

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C.

SECURITIES ACT OF 1933
Release No. 10328 / March 24, 2017

SECURITIES EXCHANGE ACT OF 1934
Release No. 80308 / March 24, 2017

Admin. Proc. File No. 3-16795

In the Matter of
JOSEPH J. FOX

OPINION OF THE COMMISSION

BROKER-DEALER PROCEEDING
CEASE-AND-DESIST PROCEEDING

Grounds for Remedial Action

Unregistered Offer and Sale of Securities

Respondent consented to an order finding that he willfully violated registration provisions of the federal securities laws by offering and selling unregistered securities; that he cease-and-desist from committing or causing violations of those laws; and that he pay disgorgement and a civil penalty. Respondent also consented to further proceedings to determine what, if any, additional non-financial remedial sanctions are in the public interest. *Held*, it is in the public interest to bar respondent from the securities industry and from participating in the offering of a penny stock, with a right to reapply after five years.

APPEARANCES:

Joseph J. Fox, pro se.

Jedediah B. Forkner for the Division of Enforcement.

Appeal filed: June 10, 2016
Last brief received: October 3, 2016

Joseph J. Fox, the CEO of Ditto Holdings, Inc., consented to a Commission order (the “Order”) finding that he willfully violated Sections 5(a) and (c) of the Securities Act of 1933 by offering and selling Ditto Holdings shares without registering the offers or sales or meeting an exemption from registration.¹ The Order imposed a cease-and-desist order, a civil penalty, and disgorgement. We ordered further proceedings to determine whether additional, non-financial remedial sanctions were in the public interest.

Fox now appeals the initial decision of an administrative law judge determining that it is in the public interest to bar Fox from the securities industry and from participating in the offering of a penny stock, with a right to reapply after five years.² Based on our independent *de novo* review of the record, we find those bars to be in the public interest.

I. Background

Fox has worked in the securities industry since at least 1993 and has held multiple securities licenses.³ In addition to being the CEO and a Director of Ditto Holdings, Fox was also the CEO and a registered representative of Ditto Trade, Inc., which was a Commission-registered broker-dealer subsidiary wholly owned by Ditto Holdings.⁴ As Ditto Holdings’s CEO, Fox managed and approved all decisions concerning its stock offerings.

This case stems from the sale of \$8.5 million of Ditto Holdings stock to more than 200 investors between April 2009 and September 2013. Ditto Holdings offered and sold (1) approximately \$2.1 million of common stock to at least 68 investors, including at least 13 non-accredited investors, from April 2009 to March 2012; (2) approximately \$2.6 million of Series B preferred stock to at least 39 investors, including at least 10 non-accredited investors, from June 2012 to January 2013; and (3) approximately \$3.8 million of common stock to at least 104 investors, including at least 31 non-accredited investors, from December 2012 to September

¹ *Joseph J. Fox*, Exchange Act Release No. 75857, 2015 WL 5214549, at *4-5 (Sept. 8, 2015).

² *Joseph J. Fox*, Initial Decision Release No. 1004, 2016 WL 1624791, at *8 (Apr. 25, 2016). Although the law judge granted the Division’s motion for summary disposition in which it sought bars with a right to reapply in five years, he ordered that Fox be barred from the industry and from participating in penny stock offerings “for a period of five years.” In its briefs on appeal, the Division characterized the bars as requiring Fox to apply for reentry after five years. Fox has not taken issue with that characterization.

³ On August 22, 2016, FINRA barred Fox from associating with any FINRA member firm for failing to respond to a request for information. See BrokerCheck, available at <https://brokercheck.finra.org>. We take official notice of this information on BrokerCheck. See, e.g., *Joseph S. Amundsen*, Exchange Act Release No. 69406, 2013 WL 1683914, at *1 n.1 (Apr. 18, 2013) (citing 17 C.F.R. § 201.323).

