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UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 25th day of March, two thousand eleven.

Chief Judge,

6 **PRESENT: DENNIS JACOBS**,

8 9 DENNY CHIN, 10 Circuit Judges. 11 12 - - - - - - - X 13 KEVIN M. GLODEK, 14 15 Petitioner, 16 17 09-5325-ag -v.-18 19 UNITED STATES SECURITIES AND EXCHANGE 20 COMMISSION, 21 22 Respondent. 23 - - - - - - - - - X 24 David S. Richan 25 FOR PETITIONER: 26 Baritz & Colman LLP 27 New York, NY 28

1 FOR RESPONDENT: Allan A. Capute
2 (David M. Becker, Mark Cahn, and Michael
3 Conley, on brief)
4 Securities & Exchange Commission
5 Washington, DC
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Petition for review of an order and opinion of the Securities and Exchange Commission.

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UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Petitioner's petition is **DENIED**.

13 Kevin Glodek petitions for a review of an order and opinion issued by the Securities and Exchange Commission 14 15 ("SEC") fining him \$25,000 and suspending him for six months 16 for violating Section 10(b) of the Securities Exchange Act ("SEA § 10(b)"), SEC Rule 10b-5, and Financial Industry 17 Regulatory Authority ("FINRA") Rules 2110 and 2120. 18 The 19 petition contests only the six-month suspension, not his 20 quilt or the fine. We assume the parties' familiarity with 21

22 presented for review.

We have jurisdiction and discretion to reduce or 24 25 eliminate sanctions imposed by the SEC. 15 U.S.C. § 26 78y(a)(1); McCarthy v. SEC, 406 F.3d 179, 188 (2d Cir. 27 2005). However, we will only do so if we conclude that they are "excessive" or do not "serve [their] intended purpose." 28 We review such sanctions for abuse of discretion, 29 Id. which occurs only when a sanction is "palpably 30 disproportionate to the violation" or when the SEC fails "to 31 32 support the sanction chosen with a meaningful statement of 33 findings and conclusions, and the reasons or basis 34 therefor." Id. (internal quotation marks omitted). 35

36 The suspension imposed by the SEC was at the lower end of the range suggested by the FINRA Sanctions Guidelines for 37 38 non-egregious reckless misrepresentations. The SEC 39 reasonably concluded that Glodek had evinced a pattern of 40 violative conduct (making at least fourteen 41 misrepresentations over a period of six weeks), that his 42 misrepresentations involved promoting a company in which he 43 had a significant financial interest, and that he did not 44 adequately appreciate the seriousness of his conduct. As a 45 46 "excessive" or "palpably disproportionate to the violation," 47 id., and were firmly within the SEC's discretion.

Likewise, the SEC's opinion was thorough and cogent, providing findings and conclusions to support the imposed sanctions and offering reasons and analysis to support those conclusions. The opinion carefully considered the particular facts of Glodek's case and explicitly analyzed and applied the relevant FINRA Sanctions Guidelines factors. The opinion justified the level of sanctions by the need to protect the general investing public through specific and general deterrence. The sanctions imposed were supported by a "meaningful statement of findings and conclusions, and the purpose of protecting investors. Id. (internal quotation marks omitted). Therefore, the SEC did not abuse its discretion in imposing a six-month suspension on Glodek. We hereby **DENY** Glodek's petition for review of the FOR THE COURT: CATHERINE O'HAGAN WOLFE, CLERK