UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 5501 and 5502 / May 12, 2020

ADMINISTRATIVE PROCEEDING
File No. 3-19795
And
File No. 3-19796

RESPONDENTS' RESPONSE TO THE DIVISION'S MOTION FOR SUMMARY DISPOSITION

In the Matters of

STACY L. BEANE and
TRAVIS LASKA

RESPONDENTS.

The Division of Enforcement's Motion for Summary Disposition falsely portrays both Travis Laska and Stacy Beane as major players in the fraudulent scheme that was perpetrated by Stephen Peters. By omitting to explain the role that both [redacted] that Peters was committing during the SEC audit and investigation, the Division's presentation advocating for sanctions urges the SEC to impose sanctions based on exactly one-half of the story.

It is true, as both [redacted] and in response to the lawsuit filed by the SEC in North Carolina, that "at the direction" of Peters, they both falsified certain documents and withheld information from the SEC during the course of the examination. But the extent of the coercion and the threats that Peters made during the several months that this activity was ongoing is noticeably absent from the Division's presentation. Not one word appears in the Division's Memorandum about the fact that both Laska and Beane were threatened, intimidated and, in Beane's case, physically assaulted. The Division does not mention the extent to which many employees at VQ participated, to some extent or another, in the nefarious activities that Peters – *for his sole benefit* – required the employees to perform. The Division's Memorandum does not explain that neither Laska nor Beane made a dime as a result of their behavior that was coerced by Peters. Nor were they intending to make a dime. They were victims of Peters' threats and coercion, not co-conspirators.

But what is most startling is the Division's failure to alert the SEC to the undeniable fact that [redacted] They were the paradigm of [redacted] who, with no guarantee of immunity, [redacted]; the false dates on documents that they were

compelled to fabricate; the deletion of information from documents produced to the SEC. There is *nothing* in the Division's Memorandum that reveals this, [redacted], attached to the Division's Motion in Beane's case, that includes several hundred pages, including some references to her testimony during the Peters trial (there is not a word of this anywhere in the Laska Memorandum, because [redacted]

To make matters worse, the Division, at the conclusion of its Memorandum, stated that there are no mitigating factors that would counsel against a severe sanction. The Division correctly states, "The appropriate remedial measures in a proceeding under Section 203(f) is guided by the public interest factors set forth in Steadman v. SEC, namely: (1) the egregiousness of the respondent's actions; (2) the isolated or recurrent nature of the infraction; (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 his conduct; and (6) the likelihood of future violations. 603 F.2d 1126, 1140 (5th Cir. 1979)."

[1] In the unlikely event the [redacted] Beane's testimony at the criminal trial was elicited by the AUSA who was prosecuting the case. See Exhibit 4, pages 4, 108-109, 126-127.

But then the Division argues that there are virtually no mitigating factors whatsoever and that there is no reason to weigh a single factor in favor of either Laska or Beane. How can the Division seriously justify the failure to reveal to the SEC that both [redacted] How can the Division justify not telling the SEC that [redacted] that resulted in Peters' conviction and imprisonment? How can the Division dispute the undeniable conclusion that [redacted] what was occurring is, in fact, relevant to "the sincerity of the respondent[s'] recognition of the wrongful nature of [their] conduct; and [] the likelihood of future violations"? How can the Division fail to reveal that [redacted]

The behavior of Laska and Beane deserves more credit than the Division apparently thinks is warranted. Not only does the Division want both Laska and Beane to be barred from the industry (for what length of time the Division does not say), the Division also seeks a monetary sanction which it undeniably knows that

neither of them can afford, from the federal district court in the Eastern District of North Carolina.

The Division reports that Justin Deckert, another employee at VQ, was barred from the industry, with the right to reapply in five years. Of course, nobody knows whether he, or Beane or Laska will ever be granted such a request in five years, and if the Division continues to brand Laska and Beane in a similar fashion as it has done in this matter and does not reveal the extent of their cooperation, it seems unlikely that their application will be granted.

In addition, if the SEC were to consider the disparity of punishment, it is worth noting here that Deckert did not go to the FBI or participate in surreptitious recording of Peters. Rather, he was [redacted]. Deckert can properly be labeled a cooperator. [redacted]

This, apparently, is how the SEC Enforcement Division rewards [redacted]. This is how the SEC Enforcement Division apparently wants the public to know what will happen to them if they report violations of the law to law enforcement. They will be fined. They will be barred from the industry.

Laska was in his twenties and Beane just in her early thirties when these events occurred. As noted above, none of their actions resulted in (or were motivated by) greed or any monetary benefit. They were scared. They were repeatedly threatened.

As their previously filed affidavits reveal, both of them have lost their jobs. Both are in debt (and facing financial ruin if [or when]) the federal court in Raleigh grants the SEC the relief it seeks there. They have student debt, no job, no prospect of a job in their field. If a prospective employer Googles either of them, what immediately is displayed on the screen is the lawsuit filed by the SEC and the criminal conduct about which they testified in Federal Court. Nowhere is there a recognition of their honorable behavior in going to the FBI before any of their misconduct was discovered. Nowhere does it show up that [redacted] *before* the SEC or any law enforcement agency was aware of the crimes he was perpetrating.

They both deserve thanks from the SEC. They both deserve for the truth to be told by the Division of Enforcement. They both deserve for the Division to report to the SEC that [redacted] clearly demonstrates that they have demonstrated the unmistakable "sincerity" of their assurances against future violations; their unmistakable recognition of the wrongful nature of their conduct; and the [un]likelihood of future violations.

Though we focus on the last three of the *Steadman* factors, the Division's arguments regarding the first three factors suffers from the vice of mere *ipse dixit*: the Division argues that these three factors, too, weigh in favor of being barred because … they do. But, consider *scienter*, for example: Laska and Beane were

shown *never* to have devised any aspect of the scheme and *never* to have ever decided what document to fabricate or alter, but simply followed the demands of Peters who was the sole beneficiary of the crimes and the defalcations. To be sure, what Laska and Beane did was not an accident, or mistake of fact, but they surely were not the schemers or the planners for this crime. They did not devise any aspect of the scheme or attempt to maximize their own benefit or even cover up their own fabrications. And with respect to "egregiousness of the conduct" the Division offers no yardstick to gauge this factor and simply declares that it was, in fact, egregious (omitting, of course, the fact that both [redacted] that ended Peters' criminal reign.

Because these factors weigh so heavily in support of denying the Division's request for sanctions, Stacy Beane and Travis Laska urge the SEC to reject the Division's request for sanctions.

RESPECTFULLY SUBMITTED,

GARLAND, SAMUEL & LOEB, P.C.

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