⁴ Ditto Holdings was formed in December 2010 as the successor to FB Financial Group, Inc., an Illinois corporation that was formed in January 2009. Ditto Holdings then changed its name to SoVes Tech, Inc. in December 2014. We refer to all these entities as “Ditto Holdings.”

2013. Fox was involved in determining when Ditto Holdings would offer to sell securities, what types of securities it would offer to sell, the terms of the securities offerings, and the manner of communicating the offerings to potential investors.

Securities Act Sections 5(a) and (c) prohibit the offer and sale of securities through the mails or interstate commerce unless a registration statement has been filed or is in effect or an exemption from registration is available.⁵ Ditto Holdings had not filed a registration statement with respect to any of these offers or sales. To qualify for the exemption under Rule 506(b) of Regulation D under the Securities Act, Ditto Holdings was required to provide any purchaser who was not an accredited investor with both financial statement information and non-financial information.⁶

II. Procedural History

On September 8, 2015, the Commission accepted Fox's settlement offer and issued the Order. The Order found that an exemption from registration was not available for the offers and sales by Ditto Holdings. In so finding, the Order found that no audit was performed on any of Ditto Holdings's financial statements and that it did not maintain a complete and accurate set of financial records, or regularly prepare financial statements, from its inception through at least September 2013. Ditto Holdings also did not provide investors with required financial statement information and provided only some investors with offering documents. The Order concluded that Fox willfully violated Securities Act Sections 5(a) and 5(c).⁷

For these violations, the Order imposed a cease-and-desist order, disgorgement of ill-gotten gains, and a civil penalty. The Order also instituted further proceedings to determine whether additional, non-financial remedial sanctions were in the public interest. Fox agreed that, in connection with such proceedings, he would be precluded from arguing that he did not violate the federal securities laws as described in the Order, that he could not challenge the validity of the Order, and that the findings of the Order would be accepted and deemed true by the hearing officer.

After the matter was set down for a hearing before an administrative law judge, the law judge granted the Division's motion for summary disposition. The law judge found that it was in the public interest to bar Fox from the securities industry and from participating in a penny stock offering with a right to reapply after five years. This appeal followed.

⁵ 15 U.S.C. § 77e(a), (c).

⁶ 17 C.F.R. §§ 230.502(b), 230.506(b) (2008). We refer to the version of the rules in effect at the time of the misconduct. The Commission amended Rule 506 effective September 23, 2013. Securities Act Release No. 3624, 2013 WL 3817300 (July 10, 2013).

⁷ Although the Order also made findings with respect to an offer and sale of Ditto Holdings to only accredited investors and sales of Fox's own Ditto Holdings shares, we find it unnecessary to rely on these additional findings because the offers and sales of Ditto Holdings purchased by non-accredited investors are sufficient to necessitate imposing remedial sanctions.

III. Analysis

Section 15(b)(6) of the Securities Exchange Act of 1934 authorizes us to impose industry and penny stock bars if we find that (i) Fox willfully violated the federal securities laws; (ii) Fox was associated with a broker or dealer at the time of his misconduct; and (iii) bars are in the public interest.⁸ The Order found that Fox willfully violated the federal securities laws and that, at the time of his misconduct, Fox was associated with Ditto Trade—the broker-dealer subsidiary of Ditto Holdings. Thus, we must determine whether bars are in the public interest.

In analyzing the public interest, we consider, among other things, the egregiousness of the respondent's actions, the isolated or recurrent nature of the infraction, the degree of scienter involved, the respondent's recognition of the wrongful nature of his conduct, the sincerity of the respondent's assurances against future violations, and the likelihood that the respondent's occupation will present opportunities for future violations.⁹ These factors weigh in favor of imposing industry and penny stock bars, with a right to apply for reentry after five years.

