

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING

File No. 3-20136

In the Matter of

NORMAN T. REYNOLDS, ESQ.

Respondent

**OFFICE OF THE GENERAL COUNSEL'S REPLY IN SUPPORT OF ITS MOTION
FOR SUMMARY DISPOSITION AND FOR AN ORDER DISQUALIFYING NORMAN T.
REYNOLDS, ESQ. FROM APPEARING AND PRACTICING BEFORE THE
COMMISSION AS AN ATTORNEY, INCLUDING STATEMENT OF POINTS AND
AUTHORITIES**

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INTRODUCTION

OGC’s Motion for Summary Disposition (“Motion”) demonstrated that the District Court found that Reynolds violated federal securities laws and permanently enjoined him from future violations. It further established that the relevant public interest factors weigh decisively in favor of disqualifying Reynolds from appearing and practicing before the Commission as an attorney for at least four years. As discussed below, nothing in Reynolds’ Response in Opposition to OGC’s Motion for Summary Disposition (“Response”) undermines that showing. His response does little more than re-hash – practically verbatim – arguments made in his Petition to Lift the Temporary Suspension (“Petition to Lift”) which mostly seek to impermissibly re-litigate the rulings against him by the District Court. As discussed below, all of those arguments fail. Furthermore, Reynolds’ Response barely addresses, much less refutes, OGC’s showing on the relevant public interest factors. As set forth below, OGC’s Motion should be granted.

ARGUMENT

I. Reynolds Cannot Challenge the Court’s Injunctions or Findings in This Proceeding.

It is established in this proceeding that Reynolds violated antifraud and registration provisions of the securities laws, that a court permanently enjoined him from future violations of those laws, and that he is subject to a penny stock bar. The Court ruled that Reynolds acted recklessly in issuing Rule 144 letters enabling the issuance of stock in unrestricted form, and that he was a “necessary and substantial participant” in the unlawful sale of stock. The Court held that Reynolds recklessly disregarded “whether his Rule 144 Letters accurately informed” the transfer agent “that the one-year holding requirement was satisfied,” and that his avoidance of the truth of the DSA’s execution date in the face of decades of experience drafting Rule 144

letters and his heightened duty to reasonably investigate such a crucial – and ultimately false fact . . . was reckless.” Opinion at 25, 28. The Court’s findings are not properly subject to challenge here.

Yet Reynolds devotes the vast bulk of his Response to impermissibly dispute the Court’s injunctions and findings. First, he seeks to minimize the securities fraud violations found by the Court regarding his “statements in two legal opinion letters.” Response at 1-2. Second, he claims that “the Commission has not shown that the Respondent was connected to the larger scheme described in the complaint filed in the District Court Action.” *Id.* at 2. Third, he claims that the Court relied on “supplementary” facts put forth by the Commission that he disputed during the remedies phase of this case. *Id.* Fourth, he claims that the District Court’s “record as a whole does not support the imposition of permanent injunctive relief,” again disputing the Court’s ruling. *Id.* at 3. Lastly, Reynolds argues that the Court’s findings that he acted recklessly are contradicted by his expert witness. *Id.* at 4.

However, Reynolds is precluded from contesting those issues anew in this proceeding. Rule 102(e)(3)(iv) provides, in relevant part, that “the petitioner may not contest any finding made against him or her . . . in the judicial or administrative proceeding upon which the proceeding under this paragraph (e)(3) is predicated.” *See* Rule 102(e)(3)(iv), 17 CFR § 201.102(e)(3)(iv). Accordingly, the Commission has “long refused to permit a respondent to re-litigate issues that were addressed in previous civil proceedings against the respondent.” *See, e.g. In re Demetrious Julius Shiva*, 1997 WL 112328, at *2 (Mar. 12, 1997) ((rejecting attempts to challenge injunction and noting that “we have long refused to permit a respondent to re-litigate issues that were addressed in a previous civil proceeding against the respondent”)); *In re Joseph*

P. Galluzzi, 2002 WL 1941502, at *3 (Aug. 23, 2002) (“a party cannot challenge his injunction or criminal conviction in a subsequent administrative proceeding.”). The appropriate forum for Reynolds to contest the District Court’s injunction and/or findings was the court of appeals. *See, e.g., In re Jose P. Zollino*, Exchange Act Release No. 55107 (Jan. 16, 2007), WL 98919, at *4 n.20 (refusing to consider respondent’s challenges to underlying injunctive and criminal proceedings in follow-on industry bar proceeding and observing that, “those matters are properly addressed to the appellate court.”); *In re Michael Batterman*, 2004 WL 2785527, at *3 (Dec. 3, 2004) (challenges to the basis of a prior proceeding are properly addressed to the appellate court). Thus, even if Reynolds’ challenges to the District Court’s injunctions and findings were meritorious – which they are not – he cannot litigate them in the Rule 102(e) proceeding.

