

UNITED STATES OF AMERICA
Before the
SECURITIES EXCHANGE COMMISSION

MOTION TO DISSMISS
ADMINISTRATIVE PROCEEDING
ADMINISTRATIVE PROCEEDINGS
File No. 3-321525/ April 15, 2025
PURSUANT TO THE INVESTMENT
ADVISORS ACT OF 1940

In the matter of

VANIA MAY BELL

Respondent,

COMES NOW, VANIA MAY BELL (Pro-Se), and respectfully submits this Motion to dismiss the administrative proceeding initiated by the Securities Exchange Commission ("SEC") against the Respondent in the above captioned matter. The motion to dismiss is based on the lack of jurisdiction, constitutional violations, improper reliance on a prior adjudicated criminal plea, and other legal grounds as set forth below.

I. INTRODUCTION

The United States Securities Exchange Commission is pursuing an administrative proceeding against The Respondent, a non-licensed, non-fiduciary employee. The Respondent was not licensed or registered with FINRA, NASD and was under no contractual agreement with the Branch Office of Securities America, Inc. ("SAI") in New City, NY (Branch # 841). This proceeding must be dismissed as it lacks a valid legal basis, violates The Respondent's constitutional rights, and seeks duplicative adjudication of civil matters settled already in the Federal Court in the Southern District of New York.

II. FACTUAL BACKGROUND

Respondent was employed as an administrative employee at Executive Compensation Planners, Inc. ("ECP") in New City, NY, and "ECP" was the ("RIA") as well as a branch office of Securities America, Inc. ("SAI") (Branch office #841). ("ECP") was the ("RIA") and was supervised and registered with ("SAI"), and Securities America Advisors, Inc. ("SAA") in Omaha, NE.

The Respondent worked in branch office administration as directed by the broker-dealer ("SAI"), and under the licensure as well supervision of the ("RIA"); Hector A. May was the Investment Registered Representative. Hector A. May was the CFO of ("ECP") and the only officer of the ("RIA"), as stated on the "ADV ". The Respondent had no licenses nor registrations with NASD, FINRA, ("SAA") or ("SAI"). The Respondent never had a contractual selling agreement in the 23-

year period of her employment at ("ECP"). ("ECP") and Hector A. May had contractual selling agreements with the broker-dealer from September 1993 through March 9, 2018. ("ECP") and Hector A. May carried the required errors and omissions insurance.

The underlying matter of admission or denial under rule 203(f) has already been the subject of settlement in Federal Civil Court for the Southern District of New York. See: Securities Exchange Commission vs. Vania May Bell 7:18-CIV.-1168 (VB), which in fact included consideration of a prior criminal plea. See: UNITED STATES OF AMERICA vs. VANIA MAY BELL (19 CR. 550) (NSR). Both the cases resolved all civil liability and permanently barred the Respondent from further activities in investments under New York and Federal Law.

The Securities Exchange commission, as a self-regulated agency under the United States Department of Justice, now seeks to pursue an administrative judgement based on the same set of facts resolved in the civil proceedings, effectively re-trying matters, which were already settled in federal court on April 18, 2023.

III. LEGAL ARGUMENT

A. LACK OF JURISTICITON OVER NON-LICENSED AND NON-FIDUCIARY EMPLOYEES:

- 1) The "SEC's" administrative enforcement authority is statutorily limited. The Securities Exchange Commission("SEC") may not extend administrative enforcement actions against individuals who are neither licensed under federal securities law nor subject to fiduciary responsibilities. The ("SEC's") administrative proceeding is restricted to a certain class of regulated individuals. See: Securities Exchange Act of 1934, 15 U.S.C. €780(a)(1), which states that no person may act as broker or dealer unless registered in accordance with the statue. The Courts have ruled and specifically cited that this regulatory rule applies to those engaged in actual securities transactions requiring registration. See: CHIARELLA vs. UNITED OF AMERICA, 445 U.S. 222,228 (1980), where the Supreme Court noted that liability under securities law; "is premised upon duty to disclose arising from a relationship of trust and confidence". An individual who lacks a fiduciary relationship with investors, and who has no obligation under securities laws, cannot be subjected to administrative penalties. See: CHRISTOPHER vs. SMITHKLINE BEECHAM Corp., 567 U.S. 142, 159 (2012). The Supreme Court stated that self-regulatory agencies asserting regulation authority over individuals "never before subject to regulation" was an overreaching statutory mandate.
- 2) The ("SEC's") own administrative rules and regulations distinguish between individuals subject to enforcement proceedings. The ("SEC") defines their supervision for Registered Representatives, Investment Advisors, Brokers or Dealers, or those who exercise supervision over such people, as well as administrative and clerical employees. See: ("SEC") Rule 17 a-3, 17 C.F.R. € 240.17a-3(a)(18), which exempt clerical and ministerial employees from registration and oversight.

