

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 11199 / June 2, 2023

SECURITIES EXCHANGE ACT OF 1934
Release No. 97641 / June 2, 2023

INVESTMENT ADVISERS ACT OF 1940
Release No. 6324 / June 2, 2023

INVESTMENT COMPANY ACT OF 1940
Release No. 34934 / June 2, 2023

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 4414 / June 2, 2023

In re

Pending Administrative Proceedings

ORDER VACATING CERTAIN ASSOCIATIONAL BARS

In 2017, in *Bartko v. SEC*, the United States Court of Appeals for the District of Columbia Circuit held that it was “impermissibly retroactive” to impose a collateral bar based on conduct that pre-dated the effective date of the Dodd-Frank Wall Street Reform and Consumer Protection Act.¹ As a result of that decision, the Securities and Exchange Commission announced a program allowing persons subject to collateral bars to request that the Commission exercise its discretion to vacate certain of those bars. In doing so, the Commission emphasized that “[t]his process applies only to collateral bars, which are bars that prohibit you from associating in a capacity in the securities industry with which you were not associated or were not attempting to associate at the time of your securities law violations.”²

On April 5, 2022, the Commission issued a Statement Relating to Certain Administrative Adjudications (the “April 5 Statement”) describing a control deficiency related to the separation

¹ 845 F.3d 1217, 1225 (D.C. Cir. 2017).

² <https://www.sec.gov/news/statement/commission-statement-regarding-bartko-v-sec>.

of enforcement and adjudicatory functions within our system for administrative adjudication.³ The April 5 Statement explained that the Chair of the Commission had initiated a comprehensive internal review to assess the scope and potential impact of the control deficiency, which review was conducted by experienced investigative staff from the Division of Examinations under the supervision of the Commission’s General Counsel. The April 5 Statement further disclosed the review team’s findings regarding *SEC v. Cochran*⁴ and *SEC v. Jarkesy*.⁵ As part of the April 5 Statement, the Commission further committed to the release of information about additional affected matters.

On June 2, 2023, we released a Second Commission Statement Relating to Certain Administrative Adjudications (the “June 2 Statement”) regarding *Cochran* and *Jarkesy*, as well as findings about additional adjudicatory matters currently pending before the Commission that were affected by the control deficiency identified in the April 5 Statement.⁶ Those include 28 matters in which Division of Enforcement administrative staff accessed one or more memoranda drafted by our Office of the General Counsel’s Adjudication Group that was specific to a particular matter (the “Affected Matters”), and 61 adjudicatory matters—including 46 pending petitions for relief under the Commission’s *Bartko* program—in which Enforcement administrative staff accessed only memoranda that described procedural actions that Adjudication staff recommended that the Commission take in many (or all) pending adjudicatory proceedings (“Omnibus Memoranda”).

As detailed in the June 2 Statement, the review team found no evidence that any Enforcement staff assigned to investigate and prosecute any of the Affected Matters accessed any case-specific Adjudication memoranda before the Commission approved the action recommended in those memoranda. And the review team found no evidence that any individuals assigned to investigate and prosecute any of the Affected Matters communicated with the Adjudication staff advising the Commission in its decision-making in any of those matters. With respect to the eight Omnibus Memoranda accessed by administrative staff, the review team found that only one was uploaded to the Enforcement case management database. And the review team found no evidence that the administrative staff member who accessed the Omnibus Memoranda contacted any Enforcement staff responsible for investigating and prosecuting the relevant matters about any of these memoranda.

The review team’s investigation thus uncovered no evidence that the control deficiency resulted in harm to any respondent or affected the Commission’s adjudication in any proceeding. We have nevertheless determined to grant, as a matter of discretion, the pending petitions

³ <https://www.sec.gov/news/statement/commission-statement-relating-certain-administrative-adjudications>.

⁴ Admin. Proc. File No. 3-17228; *see also Axon Enters., Inc. v. FTC*, 598 U.S. ___, 143 S. Ct. 890 (2023).

⁵ Admin. Proc. File No. 3-15255; *see also Jarkesy v. SEC*, 34 F.4th 446 (5th Cir. 2022), *pet. for rev. filed* (Mar. 8, 2023).

