

**UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION**

**ADMINISTRATIVE PROCEEDING
File No. 3-15006**

In the Matter of

**RAYMOND J. LUCIA COMPANIES,
INC. and RAYMOND J. LUCIA, SR.,**

Respondents.

**DIVISION OF ENFORCEMENT'S BRIEF IN OPPOSITION TO
RAYMOND J. LUCIA, SR.'s MOTION FOR RELIEF FROM BARS**

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INTRODUCTION

The Division of Enforcement (“Division”) respectfully submits this Brief in Opposition to Respondent Raymond J. Lucia, Sr.’s (“Respondent” or “Lucia”) motion under Rule 154 of the Commission’s Rules of Practice to vacate the administrative bars and investment company prohibition imposed against him pursuant to his Offer of Settlement (“Offer”). As Respondent has failed to demonstrate any compelling circumstances warranting the relief sought, his motion should be denied.

BACKGROUND

On June 16, 2020, the Securities and Exchange Commission (“SEC” or “Commission”) entered a settled Order Making Findings and Imposing Remedial Sanctions and a Cease-And-Desist Order against Respondent and his company, Raymond J. Lucia Companies, Inc. (“RJL”). *In re Raymond J. Lucia Companies, Inc. and Raymond J. Lucia, Sr.*, Exchange Act Rel. No. 89078, 2020 SEC LEXIS 3571 (June 16, 2020). Without admitting or denying the Commission’s factual findings, Respondent consented to the entry of the Order, which made factual findings, set a civil penalty and imposed associational bars and an investment company prohibition. *See* Ex. 1 (Offer) attached hereto.

Among other things, the Commission found that Respondent willfully aided and abetted and caused RJL’s violation of Sections 206(1), 206(2) and 206(4) of the Investment Advisers Act of 1940 (“Advisers Act”), and Rule 206(4)-1(a)(5) thereunder, in connection with their promotion of a proprietary wealth management strategy called “Buckets of Money” from 2006 through 2010. Lucia was associated with RJL, which was a registered investment adviser, and both Respondent and RLJ owed a fiduciary duty to prospective clients. From 2006 through 2010, Respondent appeared at seminars and used a PowerPoint presentation to promote the Buckets of Money strategy, in an effort to generate new advisory clients for RJL. In the seminar presentation, Respondent explained how the Buckets of Money strategy involved allocating assets to different

buckets of short-term, medium-term, and long-term investments; drawing from short and medium-term buckets to pay for expenses while allowing long-term investments to grow; and periodically reallocating assets from long-term investments to refill the short and medium-term buckets. At the culmination of the presentation, Respondent presented slides which purported to show the results of historical tests, which Respondent and RJJ called “backtests,” of how the strategy would have performed through the “Grizzly Bear Market” that started in 1973, and what Respondent characterized as the “flat market” from 1966 through 2003. The self-described “backtests” were presented as empirical, historical proof that the Buckets of Money strategy provided inflation-adjusted income for life and growth of investment principal under difficult market conditions. Respondent was responsible for the contents of the PowerPoint presentation and was personally involved in preparing and reviewing the so-called “backtests” that he presented in the PowerPoint presentation at the seminars.

The Commission found that Respondent’s and RJJ’s presentation of their so-called “backtests” as an accurate presentation of the historical performance of their strategy was materially misleading and omitted material information about the effect of certain assumptions about inflation, rates of return on real estate investment trusts (“REITs”), and fees; failed to disclose material information that their “backtest” methodology did not follow the Buckets of Money Strategy by reallocating assets periodically; and failed to disclose material information that Respondent and RJJ had no support for how they derived the numbers presented as the results of their so-called 1973 “backtest.”

As part of his Offer, Respondent agreed to the entry of a cease-and-desist order, the payment of a \$25,000 civil penalty, and the imposition of two bars that:

barred [him] from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; and

prohibited [him] from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter.

Under the terms of Order, Respondent has the right to apply for reentry after three (3) years from an effective date of September 3, 2015 (the date of the original Commission Opinion and Order in this matter), to the appropriate self-regulatory organization, or if there is none, to the Commission.

On Monday, July 28, 2025, Respondent moved the Commission to “lift” (*i.e.*, vacate) the bars in their entirety. Respondent’s motion is made under Rule 154 of the Commission’s Rules of Practice, which requires the Division of Enforcement’s opposition brief to be filed within five days after service of the motion, that is, on August 4, 2024.

