

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933

Release No. 10048 / February 26, 2016

SECURITIES EXCHANGE ACT OF 1934

Release No. 77249 / February 26, 2016

INVESTMENT COMPANY ACT OF 1940

Release No. 32008 / February 26, 2016

Admin. Proc. File No. 3-15514

In the Matter of

RICHARD D. FELDMANN

ORDER SCHEDULING BRIEFS

Richard D. Feldmann (“Feldmann”) has submitted a letter seeking to modify the disgorgement and prejudgment interest ordered against him in a 2014 settled order (“Order”).<sup>1</sup>

Feldmann, formerly a registered representative at McGinn, Smith & Co., Inc., originally was one of ten respondents in an administrative proceeding instituted in 2013.<sup>2</sup> When he settled with the Commission in 2014, the Order found that Feldmann willfully violated Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933,<sup>3</sup> and Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder.<sup>4</sup> The Commission ordered him to cease and desist from committing or causing violations and any future violations of those provisions; imposed industry,

<sup>1</sup> *Donald J. Anthony*, Exchange Act Release. No. 71864, 2014 WL 1320384 (Apr. 3, 2014).

<sup>2</sup> *Donald J. Anthony*, Exchange Act Release. No. 70473, 2013 WL 5306694 (Sept. 23, 2013).

<sup>3</sup> 15 U.S.C. § 77e(a) and (c), § 77q(a).

<sup>4</sup> 15 U.S.C. § 78j(b); 17 C.F.R. § 240.10b-5. Among other things, the Commission found that Feldmann “offered and sold notes to accredited and unaccredited investors alike for which no registration statements were in effect, and no exemptions applied,” and “knowingly or recklessly: (a) failed to perform adequate due diligence to form a reasonable basis for his recommendations to customers and ignored a number of red flags concerning the offerings; and (b) made misrepresentations and omissions in selling . . . fraudulent note offerings to investors from 2003 to 2009.” 2014 WL 1320384, at \*3.

Investment Company Act, and penny stock bars; and ordered him to pay disgorgement of \$299,000, prejudgment interest of \$55,384.87, and a civil penalty of \$130,000.<sup>5</sup>

After Feldmann settled with the Commission, the law judge issued an initial decision in 2015 addressing the claims against the non-settling respondents.<sup>6</sup> Feldmann requests that the Commission adjust the amount of disgorgement and prejudgment interest he was ordered to pay in light of the disgorgement the non-settling respondents were ordered to pay in the initial decision. We direct that the parties file opposing and reply briefs on this issue pursuant to Rule of Practice 154(b).<sup>7</sup>

Accordingly, IT IS ORDERED that the Division of Enforcement file a brief in opposition by March 14, 2016, and that Richard D. Feldmann file a reply brief by March 21, 2016.

For the Commission, by the Office of General Counsel, pursuant to delegated authority.

Brent J. Fields  
Secretary

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<sup>5</sup> 2014 WL 1320384.

<sup>6</sup> *Donald J. Anthony, Jr.*, Initial Decision Release No. 745, 2015 WL 779516 (Feb. 25, 2015), *modified by*, Administrative Proceedings Rulings Release No. 2528 (Apr. 9, 2015), available at <https://www.sec.gov/alj/aljorders/2015/ap-2528.pdf>. Certain respondents have appealed the law judge's initial decision to the Commission. *See Frank H. Chiappone*, Exchange Act Release No. 75027, 2015 WL 2408963 (May 21, 2015) (order granting petition for review and setting briefing schedule).

<sup>7</sup> *See Michael H. Johnson*, Exchange Act Release No. 75074, 2015 WL 3439151 (May 29, 2015) (Order Directing the Filing of Opposition and Reply Briefs); 17 C.F.R. § 201.154(b).