David Anthony

[redacted]

[redacted]

January 3, 2025

Securities & Exchange Commission

United States of America

1961 Stout Street #1700

Denver, CO 80294

RE: Answer to Motion for Summary Disposition File 3-22308

Dear SEC Commission:

Pursuant to the Motion for Summary Disposition received on 12/13/2024 in response to my Answer to Order Instituting Administrative Proceedings filed on 12/1/2024, I am responding to the claims regarding David Anthony and Epic Capital Wealth Advisors, LLC and my request for registration as an advisor.

The operative facts of this proceeding are identical to those in the related matter regarding Epic Capital File # 3-22307 and I incorporate by reference my answer to the Motion for Summary Disposition and exhibits in that proceeding.

The Commission should not sanction David Anthony pursuant to Section 203(f) of the Investment

Advisors Act of 1940 as the nature of the acts enjoined and the circumstances indicate that it is [NOT] in the public interest." In re Melton, SEC Rel. No 2151, 2003 WL 21729839 at *3 July 25, 2003.

Anthony signed a settlement agreement with the State of Colorado on 1/5/2023 under the promise from Colorado that if he did so, and did not go to trial, he would be free to operate as an advisor in any other state besides Colorado. Under this promise Anthony signed the settlement which was supposed to follow the language of a 12/7/2022 Stipulation to Enjoinment whereby Anthony neither agreed nor denied the accusations of the Complaint and suspension was to be pending the outcome of a Feb. 2023 trial which never happened because of the false settlement agreement.

One hour after signing the settlement, Anthony called his attorney and said that he wanted to void the settlement because it was entered into under false pretenses. The next day, the State of Utah Securities Commissioner verified that he would not be able to be licensed in Utah as an advisor because of the actions of the Colorado Commissioner.

Anthony immediately secured new counsel, Paul Vorndran, to represent him in voiding the false settlement agreement and filed a motion on 1/26/2023 to overturn the Settlement.

In the motion, Mr. Vorndran and his law firm asserted that the settlement agreement should be set aside due to a mutual mistake relating to Mr. Anthony's ability to work outside Colorado, as reflected by the assurances made by the Commissioner's counsel, and relayed by Judge Frick, during mediation. The motion also asserted that during the mediation the Commissioner's counsel made fraudulent or negligent misrepresentations relating to the impact of a suspension of a Colorado investment-advisor's license

The Commissioner filed a response to the motion, in which her counsel acknowledged that "the Commissioner's counsel and [investigator] did discuss with Judge Frick the fact that an injunction issued by a Colorado court would only be effective in Colorado." Nonetheless, the Commission argued that there had been no mutual mistake or fraudulent/negligent misrepresentation.

On February 28, 2023, the District Court found no mutual mistake of fraudulent/negligent representation had been made, and denied the Motion to Set Aside Mediator Settlement. The Court admitted that they did not even read the Mediation transcript provided that proved the false promise provided by the Commissioner, and stated if such a promise was made, it would provide grounds to void the settlement.

Mr. Vorndran and his law firm filed a motion to reconsider this ruling, and that motion was denied on April 17, 2023.

That same day, April 17, 2023, the District Court issued a permanent injunction, enjoining Mr. Anthony

from serving as an investment advisor for 10 years and altered the language of the previous 12/7/2022 document and the language agreed upon on the 1/5/2023 settlement

Following the issuance of the April 17, 2023, orders, the 49-day time limit for filing a notice of appeal began to run.

Mr. Vorndran and his law firm were retained by Mr. Anthony and the Anthony Entities to file an appeal on their behalf, but they failed to file the notice of appeal prior to the June 5, 2023, deadline, instead filing it on June 20, 2023.

Thereafter, on July 14, 2023, the Commissioner moved to dismiss the appeal as untimely, and that motion was granted by the Colorado Court of Appeals.

The Commissioner then published the enjoinment on all of the public websites and reported it to the IARD disclosures against David Anthony.

Ian Kellog's 12/13/2024 Motion for Summary Disposition claims that the facts are undisputed and that a sanction of David Anthony is appropriate, and to bar Anthony from association with any investment advisor, broker, dealer, municipal securities Advisor with the right to reapply after 4/17/2033is in the public interest.

All of the facts are not only disputed, but they are not true, and it would not be in the public interest to sanction David Anthony.

The SEC has a duty to protect investors from fraud, and as stated on the SEC website regarding their mission of Protecting Investors:

> *"The federal securities laws we oversee are based on a simple and straightforward concept: everyone should be treated fairly and have access to certain facts about investments and those who sell them.*
>
> *Companies offering securities for sale to the public must tell the truth about their business, the securities they are selling, and the investment risks. And those who sell and trade securities and offer advice to investors – such as brokers-dealers, investment advisers, and exchanges – must treat investors fairly and honestly.*
>
> *We protect investors by vigorously enforcing the federal securities laws to ensure truth and fairness. We deter misconduct, hold wrongdoers accountable, and provide resources to help investors evaluate their investment choices and protect themselves against fraud."*

The question is simple: When presented with undisputed facts of fraud, deceit, misconduct and lies that have cost investors $80 million, what will the Commission do?

Does the Commission vigorously enforce federal securities laws to ensure truth and fairness, or do they simply say they do? How exactly will the Commission hold “wrongdoers accountable” and protect investors against fraud?

Accordingly, it is requested that the Commission not sanction David Anthony and to take aggressive action against the state of Colorado for the $80m fraud that they have incurred on the investors who are harmed in this case.

Respectfully submitted this 3 day of January 2025

David Anthony