A. Fox's violations were egregious, recurrent, and committed with scienter.

Fox's violations were egregious. The registration requirements "are a keystone of the entire system of securities regulation, and set forth basic requirements for the protection of investors."¹⁰ They ensure that "prospective investors" have "a source of reliable information on the basis of which they can reach informed judgments whether or not to buy securities."¹¹ Yet as Ditto Holdings's CEO responsible for its offers and sales of securities, Fox did nothing to provide investors—particularly non-accredited investors—with the financial information about Ditto Holdings that a registration statement would provide and provided only some investors with offering documents that contained other required information about the company. Fox therefore deprived investors of information necessary to make fully informed investment decisions.¹²

⁸ 15 U.S.C. § 78o(b)(6).

⁹ *Gary M. Kornman*, Exchange Act Release No. 59403, 2009 WL 367635, at *6 (Feb. 13, 2009) (citing *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979)).

¹⁰ *Sirianni v. SEC*, 677 F.2d 1284, 1289 (9th Cir. 1982); see also *SEC v. Cont'l Tobacco Co. of S.C.*, 463 F.2d 137, 154-55 (5th Cir. 1972) (stating that the registration requirements in the Securities Act and the Exchange Act "constitute a comprehensive plan to protect investors").

¹¹ *Ira Haupt & Co.*, Exchange Act Release No. 3845, 1946 WL 24150, at *9 (Aug. 20, 1946).

¹² *Gordon Brent Pierce*, Exchange Act Release No. 71664, 2014 WL 896757, at *23 (Mar. 7, 2014) (finding that selling shares of stock without registration "caus[ed] harm to investors and the marketplace by depriving investors of the full disclosure that would have allowed them to make informed investment decisions"), *petition denied*, 786 F.3d 1027 (D.C. Cir. 2015).

Fox contends that his violations were not egregious because he “did not actively ‘solicit’ non-accredited investors.” Even if true, his misconduct is no less egregious simply because he could have inflicted even more harm than he actually did. Soliciting non-accredited investors may have been aggravating, but not soliciting non-accredited investors is not mitigating.

No more persuasive is Fox’s claim that his violations were not egregious because Ditto Trade was Ditto Holdings’s “sole operating subsidiary and only source of revenue” and had its financial statements audited annually. Ditto Trade’s financial statements are irrelevant because investors purchased shares in Ditto Holdings, not Ditto Trade; receiving the subsidiary’s financials would not reveal how Ditto Holdings used the money it received from the subsidiary or from investors. In any case, Fox has not asserted, let alone shown, that all Ditto Holdings investors received Ditto Trade’s financial statements.

Fox’s violations were also recurrent. Over 36 months, Ditto Holdings made numerous offers and sales of Ditto Holdings stock without registration or an exemption from registration. All told, at least 200 investors, including at least 54 non-accredited investors, purchased nearly \$8.5 million in Ditto Holdings stock without the required information.

Fox’s violations were at least reckless.¹³ He has worked in the securities industry since at least 1993, held four securities licenses at the time of his misconduct, and was the CEO of Ditto Holdings’s broker-dealer subsidiary. “Securities professionals are required to be knowledgeable about, and to comply with, the regulatory requirements to which they are subject.”¹⁴ This includes “a responsibility to be aware of the requirements necessary to establish an exemption from the registration requirements of the Securities Act, and [to] be reasonably certain that such an exemption is available before engaging in transactions which raise a question of compliance with those requirements.”¹⁵ In *Abraham & Sons Capital, Inc.*, we held that a securities professional’s failure to comply with requirements of which he must be aware “constitutes an ‘extreme departure from the standards of ordinary care . . .’ and establishes recklessness.”¹⁶

Fox contends that our holding in *Abraham & Sons* does not apply because his work as a securities professional, and his securities licenses, did not require that he be knowledgeable about the registration provisions. Our holding was not as narrow as Fox claims. It applied to “securities professionals” generally. The principle underlying our holding is that participants in the industry have an obligation to be knowledgeable about regulatory requirements because the

¹³ Fox contends that recklessness is insufficient to establish his “degree of scienter.” But we have previously found it in the public interest to bar respondents for violating Securities Act Section 5 where, among other factors, their “degree of scienter” was recklessness. *See, e.g., John A. Carley*, Exchange Act Release No. 57246, 2008 WL 268598, at *22, 26 (Jan. 31, 2008).

