UNITED STATES OF AMERICA
BEFORE THE SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3- 20184

In the Matter of

MUNISH SOOD,

Respondent.

MUNISH SOOD'S RESPONSE IN OPPOSITION TO DIVISION OF ENFORCEMENT'S MOTION FOR SUMMARY DISPOSITION – ORAL ARGUMENT REQUESTED

Jay A. Dubow (PA 41741)
Richard J. Zack (PA 77142)
Thomas H. Cordova (PA 326489)
TROUTMAN PEPPER HAMILTON SANDERS LLP
3000 Two Logan Square
Eighteenth and Arch Streets
Philadelphia, PA 19103-2799
Tel: (215) 981-4000
Jay.Dubow@Troutman.com
Richard.Zack@Troutman.com
Thomas.Cordova@Troutman.com

Counsel for Respondent Munish Sood

OS Received 06/02/2021

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

OS Received 06/02/2021

Statutes

Pursuant to Rule 250 of the Securities and Exchange Commission's Rules of Practice, Respondent Munish Sood submits the following brief in opposition to the Division's Motion to Summary Disposition:

I. INTRODUCTION

Respondent Munish Sood ("Mr. Sood") agrees with the Division that Summary Disposition is appropriate, but strongly disagrees with the Division that barring Mr. Sood from the financial industry is appropriate or in the public's best interest. Barring Mr. Sood would be grossly disproportionate to his conduct, and inconsistent with the Commission's past rulings and the *Steadman* factors. The Division's motion paints a false picture of Mr. Sood's fitness to remain in the securities industry, and the conduct to which he pled guilty.

The Division's argument for an industry bar relies heavily on Mr. Sood's conviction, but applying all the factors the Commission must consider demonstrates that a bar is not warranted or in the public's interest.[1] The Division's attempt to characterize Mr. Sood's conduct as "egregious" is a complete stretch. The criminal prosecutors who relied on Mr. Sood's help to secure convictions of the more culpable individuals would not view Mr. Sood's conduct as egregious; nor would Mr. Sood's sentencing judge who gave Mr. Sood the lightest sentence of anyone involved with the conspiracy, declining even to impose supervised release. Moreover, Mr. Sood's conduct does not come close to reaching the severity of other advisors who have been given a permanent bar.

[1] Mr. Sood faced another legal challenge that was also based on his conviction in Bowen v. Adidas. However, after extensive discovery the judge dismissed the claims against Mr. Sood with prejudice noting "The Court extended Plaintiff latitude in permitting the opportunity to establish factual support for his allegations in discovery before entertaining [summary judgment arguments], but discovery has confirmed Plaintiff cannot make the required showing." Order Granting Summary Judgment, *Bowen v. Adidas America Inc et al*, 3:18-cv-03118 (D.S.C. May 26, 2021).

OS Received 06/02/2021

Mr. Sood's criminal conduct was regrettable. However, Mr. Sood's conduct did not harm even a single investor. The Division has failed to provide any case, nor have we found one, where an industry bar was deemed appropriate for an advisor when their conduct did not result in investor harm. Furthermore, several of Mr. Sood's clients who engaged Mr. Sood around the time of his criminal conduct have submitted declarations on his behalf to demonstrate that over the years Mr. Sood has been a helpful and honest advisor, and that they were not harmed by Mr. Sood in any way. Mr. Sood's clients strongly believe that it is in their best interest that he be allowed to continue to advise them.

It is not in the public's interest for this commission to take the extreme measure of barring Mr. Sood from his profession, which he has cultivated for over 20 years with no regulatory issues.

II. STATEMENT OF UNDISPUTED FACTS

A. Respondent

1. Mr. Sood is 48 years old and has worked in the securities industry since 1996. Mr. Sood has been associated with several Commission-registered investment advisers and, until September 2017, had been associated with multiple broker-dealers. *See* Answer at ¶ 1. For a portion of the time in which he engaged in the conduct underlying the criminal information described below, Mr. Sood was associated with Princeton Advisory Group, Inc. and Rosedale Asset Management, LLC f/k/a Princeton Advisory Wealth Management, LLC ("PWM"), both of which were Commission-registered investment advisers during that period. *Id.*

B. The Criminal Conviction

2. In September 2017, the Department of Justice brought two criminal complaints against Mr. Sood and nine other individuals, including an athletic-company executive, in the United States District Court for the Southern District of New York.

