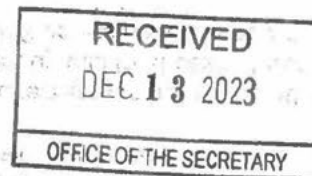


UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

Investment Advisors Act of 1940
November 20, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-19733



In The Matter of **ANSWER TO THE ALLEGATIONS**

NICHOLAS J. GENOVESE

Respondent

ANSWER TO THE ALLEGATIONS

It is my pleasure to answer these false allegations that were created to support a narrative.

Lets revisit the facts. I have already been convicted by the Southern District of New York, as I was forced to plead guilty under the threat of punitive punishment by adding twice as much time to my sentence. I have already plead my case in detail in the Civil case that The Securities and Exchange Commission brought against me and regardless of the facts I was found guilty and despite that, it was well known to the court a fine of \$1MM was levied when the judge knew full and well the statute stipulated that a fine should only be placed if it was reasonable which it was disproportionately not. I don't know of any fine that totals 9% of the loss amount calculated. Lastly The judge in that SEC case barred me from my constitutional right to appeal because the court was well aware that the allegations did not support the charge and that I would prevail upon appeal.

So i have already been prosecuted twice. It would seem that the SEC is being extremely overzealous here in its attempt to prosecute me a third time when the other two cases have already achieved the goal sought by this third case. It definitely can be seen as "piling on" and a waste of tax payers money and agency time to duplicate what 2 courts have already done.

I am aware of Jarkesy v. SEC being currently reviewed by the Unites States Supreme Court this session, which states will probably prevail that; the ALJ's are unconstitutional and if this is true then why is the agency pursuing this case and attempting to adjudicate me with ALJ's ? I assert that Jarkesy v. SEC establishes that ALJ's are unconstitutional and therefore considering my case was already adjudicated in the SDNY by the SEC that this Commission hearing also violates my constitutional rights, in that it is duplicitous and it is unconstitutional.

In Ernst & Ernst v. Hochfelder 425 U.S. 185, 96 S. ct. 1375 47L. Ed. 2d 668, Fed Sec. L. Rep. (cch) P954479 (1976), and in Sunstrand v. Sun Chemical, 553 F. 2d 1033, Fed. SEC. L. Rep. (CCH) P9587 (7th cir. 1977), The Supreme Court analyzed the history of Section 10(b) of SEC Act 1934 & Rule 10b-5 thereunder. "there is no indication that congress intended anyone to be made liable for such practices, unless he acted in other than good faith".

I deny these allegations and given the above case law governing the law you are attempting to try me, 'Intent to deceive' is a necessary element of an action under 10(b) as set forth in Hochfelder and in Sunstrand cases.

Once again the Supreme Court has held in the landmark case of Hochfelder that Scienter was required to prove a violation of Section 10(b) SEC ACT of 1934 and rule 10b-5.

Scienter was never proven in my civil case that I was found guilty of. In addition Scienter has NOT been presented in this OIP nor has any evidence been presented to support this. That's because Scienter does not exist, I did not intentionally deceive clients or otherwise.

Scienter was NOT proven nor was any supporting evidence presented to prove Scienter. Not only was Scienter never proven, nor evidence presented, the SEC in its civil filing against me the SEC refused to supply ANY Discovery. I requested copies of the complaints against me, the identifications of the individuals who lodged these complaints, dates and times and notes typed or hand written of said interviews, and the same I requested copies of the investigators who were on my case and who visited my office December 2018, to include inculcatory and exculpatory, both which alludes to their investigations.

During this OIP investigation I have received ZERO of the above, and am requesting this Discovery that purports to support the Allegations made in the OIP.

No Evidence of affidavits have been presented to me to support the allegations of the OIP. The SEC cannot just casually point to the SEC filing of the SDNY. The Commission has to provide Discovery. The Commission cannot rule on the merits without the SEC actually producing Discovery, evidence, affidavits, without it it would be a violation of my rights under the Constitution.

The Commission cannot just casually state that "Collateral Estoppel flows from the criminal judgment". Collateral Estoppel is NOT the same as Res Judicata, and the Commission cannot just casually say, Oh here is the conviction, without providing evidence, affidavits, investigators notes, etc..

The Commissions Section 206 claims are NOT the same as Section 10(b) 17(a) claims. So you cant just use the other case as a defacto duplicate to say oh its the same case.

In this OIP case not only was I never given any discovery of statements, affidavits, Notes, interviews, etc., I was also never served a "Wells Notice", I never received a copy of the investigative file, and I never received any Brady material Sec 231a, exculpatory to me, and I was never provided a 1662 SEC Form.

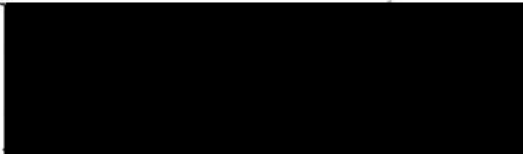
HEARING

According to the March 24, 2020 OIP section IV. I fully expect a hearing on this Administrative filing according to Rule 110 of the Commissions Rules of Practice 17 CFR 201.110.

Given the fact that I am in a Federal Prison Camp, the Commission can contact the Camp Counselor Ms. Hart to arrange for the tele conference/ hearing.

I also expect as ordered, that the Div. of Enforcement and I (respondent) shall conduct a Pre-Hearing conference pursuant to Rule 221 of the Commissions Rules of Practice, 17 CFR 201221.

Arrangements can be made with the Camp Counselor Ms. Hart to set up a Tele conference.



Nicholas J. Gehovese

11/20/2023
11/20/2023

CERTIFICATE OF SERVICE

to

SECURITIES AND EXCHANGE COMMISSION

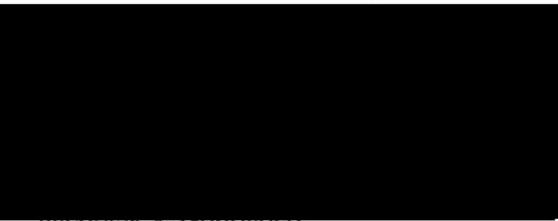
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Pursuant to S.E.C. Rules of Practice Rule 150, 17 C.F.R. 201.150 and Rule of Practice 151(d), 17 C.F.R. 201.151(d) I have mailed the attached document(s) "Answer to The Allegations" via First Class U.S. Mail as indicated in the Letter/Motion from a Federal Prison Camp in Terre Hate, IN.

I placed said documents in the mail box on the premises of the Federal Prison Camp on 11/25/2023 to the below;

Alexander Vasilescu
New York Regional Office
S.E.C.
100 Pearl St. Suite 20-100
New York, NY 10004-2616

Vanessa A. Countryman/Secretary
S.E.C.
100 F Street, NE
Washington, D.C. 20549


Date 11/25/2023


Nicholas J. Genovese

NAME: Nicholas Genovese

NUMBER: 17079 104

Federal Prison Camp
[REDACTED]

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Vanessa A. Countryman
Secretary
S.E.C.
100 F Street, NE
Washington, D.C. 20549

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