ARGUMENT

I. The Commission Should Deny Respondent’s Motion To Vacate.

The Commission has long emphasized the “strong interest” in maintaining the finality of settlements and will only vacate an order issued as part of a voluntary agreement in “compelling” circumstances – a stringent standard which is not met here. *In re Certain Off-Channel Communications Settled Orders*, Exchange Act Rel. No. 102860, 2025 SEC LEXIS 1094, at *2 (Apr. 14, 2025), 2025 WL 1101495, at *1 (Apr. 14, 2025). “If sanctioned parties easily are able to reopen consent decrees years later, the SEC would have little incentive to enter into such agreements.” *Miller v. SEC*, 998 F.2d 62, 65 (2d Cir. 1993) (affirming Commission decision denying application to vacate prior administrative consent order); *In re Osborn*, Securities Act Rel. No. 10641, 2019 SEC LEXIS 1269, 2019 WL 2324337, at *3 (May 19, 2019) (Commission rejected request to vacate, noting that respondent’s “choice [to settle] was a risk, but calculated and deliberate and such as follows a free choice”); *cf. SEC v. Conradt*, 309 F.R.D. 186, 188 (S.D.N.Y.

2015) (“When it comes to civil settlements, a deal is a deal....”), *aff’d*, 696 Fed. Appx. 46 (2d Cir. 2017).

To demonstrate compelling circumstances sufficient to vacate a settled order, the applicant bears the burden to show “that there would be no adverse impact on the public interest and the protection of investors if the bar were vacated.” *In re Cozzolino*, Exchange Act Rel. No. 49001, 2003 SEC LEXIS 3083, 2003 WL 23094746, at *2 (Dec. 29, 2003).

In *Cozzolino*, the Commission took the opportunity “to review its precedent concerning, and to discuss the standard that it uses for review of, petitions for relief from administrative bar orders.” *Cozzolino*, 2003 WL 23094746, at *1. The Commission outlined the factors that it considers when deciding an application to vacate administrative bars, including: (1) the nature of the misconduct at issue in the underlying matter; (2) the time that has passed since issuance of the administrative bar; (3) the compliance record of, and any regulatory interest in, the petitioner since issuance of the bar; (4) the age and securities industry experience of the petitioner; (5) the extent to which the Commission has granted prior relief from the administrative bar; (6) whether the petitioner has identified verifiable, unanticipated consequences of the bar; and (7) whether there exists any other circumstance that would cause the requested relief from the administrative bar to be inconsistent with the public interest or the protection of investors. *See id.* at *3. The Commission continues to use these factors when deciding whether to grant a request to vacate administrative bars. *See, e.g., In Re Amico*, Exchange Act Rel. No. 100453, 2024 SEC LEXIS 1516, at *4 (July 2, 2024) (“[n]ot all of these factors will be relevant in determining the appropriateness of relief in a particular case, and no one factor is dispositive”); *Osborn*, 2019 WL 2324337, at *2, n.5.

A. Respondent’s Misconduct In The Underlying Matter Supports Keeping The Bars In Place.

The first *Cozzolino* factor that the Commission considers is the “the nature of the misconduct at issue in the underlying action (more serious and extensive allegations militate against relief).” *Cozzolino*, 2003 WL 23094746, at *3. Respondent’s settlement included aiding and abetting scienter-based fraud charges,¹ and his violations spanned a number of years. While Respondent contends that reasonable minds may differ as to the egregiousness of his misconduct (see Motion at 4, citing to Commissioner Gallagher’s and Pwiowar’s dissent to the Commission September 2, 2015 Opinion), Respondent’s motion is not the appropriate forum to relitigate the merits of the Commission’s Order. Indeed, Respondent is foreclosed from doing so by the terms of his Offer. See Ex. 1 (Offer), Section V (waiving, among other things, all hearings, including any claim or entitlement to a new hearing before another ALJ or the Commission itself, all post-hearing procedures and judicial review by any court). Thus, the seriousness and duration of Respondent’s conduct as described in the Order counsel against granting the requested relief.