¹⁴ *Abraham & Sons Capital, Inc.*, Exchange Act Release No. 44624, 2001 WL 865448, at *8 (July 31, 2001).

¹⁵ *Harry L. Whitmer, Jr.*, Exchange Act Release No. 18734, 1982 WL 32736, at *2 (May 12, 1982) (quoting *Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 45 S.E.C. 185, 188 (1973)).

¹⁶ 2001 WL 865448, at *8 (quoting *SEC v. Steadman*, 967 F.2d 636, 641-42 (D.C. Cir. 1992)).

failure to do so has the potential to cause serious harm to investors and the marketplace as a whole. The registration requirements are a fundamental aspect of securities regulation, and it is an unacceptable departure from the standards of ordinary care for a securities professional, regardless of his specific licenses and training, to ignore the registration requirements as cavalierly as did Fox. Indeed, Fox concedes that he knew at the time he was overseeing the offers and sales that he needed to comply with the securities registration provisions.

Fox also claims that he thought Ditto Holdings's offers and sales were exempt from the registration requirements because he "assum[ed]" that the exemptions from registration available under Rules 504 and 506 of Regulation D under the Securities Act "contained similar disclosure requirements" and, according to Fox, the offers and sales satisfied Rule 504's requirements. But the differences between the Rule 504 and Rule 506 exemptions available at the time of Fox's misconduct would have been apparent from even a cursory review of their provisions. Generally, the Rule 504 exemption allowed issuers to offer and sell shares to investors without requiring the issuer to deliver a disclosure document to investors,¹⁷ but applied only to offerings that did not exceed \$1 million in a twelve-month period.¹⁸ The Rule 506 exemption allowed issuers to offer and sell shares to investors without regard to dollar amount, but required that issuers provide detailed financial statement information and non-financial information to non-accredited investors.¹⁹ From managing and controlling the offerings, Fox was aware that Ditto Holdings's offers and sales far exceeded the \$1 million limit under the Rule 504 exemption in several twelve-month periods,²⁰ and that Ditto Holdings provided none of the required financial information related to Ditto Holdings to non-accredited investors, as required under the Rule 506 exemption.²¹ At a minimum, Fox recklessly disregarded whether he was violating the securities registration provisions.

B. Fox has not accepted responsibility for his violations, has blamed others for his violations, and will have the opportunity to commit future violations.

Although Fox assures us that he accepts responsibility for the violations and will not commit future violations, his attempts to minimize the seriousness of the violations and blame

¹⁷ The exception to this general rule is that the Rule 504 exemption requires that the offer and sale be registered under state law requiring a public filing and delivery to investors of a substantive disclosure document before sale, if the issuer engages in general solicitation and issues "freely tradable" securities in the offering. *See* Rule 504(b)(1)(i) and (ii) of Regulation D, 17 C.F.R. §§ 230.504(b)(1)(i), (ii).

¹⁸ In 2016, well after the events at issue here, the Commission increased Rule 504's threshold from \$1 million to \$5 million. *Exemptions to Facilitate Intrastate and Regional Securities Offerings*, Securities Act Section 10238, 2016 WL 6872611 (Oct. 26, 2016).

¹⁹ *See* Rules 506(b)(1) and 502(b), 17 C.F.R. §§ 230.506(b)(1), 230.502(b).

²⁰ *See* Rule 504(b)(2), 17 C.F.R. § 230.504(b)(2).

²¹ *See* Rules 506(b)(1) and 502 (b)(2)(i)(B), 17 C.F.R. §§ 230.506(b)(1), 230.502(b)(2)(i)(B).

others undermine those assurances. For example, after we issued the Order, Fox sent an email to Ditto Holdings's investors characterizing the Order as the "SEC back[ing] into what we consider inadvertent technical rules violations." Fox also emphasized in the email that he settled only so as "to not drag out [his] negotiations for the betterment of [Ditto Holdings]." Fox contends that he did not intend for the email to minimize the seriousness of his violations, but that was its clear purpose. Indeed, Fox purported to block quote the email's discussion of the Order in his brief but omitted key passages (including about "not drag[ging] out [his] negotiations for" Ditto Holdings's benefit) without indicating that he was doing so.

