

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 98062 / August 4, 2023

INVESTMENT COMPANY ACT OF 1940
Release No. 34982 / August 4, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-15046

In the Matter of ROBERT VALLONE
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ORDER REQUESTING ADDITIONAL BRIEFING

On September 25, 2012, the Commission issued an order making findings and imposing remedial sanctions against Robert Vallone (the “Order”). The Order, among other things, barred Vallone from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization (“NRSRO”) or municipal advisor, and 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, as well as from participating in any offering of penny stock, subject to the right to reapply after three years.¹

In 2017, the United States Court of Appeals for the District of Columbia Circuit held in *Bartko v. SEC* that it was “impermissibly retroactive” for the Commission to impose a collateral bar based on conduct that pre-dated July 21, 2010, the effective date of the Dodd-Frank Wall Street Reform and Consumer Protection Act.² As a result of that decision, the Commission announced a program allowing persons subject to collateral bars to request that the Commission exercise its discretion to vacate certain of those bars.³

On February 3, 2020, Vallone filed a request to vacate the collateral bars entered against him. The Order appears, however, to contain allegations of misconduct supporting the bars that

¹ See *Robert Vallone*, Exchange Act Release No. 67924, 2012 WL 4359224 (Sept. 25, 2012).

² 845 F.3d 1217, 1225 (D.C. Cir. 2017).

³ <https://www.sec.gov/news/statement/commission-statement-regarding-bartko-v-sec>.

extended beyond July 21, 2010. As a result, the Commission's consideration of Vallone's request to vacate would be assisted by briefing on the question of whether relevant misconduct continued past July 21, 2010 and, if it did, whether the bars should be vacated notwithstanding such post Dodd-Frank misconduct.

Accordingly, it is ORDERED that Robert Vallone and the Division of Enforcement are each requested, by September 5, 2023, to file a brief, not to exceed 5000 words, addressing the question of whether conduct supporting imposition of collateral bars occurred on or after July 22, 2010 and, if so, whether Robert Vallone's request to vacate such bars should be granted. Each party may file, by September 19, 2023, an opposition brief, not to exceed 2500 words.

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

Vanessa A. Countryman
Secretary