B. Respondent Did Not Seek Incremental Relief or Demonstrate Sufficient Compliance Before Moving To Vacate.

While the Commission rarely vacates administrative bars, it has done so in a few cases where the applicant has been granted incremental relief and, after receiving that relief, has demonstrated consistent compliance. The applicable *Cozzolino* factors include: (1) the time that has passed since the issuance of the administrative bar; (2) the compliance record of the petitioner since the issuance of the bar; (3) the age and securities experience of the petitioner; and (4) the extent to which the Commission has granted prior relief from the administrative bar. See *Cozzolino*, 2003 WL 23094746, at *3. No one factor is dispositive. *Amico*, 2024 SEC LEXIS 1515, at *4. In those rare cases, granting a motion to vacate was generally “the last in a series of incremental grants of relief – that is, the petitioner had been earlier permitted to associate.”

¹ In addition to finding that Respondent violated the scienter-based antifraud provisions of Section 206(1) of the Advisers Act, the Commission also found Respondent willfully aided and abetted violations of Sections 206(2) and 206(4) of the Advisers Act and Rule 206(4)-1(a)(5).

Cozzolino, at *2. That incremental approach helps the Commission decide whether vacating the bars and allowing the applicant to participate in the securities industry without the safeguards provided by the bars would be in the public interest and sufficiently protect investors. *In re Graham*, Exchange Act Rel. No. 84106, 2018 WL 4348490, at *8 (Sept. 12, 2018).

Under this deliberative approach, the Commission first allows the applicant to seek consent for reentry under Rule of Practice 193, which permits the applicant, upon a proper showing, to re-enter the securities industry while remaining subject to the Commission’s supervision. *See* 17 C.F.R. § 201.193. Even then, the Commission will consider vacating bars in their entirety only after an applicant demonstrates consistent compliance over time. Simply put, a brief time being subject to the bars – especially without first asking for or receiving limited permission to participate in the securities industry – is not sufficient to show that vacating the bars would be in the public interest.

In a similar case, the Commission denied a request to vacate, explaining that “[l]ess than five years have passed since we entered the Order imposing the bars that Osborn seeks to have vacated.” *Osborn*, 2019 WL 2324337, at *3. This “relatively short period of time . . . weighs against” vacating the bars. *Id.* The Commission explained that Osborn’s failure to seek prior limited relief from the administrative bar through Rule 193 “weighs heavily against Osborn.” *Id.* at *3. Like Respondent, “Osborn ha[d] not obtained consent to associate notwithstanding his bar, and now seeks to avoid this process entirely.” *Id.* The Commission explained that Osborn should have first moved for limited relief under Rule 193 to reenter the securities industry, which would have allowed Osborn first to “‘establish a satisfactory compliance record’ while under heightened supervision ‘before moving to vacate the bar.’” *Id.* (citations omitted); *see also Graham*, 2018 WL 4348490, at *5 (discussing same process and factor analysis) (quoting *In re Lewis*, Exchange Act Rel. No. 51817, 2005 WL 1384087 (June 10, 2005)).

Respondent's situation is similar. Under *Cozzolino* Factor 2, Respondent moves to vacate the bars five years after he agreed to them – a “relatively short period of time” which “weighs against” vacating the bars. *Osborn*, 2019 WL 2324337, at *3. For Factor 3, Respondent did not seek permission to participate in the securities industry under Rule 193 before moving to vacate the bars, so he “cannot demonstrate a record of compliance in any capacity.” *Id.* However, Respondent does not appear to have been the subject of any regulatory scrutiny, so “[a]s a whole, [*Cozzolino* Factor 3] militates neither for nor against relief.” *Id.*

Cozzolino Factor 4—the age and securities industry experience of the petitioner – also supports maintaining the bars. The Commission sometimes considers whether the violation occurred when the applicant was young and inexperienced in the industry without proper supervision. In *Quarles*, for example, the Commission granted an application to vacate, in part because the violations occurred 24 years earlier when Quarles “was a new broker in his first job in the securities industry.” See *In re Quarles*, Exchange Act Rel. No. 66530, 2012 WL 759386, at *1 (Mar. 7, 2012); see also *In re Bendall*, Exchange Act No. 38326, 1997 WL 76700, at *1 (Feb. 24, 1997) (noting that the violation occurred when Bendall was 24 years old, which supported his request to vacate). Respondent, on the other hand, was 61 years old when the Commission issued its 2012 Order Instituting Proceedings (“OIP”). *In re Raymond L. Lucia Companies, Inc. and Raymond J. Lucia, Sr.*, Exchange Act Rel. No. 67781 (Sept. 5, 2012). During the relevant time, Respondent owned R JL, was registered an investment advisor associated with R JL, and a registered representative of two broker-dealers, and held Series 24, 63 and 66 licenses. *Id.*