⁶ <https://www.sec.gov/news/statement/second-commission-statement-relating-certain-administrative-adjudications>.

requesting that the Commission vacate collateral bars from certain industry associations that are identified in the June 2 Statement and listed in Exhibit A to this order. We have determined that granting these petitions is appropriate to preserve the Commission's resources.⁷ We otherwise leave unmodified the orders identified in Exhibit A (the "Orders"). In doing so, we take no view on the merits of the petitioners' claims for relief, including the extent to which statutes, Commission Rules, and other precedent would be determinative or relevant to those claims.⁸

Accordingly, IT IS ORDERED that the bars identified in Exhibit A against petitioners are vacated, and that the Orders are otherwise unmodified.

By the Commission.

Vanessa A. Countryman
Secretary

⁷ See, e.g., *Glob. Digit. Sols., Inc.*, Exchange Act Release No. 85364, 2019 WL 1274911, at *2 (Mar. 19, 2019) (dismissing proceeding to, in part, preserve the Commission's resources); *Thomas C. Trauger, CPA*, Exchange Act Release No. 51435, 2005 WL 701204, at *1 (Mar. 25, 2005) (same).

⁸ Cf. *Warren G. Trepp*, Exchange Act Release No. 41913, 1999 WL 753922, at *1 (Sept. 24, 1999) (dismissing sua sponte without reaching merits).

Exhibit A

Petitioner	Order Imposing Collateral Bar(s)	Collateral Bars Vacated
<i>Dennis B. Levine</i> , Admin. Proc. File No. 3-6673	Exchange Act Release No. 23300, 1986 WL 626169 (June 5, 1986)	Investment adviser, investment company, municipal securities dealer
<i>Andrew A. Srebnik</i> , Admin. Proc. File No. 3-12893	Exchange Act Release No. 56823, Advisers Act Release No. 2677, 2007 WL 4116174 (Nov. 20, 2007)	Investment adviser
<i>William B. Blount</i> , Admin. Proc. File No. 3-13974	Exchange Act Release No. 62549, 2010 WL 2886388 (July 22, 2010)	Municipal securities dealer
<i>Stuart E. Rawitt</i> , Admin. Proc. File No. 3-16357	Initial Decision Release No. 782, 2015 WL 1907623 (Apr. 28, 2015) (Initial Decision); Exchange Act Release No. 75133, 2015 WL 3562617 (June 9, 2015) (Finality Notice)	Investment adviser, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Joseph DeVito</i> , Admin. Proc. File No. 3-16737	Exchange Act Release No. 75654, 2015 WL 4720297 (Aug. 10, 2015)	Investment adviser, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Roman Lyniuk</i> , Admin. Proc. File No. 3-14304	Securities Act Release No. 9236, Exchange Act Release No. 64877, Advisers Act Release No. 3238, Investment Company Act Release No. 29724, 2011 WL 2705695 (July 13, 2011)	Municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Dean Zinon Pinard</i> , Admin. Proc. File No. 3-14655	Exchange Act Release No. 65909, Advisers Act Release No. 3331, 2011 WL 6095107 (Dec. 8, 2011); <i>see also</i> Exchange Act Release No. 76934, Advisers Act Release No. 4319, 2016 WL 231541 (Jan. 19, 2016) (order vacating municipal advisor bar)	Municipal securities dealer

<p><i>Eric David Wanger</i>, Admin. Proc. File No. 3-14676</p>	<p>Securities Act Release No. 9331, Exchange Act Release No. 67335, Advisers Act Release No. 3427, Investment Company Act Release No. 30126, 2012 WL 2524953 (July 2, 2012); <i>see also</i> Advisers Act Release No. 3-5621, 2020 WL 6286295 (Oct. 26, 2020) (order granting consent to associate with an investment adviser).</p>	<p>Broker, dealer, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization</p>
<p><i>Walter V. Gerasimowicz</i>, Admin. Proc. File No. 3-15024</p>	<p>Securities Act Release No. 9401, Exchange Act Release No. 69506, Advisers Act Release No. 3601, Investment Company Act Release No. 30505, 2013 WL 1856014 (May 3, 2013) (OIP), Securities Act Release No. 9583, Exchange Act Release No. 72133, Advisers Act Release No. 3832, Investment Company Act Release No. 31041, 2014 WL 1826641 (May 8, 2014) (Order Denying Motion for Permission to File Late Petition for Review), <i>aff'd</i>, <i>SEC v. Gerasimowicz</i>, No. 142392 (2d Cir. Jan. 5, 2015).</p>	<p>Broker, dealer, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization</p>
<p><i>Lyman J. Bruhn</i>, Admin. Proc. File No. 3-15074</p>	<p>Advisers Act Release No. 3492, 2012 WL 5210802 (Oct. 23, 2012)</p>	<p>Broker, dealer, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization</p>
<p><i>Russell K. Cannon</i>, Admin. Proc. File No. 3-15314</p>	<p>Advisers Act Release No. 3599, 2013 WL 1856025 (May 3, 2013)</p>	<p>Broker, dealer, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization, with the right to reapply after two years</p>

