

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION
SECURITIES & EXCHANGE COMMISSION
SERVICE OF PROCESS

SECURITIES EXCHANGE ACT OF 1934
Release No. 79923 / February 1, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-15874

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✓ CERTIFIED
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In the Matter of

MICHAEL H. JOHNSON

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CORRECTED
ORDER REQUESTING
ADDITIONAL
BRIEFING

On May 19, 2014, the Commission issued an order making findings and imposing remedial sanctions (the "Order") against Michael H. Johnson. The Order, among other things, barred Johnson 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 8, 2016, Johnson 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 Johnson'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.

Accordingly, it is ORDERED that Michael H. Johnson 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 Michael H. Johnson's request to vacate

¹ See *Michael H. Johnson*, Exchange Act Release No. 31049, 2014 WL 2038878 (May 19, 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>.

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


By: Robert W. Errett
Deputy Secretary