

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 9514 / January 17, 2014

SECURITIES EXCHANGE ACT OF 1934
Release No. 71354 / January 17, 2014

INVESTMENT COMPANY ACT OF 1940
Release No. 30886 / January 17, 2014

ADMINISTRATIVE PROCEEDING
File No. 3-14848

In the Matter of
OPTIONSXPRESS, INC.,
THOMAS E. STERN, and
JONATHAN I. FELDMAN

ORDER DIRECTING REVIEW AND
ISSUING NOTICE THAT INITIAL
DECISION HAS BECOME FINAL
AS TO THOMAS E. STERN

Respondent Thomas E. Stern timely petitioned for review of the administrative law judge's initial decision issued on June 7, 2013.¹ On October 25, 2013, Stern withdrew his petition for review and filed an unopposed motion for entry of a notice of finality.

On November 5, 2013, a notice that the law judge's initial decision has become the final decision of the Commission as to Stern was issued pursuant to delegated authority.² On November 15, the notice of finality was brought before the Commission for review on its own initiative pursuant to Rule 431(c).³

¹ *optionsXpress, Inc.*, Initial Decision Release No. 490, 2013 WL 2471113 (June 7, 2013).

² *optionsXpress, Inc.*, Exchange Act Release No. 70809, 2013 WL 5915242 (Nov. 5, 2013). The November 5 notice of finality is hereby vacated.

³ 17 C.F.R. § 201.431(c). We find it unnecessary for the parties to "file a statement in support of or in opposition to" the entry of a notice of finality pursuant to Rule 431(d). *Id.* § 201.431(d). Therefore, pursuant to Rule 100(c), we find that it would "serve the interests of justice and not result in prejudice" to any party to this proceeding to suspend the operation of Rule 431(d). *Id.* § 201.100(c) (permitting the Commission to "by order direct, in a particular proceeding, that an alternative procedure shall apply or that compliance with an otherwise applicable rule is unnecessary").

We have considered Stern's October 25 withdrawal of his petition for review and unopposed request for entry of a notice of finality. Accordingly, notice is hereby given, pursuant to Rule 360(d)(2) of the Commission's Rules of Practice,⁴ that the initial decision of the administrative law judge has become the final decision of the Commission with respect to Stern. The orders contained in that decision are hereby declared effective. The initial decision ordered that Stern shall cease and desist from causing and aiding and abetting violations of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934, Exchange Act Rules 10b-5 and 10b-21, and Rule 204 of Regulation SHO. The initial decision further ordered that Stern is barred from being associated with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization or from participating in an offering of penny stock and prohibited permanently 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. The initial decision further ordered that Stern pay a civil monetary penalty in the amount of \$75,000.

By the Commission.

Elizabeth M. Murphy
Secretary

⁴ 17 C.F.R. § 201.360(d)(2).