II. Reynolds Has Failed to Carry His Burden to Show Cause Why He Should Not Be Disqualified and OGC’s Motion for Summary Disposition Should Be Granted.

OGC’s Motion showed that the District Court permanently enjoined Reynolds, and that it found that he violated provisions of the federal securities laws and the rules and regulations thereunder (and made no finding that Reynolds’ violations were not willful). OGC’s Motion further showed that the relevant public interest factors weigh decisively in favor of disqualifying Reynolds from appearing and practicing before the Commission as an attorney for at least four years. In particular, OGC showed that Reynolds:

- (1) (as the Court found) engaged in egregious violations with a high degree of scienter;
- (2) has not recognized or acknowledged the wrongfulness of his conduct; and
- (3) will have opportunities to engage in future violations because he is an attorney with years of securities experience who has practiced before the Commission.

Motion at 18-23. OGC further showed that it is necessary and appropriate to disqualify Reynolds

from appearing and practicing before the Commission for at least four years to deter him and other attorneys who might be tempted to engage in similar misconduct.

Under Rule 102(e)(3)(iv), upon OGC's showing regarding the District Court's injunctions and findings, the burden shifts to Reynolds to show cause why he should not be censured or disqualified. *See* 17 CFR § 201.102(e)(3)(iv). Reynolds has failed to carry his burden as he has not addressed, much less refuted, OGC's showing that the relevant public interest factors clearly weigh in favor of disqualifying him from appearing and practicing before the Commission. As noted above, he rehashes prior arguments denying the wrongfulness of his violations. The only public interest factor he addresses in his Response is his likelihood of future violations, asserting that his law practice no longer involves any securities matters and referencing as evidence statements on his law firm's website that he no longer handles securities matters. However, even crediting this statement,¹ which likely stems from the fact that he is currently suspended by the Commission, his many years of securities practice strongly indicate that he will resume such work if permitted.

Reynolds has failed to demonstrate that there is a genuine issue of material fact concerning the relevant factors for determining the length of suspension that would preclude granting OGC's Motion, and thus there is no need for a hearing on this matter. To protect the public interest and the integrity of the Commission's processes, Reynolds should be disqualified from appearing and practicing before the Commission as an attorney for at least four years.

¹ His LinkedIn page, which he claims not to know how to remove or edit, remains current and continues to advertise on-line to prospective clients that he engages in securities matters.

CONCLUSION

For the foregoing reasons, OGC respectfully requests that its motion for summary disposition be granted, and that an order be issued disqualifying Reynolds for four years from appearing or practicing before it as an attorney.

DATED: June 7, 2021

Respectfully submitted,
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CERTIFICATE OF COMPLIANCE

I hereby certify, in accordance with Rule of Practice 250(e), 17 C.F.R. 201.250(e), that, according to Microsoft Word, the foregoing **OFFICE OF THE GENERAL COUNSEL’S REPLY IN SUPPORT OF ITS MOTION FOR SUMMARY DISPOSTION AND FOR AN ORDER DISQUALIFYING NORMAN T. REYNOLDS, ESQ. FROM APPEARING AND PRACTICING BEFORE THE COMMISSION AS AN ATTORNEY, INCLUDING STATEMENT OF POINTS AND AUTHORITIES** contains 1324 words (excluding the cover page; Tables of Contents and Authorities; and Appendix).

Dated: June 7, 2021

/s/ Philip J. Holmes

CERTIFICATE OF SERVICE

I hereby certify that on June 7, 2021, I caused a true and correct copy of the **OFFICE OF THE GENERAL COUNSEL’S REPLY IN SUPPORT OF ITS MOTION FOR SUMMARY DISPOSTION AND FOR AN ORDER DISQUALIFYING NORMAN T. REYNOLDS, ESQ. FROM APPEARING AND PRACTICING BEFORE THE COMMISSION AS AN ATTORNEY, INCLUDING STATEMENT OF POINTS AND AUTHORITIES** to be served upon the parties and persons entitled to notice below, as indicated:

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Via electronic filing:

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