

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 103179 / June 4, 2025

Admin. Proc. File No. 3-9599

In the Matter of

JOHN GARDNER BLACK

BRIEFING ORDER

On May 4, 1998, the Securities and Exchange Commission issued an order (1) accepting an offer of settlement by John Gardner Black and Devon Capital Management, Inc., an investment adviser that Black owned and controlled, (2) revoking Devon's investment adviser registration, and (3) barring Black from association with, among other things, any investment adviser or investment company (the "Settled Order").¹ The Settled Order recited that, on December 12, 1997, a federal district court had enjoined Black and Devon by consent from violating antifraud provisions of the federal securities laws (the "Injunction").² On several occasions since, Black has sought to vacate the Settled Order, the Injunction, and other orders entered in the Injunctive Action and this proceeding.³

On April 10, 2025, Black filed in this proceeding a petition requesting that the Commission withdraw its complaint in the Injunctive Action as "not cognizable." The docket also reflects several earlier requests from Black: a June 2018 request that the Commission

¹ *John Gardner Black*, Advisers Act Release No. 1720, 1998 WL 217152 (May 4, 1998), *petition to vacate order denied in part and granted in part by* Advisers Act Release No. 3015, 2010 WL 1474294 (Apr. 13, 2010) (vacating bars from associating in other capacities in light of pre-Dodd-Frank-Act precedent), *pet. denied*, 462 F. App'x 6 (D.C. Cir. 2012).

² *SEC v. Black*, 97-CV-2257 (W.D. Pa. Dec. 12, 1997) (the "Injunctive Action"). The district court later entered a separate order, to which Black also consented, requiring him to pay disgorgement, prejudgment interest, and civil money penalties.

³ *See John Gardner Black*, Exchange Act Release No. 70318, 2013 WL 4737370, at *2-3 (Sept. 4, 2013) (discussing Black's unsuccessful challenges to the district court's orders and denying his second request to vacate the Settled Order); *SEC v. Black*, No. 21-1899, 2022 WL 2355432, at *1 (3d Cir. June 30, 2022) (stating that "Black has repeatedly challenged the orders to which he consented," but cannot "reopen the matter and litigate the merits of the claims").

compensate certain investors, set aside the Settled Order, reinstate Black and Devon as investment advisers, and restore Financial Management Sciences, Inc.—a codefendant in the Injunctive Action and affiliate of Devon that Black also owned and controlled—to its prelitigation financial position; a May 2015 request that the Commission withdraw the complaint in the Injunctive Action and vacate the Settled Order; and a September 2013 request for reconsideration of the Commission’s second order declining to set aside the Settled Order (collectively, with Black’s most recent filing, the “Requests”). Black did not attach a certificate of service to any of the Requests, and the record does not contain any responses to them from the Division of Enforcement.

Accordingly, IT IS ORDERED that the Division of Enforcement shall file a brief setting forth its position with respect to each of the Requests by July 7, 2025. Black shall file any reply brief responding to the Division’s brief by July 28, 2025.

We remind the parties that any document filed with the Commission must also be served upon all participants in the proceeding and be accompanied by a certificate of service.⁴ Filing a document through the Commission’s electronic filing system does not serve it on the opposing party.⁵ Nor does serving a document on a party file it with the Commission.

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

Vanessa A. Countryman
Secretary

⁴ See Rule of Practice 150, 17 C.F.R. § 201.150 (generally requiring parties to serve each other with their filings). A certificate of service states “the name of the person or persons served, the date of service, the method of service, and the mailing address or email address to which service was made, if not made in person.” Rule of Practice 151(d), 17 C.F.R. § 201.151(d).

⁵ See *Bradley C. Reifler*, Advisers Act Release No. 6304, 2023 WL 3274687, at *1 & n.3 (May 5, 2023).