Factor 5 – the extent to which the Commission has granted prior relief from the administrative bar – also “weighs heavily against” granting Respondent's motion. *Osborn*, 2019 WL 2324337, at *3. The settled Order imposing the bars on Respondent provided “the right to apply for reentry” under Rule 193 after three years from an effective date of September 3, 2015 (the date of the original Commission Opinion and Order in this matter). But Respondent did not

apply for reentry under Rule 193 before making his motion. Instead, Respondent “seeks to avoid this [process] entirely” by asking the Commission to vacate the bars. *Osborn*, 2019 WL 2324337, at *3. As explained in the Commission’s opinions, the most appropriate path here would be for Respondent first to apply for reentry pursuant to Rule 193 as contemplated in his agreed-to Order before moving to vacate.

C. No New Facts, Changes in Law, or Unanticipated Consequences Warrant Modifying the Order.

The remaining *Cozzolino* factors do not support vacating the administrative bars. The Commission also considers whether the petitioner has identified verifiable, unanticipated consequences of the bar or whether there exists any other circumstance that would cause the requested relief from the administrative bar to be inconsistent with the public interest or the protection of investors. *See Cozzolino*, 2003 WL 23094746, at *3. A party seeking to vacate or modify an order based on these factors must establish “that a significant change in circumstances warrants revision of the decree.” *Off-Channel*, 2025 WL 1101495, at *2. “Modifications may be appropriate, for example, where new factual conditions make compliance with the decree substantially more onerous; when the consent decree becomes unworkable because of unforeseen obstacles; when enforcement of the decree without modification would be detrimental to the public interest; or when there is a significant change in law.” *Id.* (quotation marks and citations omitted).

Respondent claims that the bars should be vacated because he is unable to locate a sponsor or otherwise satisfy the requirements for reentry prescribed by Rule 193, and that even potential employers who are not registered investment advisers or broker dealers are reluctant to employ him, purportedly due to the reputational damage caused by the Commission’s enforcement action and the remedies it imposed on Respondent and to which Respondent agreed to in his Offer. Motion at 11. But those consequences, even if true, were not unforeseen. Indeed, in his Offer, Respondent acknowledged that Rule 193 would govern his reentry application. The fact that

Respondent finds it difficult to comply with those procedures is no reason to vacate the bars in their entirety. *See Certain Off-Channel Communications*, 2025 SEC LEXIS 1094, at *3 (noting that modifications of a settled order may be appropriate when the consent decree becomes “unworkable because of unforeseen obstacles”); *see also In re Wanger*, Exchange Act Rel. No. 81111, 2017 SEC LEXIS 2025, at *12 (July 11, 2017) (inability to find a sponsor and thus satisfy Rule 193’s requirements is “among the natural and foreseeable consequences that flow from a ban on employment in the securities industry” and is not a “compelling circumstance” that would justify wholly vacating a remedial sanction designed to prevent recurrent of misconduct and protect investors and the integrity of the markets”) (quoting *In re Johnson*, Exchange Act Rel. No. 75894, 2015 SEC LEXIS 3794, 2015 WL 5305993, at *4 n.20 (Sept. 10, 2015)); *In re Wein*, Exchange Act Rel. No. 49000, 2003 SEC LEXIS 3097, 2003 WL 23094748, at *5 (Dec. 29, 2003) (claim that order hinders respondent’s dealings with prospective business associates is not in all respects verifiable or unanticipated); *In re Frankel*, Exchange Act Rel. No. 49002, 2003 SEC LEXIS 3098, 2003 WL 23094747, at *5 (Dec. 29, 2003) (negative impact of Order and bars on applicant’s job prospects were not unanticipated and not an unfair surprise); *Osborn*, 2019 WL 2324337, at *4 (same);

Respondent also contends that he is in his seventies, had been in the securities industry for many years, has paid his civil penalty, his misconduct was not egregious (notwithstanding the Commission’s finding that he aided and abetted a scienter-based violation of Section 206(1) of the Advisers Act), and his clients suffered no pecuniary harm. Motion at 5, 9. The Commission rejected nearly identical arguments in *In re Advanced Practice Advisers, LLC and Spitzer*, Advisers Act. Rel. No. 6889, 2025 SEC LEXIS 1728, at *7; *see also In re Calhoun Asset. Mgmt.*, Exchange Act Rel. No. 99322, 2024 SEC LEXIS 71, 2024 WL 14776, at *3 (Jan. 22, 2024) (finding that, even assuming respondent’s clients were not harmed does not provide compelling

circumstances need to justify the vacatur of an associational bar because it “would not undermine the Commission’s underlying findings of violations”).

