

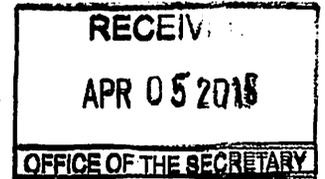
UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

Administrative Proceeding
File No. 3-15215

In the matter of:

James S. Tagliaferri,

Respondent



RESPONDENT'S PETITION FOR REVIEW OF COURT'S
INITIAL DECISION DATED MARCH 23, 2016 AND
MOTION TO CORRECT MANIFEST ERRORS OF FACT

INTRODUCTION

Respondent, pursuant to Rule 360, respectfully petitions the Court to review its initial decision granting the SEC Division of Enforcement's (Division) Motion for Summary Disposition. In addition, Respondent, pursuant to Rule 111, respectfully moves the Court to correct "manifest errors of fact" contained in its Order of March 23, 2016.

My Motion re-states my previous arguments and focuses attention on factual interpretations and opinions expressed by the Court in its initial decision of March 23, 2016.

ARGUMENT

1) The conversion of the proceeding into a "follow-on proceeding" rendered my arguments as to the allegations made in the "OIP" moot. The Court specifically stated in its March 23, 2016 opinion that the only arguments and evidence I could present related to possible sanctions, not liability (see page 4, first paragraph). My argument as to incongruity stressed the differences

between the criminal indictment and the "OIP". Specifically, the criminal case did not allege my firm, TAG, nor I, acted as an "unregistered broker-dealer"; thus the SEC's observation (cited in the Court's March 23 opinion) that "to the extent that Tagliaferri's conviction provides an independent basis for sanctions, it is irrelevant whether he was convicted of the same conduct alleged in the OIP" is fallacious. Quite the opposite is true. Accordingly, any sanctions pertaining to Respondent's operating as an "unregistered broker-dealer" should be removed.

2) It is not disputed that I never received the entire investigative file. The Division estimates it has failed to produce over 130,000 documents and about 1,000,000 pg. - an astonishing number. Rule of Practice 230(d) states the Division must make its investigative file available to the Respondent for inspection and copying NO LATER than 7 days after service of the "OIP". The Division failed to do so. It neither offered the file, nor did it respond to my demands for access to the file. Instead, it relied on the Motion for a stay that had not yet been filed, it knew was in process. The Court granted the stay and the Division then declined to produce its file.

Rule 230(e) states that documents subject to inspection and copying must be made available to the Respondent for

inspection and copying at the Commission office where they are ordinarily maintained, or at such other place as the parties, in writing, may agree - 17 C.F.R. 201.230(e) (see Court Order, March 23, 2016, page 4, paragraph 2).

In this matter, the parties did agree in writing. The Division agreed to send, via mail, its investigative file to the Respondent at his Connecticut address in about two weeks (see email exchange between the Division and the Respondent). The Division failed to comply. I relied on the Division's representation. Again, we are not arguing over a few documents; rather, the Division has failed to produce over 130,000 documents consisting of about 1,000,000 pages. It is simply not credible the Division did not have knowledge of the size of its file and how many documents it failed to produce. The Division's misrepresentation has greatly prejudiced my case.

The Court noted the Division offered to make the file available at its offices on 24 hours notice. However, I was functioning under the (mistaken) assumption the Division would stand behind its written agreement and mail the files to my Connecticut address. The Division provided no information to the contrary. Should I have not relied on the Senior Trial Counsel of the SEC?

The Court states Respondent did not disclose he was confined to a wheelchair and subject to home confinement. (It is interesting the Division, in its briefs, did not make this argument). However, the Court fails to acknowledge the Division participated in the criminal proceedings, including my bail and sentencing hearings. An SEC attorney sat at the Government's table, and took part in the direct and cross-examination of the witnesses, including the Respondent. The SEC attorney saw first-hand I was in Court confined to my wheelchair and that my mobility was severely restricted. Moreover, it is the Marshall's office and not the District Court which determines the movement of a person subject to home confinement. It cannot be assumed I would have been granted sufficient access to the files at the division's offices in order to inspect literally millions of pages of documents.

Finally, Respondent was not given the opportunity to pay for the cost of copying the file, or any part of it. The Court cited Byron S. Rainer, 2008 SEC LEXIS 2840*4. In the Rainer case, that court said: "finding error where an incarcerated respondent was not provided with a copy of the Division's investigative file where respondent agreed to pay the costs". Here again, by ^{not} being given the opportunity to pay the cost of copying parts of the file, my due process rights were violated.

3) My "degree of culpability" is wholly and apart from the question of liability. The Blinder, Robinson case cited by the Court in its initial decision of March 23, 2016, states: "The public interest standard is obviously very broad, requiring the Commission consider the full range of factors bearing on the judgment about sanctions that the expert agency ultimately must render". The Blinder court went on to state:

Precluding petitioners in administrative disciplinary proceedings from presenting all evidence relevant to the issue of sanctions - whether or not presented to a District Court - would do violence to the considered allocations of adjudicatory responsibilities... The statutory obligation placed on the SEC to exercise its judgment is not satisfied simply by having the SEC adopt the findings of the District Court."

This opinion applies directly to my situation. The Division and this Court have merely adopted the findings of a District Court.

In its March 23, 2016 opinion, this Court¹ stated: "Tagliaferri was given the opportunity to identify specific evidence creating genuine issues of material fact that could not be resolved without a hearing". I call the Court's attention to my Declaration of December 22, 2015 wherein I listed numerous, outstanding, factual issues which are clearly material. My list of potential witnesses, previously provided, will speak to these issues. (I incorporate by reference my Declaration dated December 22, 2016).

CONCLUSION

In the three points discussed above, I've argued there are several areas in which the Court has contradicted legal authorities, contradicted SEC regulations and contradicted itself. Accordingly, Respondent respectfully requests the Court review its decision, re-examine the aforementioned issues and correct the manifest errors of fact.

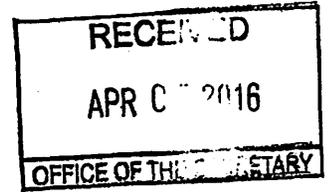
DATED: March 31, 2016

Respectfully submitted,



James S. Tagliaferri, pro se
Respondent

Federal Correctional Inst.
Beckley, WV
P.O. Box 350
Beaver, WV 25813
March 31, 2016



Brent J. Fields, Secretary
U.S. Securities & Exchange Commission
100 "F" Street N.E.
Washington, DC 20549-2557

Re: James S. Tagliaferri (Admin. Pros. File No. 3-15215)

Dear Mr. Fields:

I am the Respondent, proceeding pro se, in the
aforementioned matter.

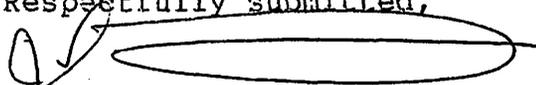
Enclosed, please find my Petition For Review Of
The Court's Initial Decision and my Motion To
Correct Manifest Errors Of Fact.

I am unable to send additional copies for which I
apologize.

I have sent a copy to the SEC's Senior Trial Counsel.

I thank you for your consideration.

Respectfully submitted,


James S. Tagliaferri, pro se
Respondent

cc: Nancy A. Brown, Esq.