B. RESOLVED FEDERAL PROCEEDINGS PRECLUDE ADMINISTRATIVE ACTION:

- 1) The Principle of Res Judicata and doctrines against "double jeopardy" cease further proceedings on matters already resolved by the Federal Court of competent jurisdiction. This

would preclude further litigation of the same cause of action. See: ALLEN vs. Mc CURRY, 449 U.S. 90 (1980). The doctrine of res judicata (or claim preclusion) holds that a final judgment in a competent court under Article III of the U.S. Constitution should bar re-litigation of the same issue. Once a criminal plea has been entered and the matter closed, and the main issues underlying the plea are considered; then the matter is understood as conclusively settled. The application of this doctrine is analogously related to the administrative ("SEC") proceeding means that the ("SEC") is imposing additional sanctions on the identical conduct from the federal ("SEC") case. See: (SEC vs. BELL 7:18 CIV.-1168 (VB)) Therefore, reopening the issues that have already been judged, which contradicts the principles of fairness and finality in adjudication.

2) The ("SEC's") attempt to reopen this matter in an administrative forum amounts to improper collateral punishment. See: SEC vs. BLACKWELL, 477 F. SUPP. 2d 891 (S.D. Ohio) (2007) The Court recognized that the defendant has already been held accountable through the criminal process, any attempt by the ("SEC") to impose further punitive measured based solely on that criminal adjudication case is selective enforcement. This decision clearly exemplifies that administrative sanctions based on the criminal plea amount to punishment and litigation in another venue is beyond what is constitutionally permissible.

C. DOUBLE JEOPARDY

1) When a defendant's criminal plea carries a punitive consequence and has already resulted in sentencing, using that plea as the main basis of argument to justify the same administrative sanctions may effectively punish the defendant twice for the same offense for which the ("SEC") participated in the same civil proceeding. See: ("SEC") vs. VANIA MAY BELL 7:18 CIV.-1168 (VB).

2) Once the federal case for The Respondent was settled, with a punishment of 80 months in prison, as well as restitution and forfeiture, administrative re-litigation is barred unless new facts or legal theories were not previously disclosed in the plea agreement. See: HUDSON vs. THE UNITED STATES, 522 U.S. 93 139L ED 2d 450, 118 S Ct 488 (1997). This duplicative administrative proceeding or excessive enforcement by the ("SEC") goes against the "the double jeopardy clause", which protects the Respondent of duplicative criminal punishment for the same offense. See: UNITED STATES vs. SEC, 798 F. SUPP. 2d 469(S.D.N.Y.) (2011.)

D. CONSTITUTIONAL AND SUPERVISORY OVERSIGHT BY A SELF-REGULATED AGENCY:

1) As a self-regulating agency under the department of justice of the United States of America, Inc., the ("SEC") must operate under constitutional law. Administrative proceedings lacking Article III protections (i.e. trial by jury, due process) to impose civil penalties for securities fraud violates the Respondents Fifth and Fourteenth Amendment right under the United States Constitution. Constitutional law € 488,788. The administrative proceedings by the ("SEC") implicate enforcement of sanctions against The Respondents constitutional rights without the procedural protection of Article III Courts. See: SEC vs. JARKESY, 34 F. 4th 446 (5th Cir. 2022).

- 2) The "(SEC)" cannot solely rely on the criminal plea in an unrelated venue to form the basis for administrative action, especially when that plea has been adjudicated and resolved.
- 3) The administrative proceedings for using a criminal plea as a legal argument for a civil administrative hearing is duplicative and beyond the scope of the ("SEC's) authority as it is selective enforcement and a violation of Article III of the United States Constitution.
- 4) Securities America, Inc. and Securities America Advisors Inc. were the supervising entities over the registered Investment Advisor Hector A. May, The Investment Advisor, Executive Compensation Planners, Inc., ("ECP"). ("SAI") was the broker-dealer and the supervisory entity over the branch office (841) and its Registered Representative Hector A. May. Therefore, administrating actions and proceedings should be directed upon the broker-dealer ("SAI") and ("SAA") as they have primary responsibility and fiduciary relationship for the client, the Registered Representative, and the employees of the branch office. The ("SEC") enforcement proceedings should be focused on the supervising entity ("SAI") and ("SAA") who indeed fail their supervision protocols. See: Advisors Act Release No. 5762, (June 30, 2021)

CONCLUSION

The Respondent is already serving a punitive punishment for the criminal case and the civil case; both of which were settled and accepted by the federal court. The ("SEC") was a party of the federal civil court case aligned with the enforcement of permanent barring of ever associating with any investment firms or transactions. Attempting to re-open this matter in an administrative forum constitutes improper collateral punishment and serves no material purpose but to duplicatable punish for the same conduct and resolution.

GIVEN THE ABOVE, the respondent respectfully requests that the Securities Exchange Commission: dismiss the current administrative proceeding in its entirety. Acknowledge the prior federal civil settlement as conclusive and cease further pursuit of enforcement actions against The Respondent in this matter. File Number 3-21525 with prejudice.

Date April, 15, 2025

Respectfully Submitted

Vania N. Bell [REDACTED]
[REDACTED]

CERTIFICATE OF SERVICE

I certify a true copy has been attached to this motion, and has been sent to the following parties via United States Postal Services, as well as other parties entitled to notice for Case No: 3-321525:

On this day April 15, 2025.

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