Respondent also attempts to collaterally attack his settlement, asserting that he was “coerced” into making his Offer due to the lack of financial resources. Motion at 9. But in making his Offer, Respondent freely and voluntarily elected to settle and he cannot be relieved of that choice now. *Osborne*, 2019 SEC LEXIS 1269, at *7 (rejecting contention that respondent settled because of financial and medical concerns as a basis to vacate bars). Moreover, his contention that he was coerced to settle is flatly contradicted by his Offer. In Section IX of his Offer, Respondent stated that the Offer was made voluntarily, and that no promises, offers, threats, or inducements of any kind or nature whatsoever have been made by the Commission or any member, officer, employee, agent, or representative of the Commission in consideration of this Offer or otherwise to induce Respondent to submit to his Offer. Ex. 1, Section IX.²

Respondent also contends that he could not have anticipated that the reentry process would be governed by Rule 193 and should therefore be relieved of having to comply with it. Motion at 10-11. This contention is also flatly contradicted by the terms of his Offer. In Section X of the Offer, Respondent stated that he understood that any application to reapply made directly to the Commission “would be reviewed under the processes specified in Rule 193 of the Commission’s Rules of Practice [17 C.F.R. 201.193], or as specified in the order in this proceeding.” *Id.*, Section X.³

² Respondent, contradicting his claim that he lacked the financial resources to continue to litigate this matter, also claims that had *Jarkesy* been decided earlier, he would have availed himself of the right to a jury trial in federal district court. Motion at 8; *see SEC v. Jarkesy*, 603 U.S. 109 (2024).

³ Respondent also contends that the reentry process under Rule 193 is flawed as the determination of whether to permit reentry is, in the first instance, delegated to the Division of Enforcement, which “raises concerns about impartiality and conflicts with the principle of separating adjudicatory and enforcement functions.” Motion at 12. In so arguing, Respondent ignores that in the event of a denial, the applicant may appeal to the Commission for review. *See*

Finally, Respondent acknowledges that vacating the bars must be in the public interest and provides vague assurances that he “seeks to reengage with the financial industry to contribute his expertise in a manner consistent with investor protection” (Motion at 2) and that granting the relief sought would allow him “to resume contributing his expertise to the financial industry under appropriate safeguards consistent with the public interest” (*id.*, at 10). But Respondent fails to identify what he intends to restrict his activities to, what safeguards or supervisory controls would be in place, or how any restrictions or safeguards on his conduct would be enforced should the bars be lifted. Respondent seeks to be employed by an advisor or broker (*id.* at 2), and while he hopes to limit his activities to “mentoring, training, recruiting and informational public speaking,” nothing would restrict the scope of Respondent’s activities in the financial industry if the bars were lifted. *See In re Wanger*, at *12 (“Wanger’s request is functionally equivalent to asking us to vacate the bar entirely and free him from any restrictions or oversight his future activities”).

In short, Respondent has not identified any significant change in the law or any other circumstance since the Order was entered that requires vacating the bars to be consistent with the public interest or the protection of investors.

II. CONCLUSION

For the foregoing reasons, Respondent’s motion to vacate the bars should be denied.

17 C.F.R. § 200.30-4(a)(5). In addition, there is no reason to believe that should Respondent submit an application compliant with Rule 193 showing that Respondent’s request is consistent with the public interest, the Division of Enforcement would automatically oppose it. *See, e.g., In re Gobora*, Advisers Act Rel. No. 5710, 2021 SEC LEXIS 745 (May 29, 2021) (stating that the “Division of Enforcement, pursuant to delegated authority... has concluded... that the Application meets the standard for relief under Rule 193); *In Re Silver*, Advisers Act Rel. No. 4671 (Apr. 26, 2017) (granting Rule 193 application by the Division of Enforcement for the Commission, pursuant to delegated authority); *In re Sapio*, Advisers Act Rel. No. 4572 (Dec. 22, 2016) (same); *In re Ruhl*, Advisers Act Rel. No. 4570 (Nov. 17, 2016) (same).

Respectfully submitted,

Dated: August 4, 2025

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CERTIFICATE OF SERVICE

I certify that on August 4, 2025, I caused the foregoing document to be served on the following persons, by electronic mail, facsimile, or by UPS overnight mail as stated:

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