Fox also blames FINRA and the Commission for his violations. He contends that in its routine examinations FINRA reviewed offering-related documents showing that Ditto Holdings sold stock to non-accredited investors without providing them with audited financial statements; that FINRA "never once questioned the missing documents;" and that the Commission "had all of the FINRA information . . . in hand." But Fox has provided no evidentiary support for these contentions. And, even if he had, he has not suggested that he brought the relevant facts concerning the offerings to the attention of FINRA's examination staff or the Commission or that FINRA's examination staff or the Commission addressed the offerings with Fox. Thus, we reject Fox's suggestion that his reliance on FINRA and Commission inaction as to the offerings negates his scienter.²² Moreover, any FINRA review was after the fact, at least with respect to the first offering; Fox therefore would have already violated Securities Act Section 5 before any FINRA examination. Fox's attempt to shift blame for his violations provides "additional indicia of [his] failure to take responsibility for his actions."²³

Fox also attempts to shift blame to a former employee and "his young confederates" for all harm to Ditto Holdings investors. According to Fox, these individuals used "malicious efforts" to smear him by alleging other types of violations by Fox and Ditto Holdings that Fox claims were "proven falsehoods." Fox fails to recognize that, even if the initial allegations of his former employees were completely meritless, this would not excuse or diminish the seriousness of his violations of the registration provisions or reduce the harm those violations caused investors. Rather, Fox denies causing any harm to investors; he asserts that "[a] failure to provide elements of financial disclosure required under the rules does not in itself *harm* investors" (emphasis in original). Accordingly, we find that Fox has not only failed to take responsibility for his violations, but also demonstrated that he does not understand their severity. For these reasons, we also find no value in Fox's assurance against future violations.

Fox also contends that he, his family, and shareholders "have already paid a heavy price from" a Commission investigation that was sparked by the former employee's purportedly untrue "claims of fraud and misappropriation." But Fox has not shown that the investigation was unjustified; indeed, it uncovered his misconduct. And he cannot blame former employees for his

²² See *S.W. Hatfield, CPA*, Exchange Act Release No. 69930, 2013 WL 3339647, at *5 & n.35 (July 3, 2013) (holding that Commission inaction in reviewing registration statements "may not be construed as Commission approval of those companies' practices, let alone [the practices of a respondent relying on such an alleged approval]").

²³ *vFinance Invs., Inc.*, Exchange Act Release No. 62448, 2010 WL 2674858, at *15 (July 2, 2010) (alterations omitted) (citation omitted).

own misconduct or for the Commission investigating that misconduct. Any collateral consequences Fox may have suffered as a result is not a mitigating factor.²⁴

Finally, we are concerned that Fox's occupation will present opportunities for future violations. Fox contends that he has left the securities industry and that he voluntarily withdrew his securities licenses. But the Division contends, and Fox does not dispute, that after he made the same representation to the law judge, he applied to FINRA for a Financial and Operations Principal ("FINOP") license. We therefore find no value in Fox's assurances about leaving the industry. To the contrary, given his recent attempt to obtain a FINOP license and his long career in the industry, we find it probable that he will continue in it unless barred.²⁵

C. Fox's challenges to the Order lack merit, and the public interest necessitates a bar despite Fox's purported mitigating circumstances.

