

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 99509 / February 9, 2024

INVESTMENT COMPANY ACT OF 1940
Release No. 6553 / February 9, 2024

ADMINISTRATIVE PROCEEDING
File No. 3-15046-rtv

In the Matter of

ROBERT VALLONE

ORDER VACATING INVESTMENT ADVISER, MUNICIPAL SECURITIES DEALER,
MUNICIPAL ADVISOR, TRANSFER AGENT, AND NATIONALLY RECOGNIZED
STATISTICAL RATING ORGANIZATION BARS

On September 25, 2012, the Securities and Exchange Commission issued an order making findings and imposing remedial sanctions against Robert Vallone, who was associated with a broker-dealer during the period at issue (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 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 22, 2010, the effective date of the Dodd-Frank Wall Street Reform and Consumer Protection Act.² As a result of that decision, the Commission

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).

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. Because the Order contained allegations of misconduct supporting the bars that occurred “[f]rom at least January 2009 through September 2010,”⁴ we requested briefing from both parties on the question of whether relevant misconduct continued past July 22, 2010, and, if it did, whether the bars should be vacated notwithstanding such post Dodd-Frank misconduct.⁵ Neither the Division of Enforcement nor Vallone responded to the request for additional briefing.

Although the Order refers to conduct occurring through September 2010, all of the misconduct specifically attributed in the Order to Vallone occurred before July 22, 2010.⁶ Accordingly, in our discretion, we vacate the Order to the extent it prohibits Robert Vallone from associating with an investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, subject to the right to reapply after three years, but otherwise leave the Order unmodified.

By the Commission.

Vanessa A. Countryman
Secretary

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

⁴ *Vallone*, 2012 WL 4359224, at *2.

⁵ *Robert Vallone*, Exchange Act Release No. 98062, 2023 WL 4998108 (Aug. 4, 2023).

⁶ *See Vallone*, 2012 WL 4359224, at *6-7 (describing conduct by Vallone occurring between February and April 2010).