UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 98670 / October 2, 2023

Admin. Proc. File No. 3-13344

In the Matter of

GREGORY W. GRAY, JR.

ORDER DENYING REQUEST TO VACATE COLLATERAL BARS

On July 22, 2009, the Commission issued an opinion and order (the "2009 Opinion") sustaining NYSE Regulation, Inc.'s findings of violations and imposition of sanctions against Gregory W. Gray, Jr.[1] In doing so, the Commission found that the record supported NYSE's finding that Gray engaged in conduct inconsistent with just and equitable principles of trade in violation of NYSE Rule 476(a)(6) by effecting unauthorized trades in two of his customers' accounts and that Gray engaged in acts detrimental to the interest or welfare of the NYSE in violation of NYSE Rule 476(a)(7) by threatening and/or harassing complaining customers and/or their family members. The Commission further found that NYSE's decision to censure Gray and bar him from associating in any capacity with a member firm for three years served the public interest and were not excessive or oppressive.

In 2017, in *Bartko v. SEC*, the United States Court of Appeals for the District of Columbia Circuit held that it was "impermissibly retroactive" for the Commission to impose a collateral bar based on conduct that pre-dated 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. In doing so, the Commission emphasized that "[t]his process applies *only* to collateral bars, which are bars that prohibit you from associating in a capacity in the securities industry with which you were not associated or were not attempting to associate at the time of your securities law violations."[3]

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1 *See Gregory W. Gray, Jr.*, Exchange Act Release No. 60361, 2009 WL 2176836 (July 22, 2009).

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

3 https://www.sec.gov/news/statement/commission-statement-regarding-bartko-v-sec (emphasis added).

In March 2019, Gray applied for relief under that program to set aside the bar imposed by the 2009 Opinion by submitting a Commission-provided form, which specified that it was for relief "to vacate collateral bars (*i.e.*, bars from industries with which the individual was not associated or not seeking to associate at the time of his or her securities law violation) that were imposed against individuals based entirely on conduct that occurred before the effective date of the Dodd-Frank Wall Street Reform and Consumer Protection Act (July 22, 2010)."

The Commission's 2009 Opinion did not impose a collateral bar on Gray. Gray is thus either asking us to set aside a collateral bar that does not exist, or he is seeking reconsideration of the 2009 Opinion. Either way, the relief he seeks is outside the scope of the *Bartko* program.[4]

Accordingly, IT IS ORDERED that Gregory W. Gray, Jr.'s request to vacate collateral bars is DENIED.

By the Commission.

Vanessa A. Countryman
Secretary

[4] We note that, in a 2017 settled follow-on proceeding, the Commission barred Gray "from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization." *See Gregory W. Gray, Jr.*, Advisers Act Release No. 4618, 2017 WL 167937, at *2 (Jan. 17, 2017). Gray does not seek relief from that order. And, regardless, the misconduct on which the Commission based that bar occurred after Dodd-Frank's effective date and is thus not affected by *Bartko*.