document as well as others. The SEC FOIA's letter stating there are 114 Boxes of Investigatory material proves that Vasilescu did NOT provide all non privileged discovery to me and his statements are false and perjury. I will be making a complaint regarding this new SEC FOIA discovery and Vasilescu's perjury and false statements , to the New York Bar for Sanctions shortly on this.

As I list in (No. 2 above) Vasilescu provided Nothing in that list to me, as is my right by law and as is prescribed by law in the Rules of Practice under Rule 37 as well as Rule 230.

Motion Request of the Commission

Therefore without any meaningful Discovery from Vasilescu and the Division, I am completely unable to file a response to the Divisions Motion for Summary Disposition , until these documents are produced to me for my defense as is outlined in the Sixth Amendment Due Process.

Without this "Newly" found Discovery of over 112 Boxes of Investigatory material it would be a gross violation of my right to Due Process and my Fifth and Fourteenth Amendment rights.

I am respectfully requesting that the Commission should Grant my Request for an Extension of Time in order to secure the massive amount of Investigatory Evidence that SEC FOIA has found and will start to process, in order to complete my response to the Motion for Summary Disposition.

[REDACTED]

Michael S. Gonsky
May 6, 2024