Fox contends that the Order contains "inaccurate facts" concerning, among other things: (i) the time period in which the non-accredited investors participated in Ditto Holdings's offerings (he claims 22 months, not 52 months); and (ii) the number of non-accredited investors who participated in Ditto Holdings's offerings (he claims 37, not 54). Fox also contends that the Order should not have included findings that his violations were "willful." According to Fox, despite his agreement in the Order not to challenge its findings in this proceeding, it would be unfair for us to consider these inaccuracies because he "was forced to ultimately agree to [the Order] . . . under duress" from the Division. He contends that the Division refused to correct the inaccuracies and would only proceed with its separate settlement with Ditto Holdings if Fox either agreed to the Order or asserted that he was going to litigate the matter. Fox contends that he agreed to the Order without negotiating further because Ditto Holdings's business was failing and settlement would give it "a fighting chance."

We reject this collateral attack on the Order, which violates Fox's agreement that he "not challenge" its validity and that its findings "be accepted as and deemed true" in this proceeding.²⁶ We have a "strong interest" in the finality of our settlement orders.²⁷ Reopening settled matters would defeat the purpose of settlement and lead to an inefficient use of Commission resources by forcing staff to re-litigate issues already resolved. "[I]n all settlements, a party . . . relinquishes any possibility of a more favorable outcome" but "achieve[s] the certainty of avoiding a potentially worse outcome, while avoiding the time and

²⁴ See, e.g., *Kornman*, 2009 WL 367635, at *9 ("Financial loss to a wrongdoer as a result of his wrongdoing does not mitigate the gravity of his conduct.") (internal quotation and citation omitted).

²⁵ Although FINRA has barred Fox from associating with any member firm, that bar is narrower in scope than the bars we are authorized to impose, which would protect the public if Fox seeks to participate in the securities industry in areas not covered by FINRA's bar.

²⁶ *Fox*, 2015 WL 5214549, at *5.

²⁷ *Kenneth W. Haver, CPA*, Exchange Act Release No. 54824, 2006 WL 3421789, at *3 (Nov. 28, 2006) (quoting *Putnam Invest. Mgmt.*, Exchange Act Release No. 50039, 2004 WL 1619113, at *2 (July 20, 2004)).

expense of additional litigation.”²⁸ Fox has not shown that his consent to the Order was “not voluntary, knowing, or informed.”²⁹ Indeed, Fox was represented by counsel when he consented to the Order.

Fox also contends that the Division is biased against him.³⁰ But Fox has shown no bias; in support of his contention he has simply reiterated some of the Division’s arguments for imposition of the bars, all of which we find to be grounded in fact and law (*e.g.*, that Fox’s violations harmed investors). And he has made unsupported allegations, which we find have no merit, concerning Division contacts with “certain individuals who are highly antagonistic to [Fox] and [Ditto Holdings],” and concerning the Division’s purported failure to inform Ditto Holdings that it had received the company’s privileged emails in discovery.

Fox also notes that, during the period of the offers and sales, Ditto Holdings had in-house and outside lawyers “to provide legal counsel on these matters.” But he does not contend that he or Ditto Holdings requested, received, or relied on advice of counsel concerning the offers and sales by Ditto Holdings.³¹

Fox claims that his clean disciplinary history and absence of customer complaints are mitigating. But as noted above, Fox’s disciplinary history is not clean; in 2016, FINRA barred him for failing to respond to a request for information.³² This is an aggravating factor.

Finally, Fox contends that an industry bar is not in the public interest because it would “put a strain on [Ditto Holdings] and [its] technology,” including the possibility of partnering with a “third party company” to “leverage” that technology, and would therefore harm Ditto Holdings’s 230 shareholders “as well as the thousands that would potentially benefit from the

²⁸ *Richard D. Feldmann*, Exchange Act Release No. 77803, 2016 WL 2643450, at *2 (May 10, 2016).

²⁹ *Haver*, 2006 WL 3421789, at *3 n. 19; *cf. Sargent v. Dep’t of Health & Human Servs.*, 229 F.3d 1088, 1091 (Fed. Cir. 2000) (“It is well-established that in order to set aside a settlement, an applicant must show that the agreement is unlawful, was involuntary, or was the result of fraud or mutual mistake”).

