

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 79921 / February 1, 2017

INVESTMENT COMPANY ACT OF 1940
Release No. 32464 / February 1, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-15823

In the Matter of

LEE HEISS

ORDER REQUESTING
ADDITIONAL
BRIEFING

On April 4, 2014, the Commission issued an order making findings and imposing remedial sanctions (the "Order") against Lee Heiss. The Order, among other things, barred Heiss from association with any nationally recognized statistical rating organization ("NRSRO") or municipal advisor.¹ Subsequent to the Order, the Commission issued a statement regarding *Koch v. SEC*²—where the court vacated NRSRO and municipal advisor bars because the conduct that served as the basis for the bars predated the enactment of the Dodd Frank Wall Street Reform and Consumer Protection Act on July 21, 2010—and invited persons who had been barred from such associations to request that the bars be vacated if "all of the conduct relevant to such bar(s) occurred before July 22, 2010."³

On March 14, 2016, Heiss filed a request to vacate the NRSRO and municipal advisor bars entered against him. The Order appears, however, to contain allegations of misconduct supporting the bars that extends beyond July 21, 2010. As a result, the Commission's consideration of Heiss's request to vacate would be assisted by briefing on the question of whether relevant misconduct continued past July 21, 2010 and, if it did, whether the bars should be vacated notwithstanding such post Dodd-Frank misconduct.

¹ See *Visionary Trading LLC, Lightspeed Trading LLC, Andrew Actman, Joseph Dondero, Eugene Giaquinto, Lee Heiss, and Jason Medvin*, Exchange Act Release No. 71871, 2014 WL 1338258 (Apr. 4, 2014).

² *Koch v. SEC*, 793 F.3d 147, 158 (D.C. Cir. 2015) (finding "impermissibly retroactive" NRSRO and municipal advisor bars imposed based on conduct pre-dating Dodd-Frank).

³ The Commission's statement is available at <http://www.sec.gov/news/statement/commission-statement-regarding-koch-v-sec.html>.

Accordingly, it is ORDERED that Lee Heiss and the Division of Enforcement are requested, by March 1, 2017 each to file a brief, not to exceed 5000 words, addressing the question of whether conduct supporting imposition of NRSRO and municipal advisor bars occurred on or after July 22, 2010 and, if so, whether Lee Heiss's request to vacate such bars should be granted. Each party shall also be permitted to file, by March 31, 2017, an opposition brief, not to exceed 2500 words.

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

Brent J. Fields
Secretary