

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 89600 / August 18, 2020

Admin Proc. File No. 3-9907

In the Matter of the Application of

FRED F. LIEBAU, JR.

ORDER SCHEDULING BRIEFS

In 1999, the Commission instituted an administrative proceeding pursuant to Sections 15(b) and 19(h) of the Securities Exchange Act of 1934 against Fred F. Liebau, Jr., resulting in a settled order (“Order”).¹ In the Order, the Commission found that Liebau, while president and chief compliance officer of a registered broker-dealer, had failed to reasonably supervise a registered representative for approximately five years, during which time the representative operated a Ponzi scheme involving at least 97 people.² The Order, among other things, required Liebau to pay a \$10,000 civil money penalty; suspended him from associating with any broker or dealer for three months; and barred him from associating with any broker or dealer as a supervisor or principal, with the right to reapply for such association after two years to the appropriate self-regulatory organization, or, if none, the Commission.³

On May 1, 2020, Liebau filed a “[p]etition to [v]acate . . . [his] [a]dministrative [b]ar . . . in accordance with Rule 193 [of the Commission Rules of Practice] . . . regarding applications by barred individuals for consent to associate.”⁴ According to Liebau, while he has been employed in the financial industry for most of the past 20 years, he is requesting relief now so that he can serve as president, proprietor, and an unsupervised Investment Advisory Representative (IAR) of an investment advisor.

On July 20, 2020, we issued an order directing Liebau to file an additional submission clarifying the relief he seeks.⁵ It was unclear from his first submission whether he is seeking to

¹ *Fred F. Liebau, Jr.*, Exchange Act Release No. 41434, 1999 WL 329685 (May 21, 1999).

² *Id.* at *1.

³ *Id.* at *2-3.

⁴ See 17 C.F.R. § 201.193 (providing a process by which individuals can seek to reenter the securities industry despite previously being barred by the Commission).

⁵ *Fred F. Liebau, Jr.*, Exchange Act Release No. 89349, 2020 WL 4058969 (July 20, 2020).

modify or vacate his administrative bar, or whether he is seeking consent to associate with a registered entity not regulated by a self-regulatory organization, such as an investment advisor, pursuant to Commission Rule of Practice 193.⁶ It was also unclear why relief from a bar against associating with a broker or dealer in a supervisory or principal capacity would be necessary for him to engage in the activities outlined in his first submission.

On August 12, 2020, Liebau filed an additional submission clarifying that he is seeking to have his bar vacated, and providing additional information in support of his petition.

Accordingly, IT IS ORDERED that the Division of Enforcement file any brief in response to Liebau's petition not to exceed 7,000 words by September 1, 2020, and that Liebau file any reply brief not to exceed 7,000 words by September 15, 2020.⁷

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

Vanessa A. Countryman
Secretary

⁶ Compare *Brett Thomas Graham*, Exchange Act Release No. 84526, 2018 WL 5734348, at *2-3 (Nov. 2, 2018) (outlining necessary showing for Rule 193 relief) with *Gregory Osborn*, Exchange Act Release No. 86001, 2019 WL 2324337, at *2-3 (May 31, 2019) (outlining necessary showing to modify or vacate bar).

⁷ We call attention to the form and service requirements of the Commission's Rules of Practice, 17 C.F.R. §§ 201.150-154. Attention is also called to the Commission's March 18, 2020 order regarding the filing and service of papers in administrative proceedings. Pending Administrative Proceedings, Exchange Act Release No. 88415, 2020 WL 1322001 (Mar. 18, 2020), <https://www.sec.gov/litigation/opinions/2020/33-10767.pdf>.