<i>Jon Harvey Deal</i> , Admin. Proc. File No. 3-15380	Advisers Act Release No. 3630, 2013 WL 3754825 (July 18, 2013)	Broker, dealer, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Huakang Zhou (a/k/a David Zhou)</i> , Admin. Proc. File No. 3-15586	Exchange Act Release No. 70749, 2013 WL 5740454 (Oct. 23, 2013)	Investment adviser, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Lee Heiss</i> , Admin. Proc. File No. 3-15823	Exchange Act Release No. 71871, Investment Company Act Release No. 31007, 2014 WL 1338258 (Apr. 4, 2014)	Investment adviser, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Jason Medvin</i> , Admin. Proc. File No. 3-15823	Exchange Act Release No. 71871, Investment Company Act Release No. 31007, 2014 WL 1338258 (Apr. 4, 2014)	Investment adviser, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Michael H. Johnson</i> , Admin. Proc. File No. 3-15874	Exchange Act Release No. 72186, Investment Company Act Release No. 31049, 2014 WL 2038878 (May 19, 2014)	Investment adviser, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization, with the right to reapply after five years
<i>Everett C. Miller</i> , Admin. Proc. File No. 3-15896	Advisers Act Release No. 3840, 2014 WL 2418766 (May 30, 2014)	Broker, dealer, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Demosthenes Dritsas</i> , Admin. Proc. File No. 3-16032	Exchange Act Release No. 79200, 2014 WL 4160069 (Aug. 22, 2014)	Investment adviser, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization

<i>Duncan J. MacDonald, III</i> , Admin. Proc. File No. 3-16181	Exchange Act Release No. 74805, 2015 WL 1873125 (Apr. 24, 2015)	Investment adviser, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Bill C. (Billy) Crafton, Jr.</i> Admin. Proc. File No. 3-16343	Exchange Act Release No. 74070, Advisers Act Release No. 3998, 2015 WL (Jan. 15, 2015)	Municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Michael J. Salovay</i> , Admin. Proc. File No. 3-16354	Exchange Act Release No. 75810, 2015 WL 5139107 (Sept. 2, 2015) (OIP settling proceeding except for financial sanctions);	Investment adviser, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Glen Allan Galemmo</i> , Admin. Proc. File No. 3-16359	Exchange Act Release No. 74124, Advisers Act Release No. 4006, 2015 WL 300404 (Jan. 23, 2015)	Municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Todd J. Bergeron</i> , Admin. Proc. File No. 3-16366	Securities Act Release No. 9717, Exchange Act Release No. 74172, Investment Company Act Release No. 31437, 2015 WL 365381 (Jan. 29, 2015)	Investment adviser, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Stephen A. Colangelo, Jr.</i> , Admin. Proc. File No. 3-16556	Advisers Act Release No. 4189, 2015 WL 5172952 (Sept. 3, 2015)	Broker, dealer, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Mark G. Brickman</i> , Admin. Proc. File No. 3-16576	Exchange Act Release No. 75113, Investment Company Act Release No. 31661, 2015 WL 3526041 (June 5, 2015)	Investment adviser, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Mark E. Baratto</i> , Admin. Proc. File No. 3-16576	Exchange Act Release No. 75113, Investment Company Act Release No. 31661, 2015 WL 3526041 (June 5, 2015)	Investment adviser, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization

<i>Toby D. Hunter</i> , Admin. Proc. File No. 3-16687	Advisers Act Release No. 4139, 2015 WL 4237640 (July 14, 2015)	Broker, dealer, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Gregory Bied</i> , Admin. Proc. File No. 3-16714	Advisers Act Release No. 4154, Investment Company Act Release No. 31737, 2015 WL 4624261 (Aug. 4, 2015)	Broker, dealer, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Murat M. Dorkan</i> , Admin. Proc. File No. 3-16725	Securities Act Release No. 9878, Exchange Act Release No. 75616, Advisers Act Release No. 4158, Investment Company Act Release No. 31740, 2015 WL 4639725 (Aug. 5, 2015)	Municipal securities dealer, transfer agent
<i>Dean A. Esposito</i> , Admin. Proc. File No. 3-16736	Exchange Act Release No. 75653, 2015 WL 4720296 (Aug. 10, 2015)	Investment adviser, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Shawn A. Becker</i> , Admin. Proc. File No. 3-16805	Exchange Act Release No. 75891, 2015 WL 5305990 (Sept. 10, 2015)	Investment adviser, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Douglas J. Anisky</i> , Admin. Proc. File No. 3-16845	Exchange Act Release No. 76012, 2015 WL 5693100 (Sept. 29, 2015)	Investment adviser, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Edward T. Borg</i> , Admin. Proc. File No. 3-16875	Securities Act Release No. 9957, Exchange Act Release No. 76055, Investment Company Act Release No. 31853, 2015 WL 5718219 (Sept. 30, 2015)	Investment adviser, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Brian J. Mulkeen</i> , Admin. Proc. File No. 3-16875	Securities Act Release No. 9957, Exchange Act Release No. 76055, Investment Company Act	Association in a supervisory capacity with an investment adviser, municipal securities

	Release No. 31853, 2015 WL 5718219 (Sept. 30, 2015)	dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>James Goodland</i> , Admin. Proc. File No. 3-16878	Advisers Act Release No. 4213, 2015 WL 5729489 (Sept. 30, 2015)	Association in a supervisory capacity or compliance capacity with any broker, dealer, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Arthur F. Jacob, CPA, LLC</i> , Admin. Proc. File No. 3-16883	Exchange Act Release No. 77618, Advisers Act Release No. 4367, Investment Company Act Release No. 32072, 2016 WL 1460299 (Apr. 14, 2016)	Municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Jonathan Warren Brooks</i> , Admin. Proc. File No. 3-16936	Exchange Act Release No. 76896, Advisers Act Release No. 4313, 2016 WL 683558 (Jan. 13, 2016).	Municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Joseph A. Giordano</i> , Admin Proc. File No. 3-17137	Exchange Act Release No. 77244, Advisers Act Release No. 4345, 2016 WL 792220 (Feb. 26, 2016)	Municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Bruce A. Hartshorn</i> , Admin. Proc. File No. 3-17216	Exchange Act Release No. 77648, Advisers Act Release No. 4371, Investment Company Act Release No. 32075, 2016 WL 1569651 (Apr. 19, 2016)	Municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Jose Alejandro Hurtado</i> , Admin. Proc. File No. 3-17232	Exchange Act Release No. 77729, 2016 WL 1660188 (Apr. 27, 2016)	Investment adviser, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>John Steven Blount</i> , Admin. Proc. File No. 3-17251	Exchange Act Release No. 78398, Advisers Act Release No. 4462, 2016 WL 4363839 (July 22, 2016)	Municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization

<i>William Emery Matthews</i> , Admin. Proc. File No. 3-17334	Advisers Act Release No. 4449, 2016 WL 4363883 (July 11, 2016)	Broker, dealer, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization, with the right to apply for reentry after three years
<i>Timothy A. Nemeckay</i> , Admin. Proc. File No. 3-17360	Exchange Act Release No. 78411, 2016 WL 4363846 (July 25, 2016)	Investment adviser, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Brad R. Hawkins</i> , Admin. Proc. File No. 3-17373	Advisers Act Release No. 4478, 2016 WL 4363891 (Aug. 10, 2016)	Broker, dealer, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Pamella B. Watson</i> , Admin. Proc. File No. 3-17511	Exchange Act Release No. 79079, Advisers Act Release No. 4547, 2016 WL 5903242 (Oct. 11, 2016)	Municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Mario Pincheira</i> , Admin. Proc. File No. 3-17521	Advisers Act Release No. 4516, 2016 WL 4537733 (Aug. 31, 2016)	Broker, dealer, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>David Kayatta</i> , Admin. Proc. File No. 3-17522	Advisers Act Release No. 4517, 2016 WL 4537680 (Aug. 31, 2016)	Broker, dealer, municipal securities dealer, municipal advisor, transfer agent, nationally recognized statistical rating organization
<i>Dennis Duban, CPA</i> , Admin. Proc. File No. 3-17612	Exchange Act Release No. 79020, Advisers Act Release No. 4544, Accounting and Auditing Enforcement Release No. 3812, 2016 WL 5673149 (Sept. 30, 2016)	Broker, dealer, municipal securities dealer, transfer agent