³⁰ In an overlong reply brief, Fox makes this and other arguments for the first time in this proceeding and attaches 27 new exhibits in support thereof—all of which the Division has moved to strike. Given Fox’s *pro se* status, however, we deny the Division’s motion and accept Fox’s reply brief and its exhibits in an exercise of our discretion.

³¹ *Markowski v. SEC*, 34 F.3d 99, 105 (2d Cir. 1994) (stating that reliance on counsel requires that defendant “made complete disclosure to counsel, sought advice as to the legality of his conduct, received advice that his conduct was legal, and relied on that advice in good faith”).

³² *See Joseph Patrick Hannan*, Exchange Act Release No. 40438, 1998 WL 611732, at *3 (Sept. 14, 1998) (stating that failures to comply with FINRA requests for information are “serious violations because they subvert [FINRA’s] ability to carry out its regulatory responsibilities”).

technology.” Fox offers no support for these vague assertions. In any event, our “public interest determination extends beyond the consideration of particular investors to the public-at-large.”³³

Accordingly, we find it in the public interest to impose industry and penny stock bars with a right to reapply after five years.³⁴ Absent the imposition of these bars, Fox could assume a role in which he poses a danger to investors and the marketplace. We recognize the significance of such bars and their impact on Fox’s ability to continue working in the industry. Nonetheless, “[t]he securities industry presents continual opportunities for dishonesty and abuse, and depends heavily on the integrity of its participants and on investors’ confidence.”³⁵ Fox’s egregious, recurrent, and at least reckless violations—combined with his failure to take responsibility for his misconduct and his attempts to shift blame—evidence an unfitness to participate in the industry in any capacity.³⁶ Requiring that five years pass before Fox may reapply will impress upon him the severity of his misconduct and the importance of the regulatory requirements that he violated. This, in turn, will help ensure his compliance in the event that we permit him to reenter the industry.

An appropriate order will issue.³⁷

By the Commission (Acting Chairman PIWOWAR and Commissioner STEIN).

Brent J. Fields
Secretary

³³ *Bradley T. Smith*, Exchange Act Release No. 55771, 2007 WL 1435548, at *8 (May 16, 2007) (internal quotation and citation omitted) (rejecting argument that barring respondent would harm company’s shareholders by denying them of his expertise).

³⁴ The Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010), expanded the categories of associational bars authorized by Exchange Act Section 15(b)(6) and allowed the Commission to impose a broad collateral bar on participation throughout the securities industry. We find that Fox’s violative conduct between Dodd-Frank’s effective date in 2010 and the last of the sales in 2013 amply supports an industry-wide bar.

³⁵ *Conrad P. Seghers*, Advisers Act Release No. 2656, 2007 WL 2790633, at *7 (Sept. 26, 2007), *petition denied*, 548 F.3d 129 (D.C. Cir. 2008).

³⁶ *See, e.g., Bloomfield v. SEC*, 649 F. App’x 546, 550 (9th Cir. 2016) (affirming imposition of permanent broker-dealer and penny stock bar where respondents engaged in multiple unregistered transactions over several years without investigating whether the transactions were lawful); *Charles F. Kirby*, Exchange Act Release No. 47149, 2003 WL 71681, at *11 (Jan. 9, 2003) (imposing broker-dealer and penny stock bar, with right to reapply after five years, where respondents engaged in the unregistered distribution of securities over two years), *petition denied sub nom., Geiger v. SEC*, 363 F.3d 481 (D.C. Cir. 2004).

³⁷ We have considered all of the parties’ contentions. We have rejected or sustained them to the extent that they are inconsistent or in accord with the views expressed in this opinion.

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
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Admin. Proc. File No. 3-16795

In the Matter of
JOSEPH J. FOX

ORDER IMPOSING REMEDIAL SANCTIONS

On the basis of the Commission's opinion issued this day, it is

ORDERED that Joseph J. Fox be barred from associating with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, and nationally recognized statistical rating organization, and from participating in an offering of penny stock; provided, however, that Fox may apply to become so associated after five years.

By the Commission.

Brent J. Fields
Secretary