

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 9803 / June 3, 2015

SECURITIES EXCHANGE ACT OF 1934
Release No. 75103 / June 3, 2015

Admin. Proc. File No. 3-15211

In the Matter of
FRANCIS V. LORENZO

ORDER DENYING LORENZO'S
MOTION FOR
RECONSIDERATION

On April 29, 2015, we issued an opinion and order finding that Francis V. Lorenzo violated Section 17(a)(1) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934, and Exchange Act Rule 10b-5 by sending false and misleading emails to prospective investors.¹ For these violations, we barred Lorenzo from the securities industry, ordered him to cease and desist from violating the antifraud provisions, and ordered him to pay a third-tier civil monetary penalty of \$15,000. Lorenzo now seeks reconsideration of the imposition of the bar and \$15,000 penalty. For the reasons below, we deny Lorenzo's request.

I.

This matter stems from emails that Lorenzo sent to two retail customers that contained false and misleading statements about a debenture offering by his client, Waste2Energy Holdings, Inc. ("W2E"). The emails promised customers that their investment would have three "layers of protection": (i) that W2E had more than \$10 million "in confirmed assets"; (ii) that W2E had "purchase orders and [letters of intent] for over \$43 mm in orders"; and (iii) that Lorenzo's employer, Charles Vista, LLC, had "agreed to raise additional monies to repay these Debenture holders (if necessary)." Lorenzo admitted at the hearing that he knew each of these statements was false and/or misleading when he sent them. Based on an independent review of the record, we found that his conduct violated the antifraud provisions of the federal securities laws and warranted imposition of an industry-wide bar, a cease-and-desist order, and a \$15,000 civil penalty.

¹ *Francis V. Lorenzo*, Securities Exchange Act Release No. 74836, 2015 WL 1927763 (Apr. 29, 2015).

II.

Reconsideration is an extraordinary remedy "designed to correct manifest errors of law or fact or permit the presentation of newly discovered evidence."² Applicants may not use motions for reconsideration to reiterate arguments previously made or to cite authority previously available.³ Because of this, motions for reconsideration are granted only in exceptional cases. Lorenzo's motion fails to meet these requirements.

Lorenzo asks the Commission to reconsider its imposition of a bar and \$15,000 civil penalty because those sanctions, he claims, are "a draconian penalty and an extreme departure from the one year suspension recently imposed on two other individuals by the Commission for very similar conduct in *In the Matter of John P. Flannery and James D. Hopkins*."⁴ This argument reiterates an assertion Lorenzo made during oral argument and is one we expressly rejected when determining sanctions. Lorenzo's restated arguments therefore provide no basis for reconsideration. We nevertheless emphasize two points below.

First, Lorenzo significantly misstates the seriousness of his misconduct. We expressly found that Lorenzo acted egregiously. While Lorenzo may have sent "only" two misleading emails to prospective investors, Lorenzo demonstrated a complete disregard for his professional and ethical responsibilities "by grossly misleading, if not outright lying to, retail customers about the significant risks involved in purchasing W2E's debentures."⁵ That Lorenzo "so blatantly ignored the importance of communicating truthfully with potential investors create[d] a significant risk that he will engage in similar misconduct in the future and demonstrates his unfitness to participate in the securities industry."⁶ Such violations of the antifraud provisions, we have long held, are "especially serious and subject to the severest of sanctions under the securities laws."⁷

² *Steven Altman, Esq.*, Exchange Act Release No. 63665, 2011 WL 52087, at *1 (Jan. 6, 2011) (citations omitted).

³ *Daniel Imperato*, Exchange Act Release No. 74886, 2015 WL 2088435, at *1 (May 6, 2015) (citing *Altman*, 2011 WL 52087, at *1).

⁴ Citing *John P. Flannery*, Exchange Act Release No. 73840, 2014 WL 7145625 (Dec. 15, 2014), *appeal docketed*, No. 15-1080 (1st Cir. Jan. 16, 2015).

⁵ *Lorenzo*, 2015 WL 1927763, at *12.

⁶ *Id.* at *13 (finding also that Lorenzo "displayed troubling dishonesty" by sending "his two misleading emails separately, to different customers, thus presenting separate opportunities to mislead prospective investors").

⁷ *Id.* at *12 (quoting *Peter Siris*, Exchange Act Release No. 71068, 2013 WL 6528874, at *6 (Dec. 12, 2013) (imposing a full collateral bar), *pet. for review denied*, 773 F.3d 89 (D.C. Cir. 2014)).

Second, Lorenzo oversimplifies our sanctions analysis. He argues, for instance, that "[s]everal of the factors that the Commission gave to support Lorenzo's permanent bar and civil penalty—such as a purported failure to accept responsibility for the conduct and the danger that the conduct could reoccur—were also cited by the Commission in the *Flannery* case as reasons why a one year suspension was imposed." But we did not base our sanctions determination on just Lorenzo's failure to accept responsibility or the danger of recurrence. We also based it on the circumstances surrounding those factors. For example, Lorenzo not only failed to accept responsibility, he also attempted to shift blame onto others. We were "particularly troubled" by Lorenzo's continued attempts to shift blame onto his employer for not disclosing certain information more fully—the same information that Lorenzo himself failed to disclose.⁸ Lorenzo also admitted that the conduct at issue (sending emails to customers) was outside his normal professional duties—a fact that "heighten[ed] our concern that Lorenzo will engage in future misconduct if allowed to remain in the industry."⁹

For these reasons, it is ORDERED that Francis V. Lorenzo's motion for reconsideration be, and hereby is, denied.

By the Commission.

Brent J. Fields
Secretary

⁸ *Id.* at *13.

⁹ *Id.* at *14. The sanctions considerations discussed in this order are only some of the factors we considered and that are discussed more fully in our opinion. And we emphasize, as we did in our opinion, that "the 'appropriate sanction depends upon the facts and circumstances of each particular case and cannot be determined precisely by comparison with actions taken in other proceedings.'" *Id.* at *15 (quoting *Ronald Pellegrino*, Exchange Act Release No. 59125, 2008 WL 5328765, at *17 n.68 (Dec. 19, 2008)).