OS Received 06/02/2021

(Complaint, *United States v. Evans*, No. 17-mag-7119 (S.D.N.Y Sept. 26, 2017); Complaint, *United States v. Gatto*, No. 17-mag-7120 (S.D.N.Y. Sept. 26, 2017).)

3. The charging document contains no allegations that Mr. Sood made material misrepresentations to clients or potential clients about investments, misappropriated funds belonging to clients or prospective clients, or in any way defrauded clients.

4. Mr. Sood cooperated with the Department of Justice throughout their investigation for these criminal matters and provided important testimony at trial to help secure the convictions of the ringleaders of the conspiracy. Mr. Sood has taken responsibility for his actions and pled guilty. (Guilty Plea, *United States v. Sood*, Case No. 18-cr-00620 (S.D.N.Y. Aug. 27, 2018) Ex. 1.)

5. The main co-defendants involved in the Department of Justice's investigation were given sentences ranging from probation to up to nine months. (Sentencing, *U.S. v. Gatto*, Case No. 17-cr-00686 (S.D.N.Y. Mar. 5, 2019) (James Gatto received a nine-month sentence); Sentencing, *U.S. v. Evans*, Case No. 17-cr-00684 (S.D.N.Y. June 7, 2019) (Lamont Evans was sentenced to three months).) Furthermore, all of the co-defendants have been given sentences far below the sentencing guideline range. (Sentencing, *U.S. v. Evans*, Case No. 17-cr-00684 (S.D.N.Y. June 7, 2019) (the guidelines range for Lamont Evans was 18-24 months, and he given a three-month sentence); (Sentencing, *U.S. v. Gatto*, Case No. 17-cr-00686 (S.D.N.Y. Mar. 5, 2019) (the guidelines range for James Gatto was three to four years and he was given a nine-month sentence).

6. On September 12, 2019, Mr. Sood's sentencing hearing was held before the Honorable Kimba Wood.

7. At the sentencing hearing, the Government admitted that Mr. Sood's "cooperation was extremely timely. He indicated very early on that he intended to cooperate. He came in and proffered with us quickly, and he was proffering and working with us well before any of the trials that occurred here took place, well before any guilty pleas." Sentencing Tr. 7:11-17 (Ex. 2).

8. The government further praised Mr. Sood for his cooperation: "With respect to his truthfulness and reliability, he was forthcoming in the proffer sessions. He told us not only about conduct that we already knew about from the wiretap of his phone and the other evidence but also additional conduct that we were not aware of before he informed us of it, and he was forthcoming and truthful during all phases of both the proffers and the trial preparation." Sentencing Tr. 7:18-24.

9. The Court noted that Mr. Sood "was not an instigator, he was not a major participant[,]" and that "[w]ith respect to Mr. Sood's character, everything in his background suggests an upstanding, honest man. I believe that his [. . .] seduction by the prospect of having such high-profile clients was an aberration in an otherwise blameless life." Sentencing Tr. 9:4-10.

10. The Court further praised his invaluable assistance to the government: "His very prompt, very painstaking assistance to the government, which included crimes as to which the government was not yet aware and which was enormously useful to the government in light of the fact that with respect to the trial of Mr. Dawkins and Mr. Code, he was the only member of the conspiracy who testified, and his use to the government was, as the government said, as narrator to what happened in light of the cryptic nature of a number of the wiretaps – wiretapped conversations." Sentencing Tr. 9:11-19.

11. In light of this, the Court ultimately imposed a small fine of $25,000, but no incarceration or supervised release, Sentencing Tr. 9:23-10:6 – a punishment far less severe than that received by any co-defendant.

C. **The Administrative Proceeding**

12. On December 21, 2017, the Commission entered an "Order Directing Private Investigation and Designating Officers to Take Testimony." The Order stated that the Commission had information relating to potential violations of Section 206 of the Advisers Act—specifically, the provisions making it unlawful for an investment adviser to (1) to employ any device, scheme, or artifice to defraud any client or prospective client; or (2) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client. *Id.* (citing 15 U.S.C. § 80b-6(1, 2)).

13. Subsequently, Mr. Sood's attorneys were informed that the investigation was based on the allegations in the Criminal Matter. Indeed, in a subpoena for documents and testimony dated June 14, 2018, the Division sought documents and information about the Criminal Matter, including topics and individuals discussed by Mr. Sood during his meetings with the Department of Justice (which has already summarized the meetings for the Division).

14. On April 29, 2019 the Division issued a subpoena for Mr. Sood to provide testimony. Recognizing potential Fifth Amendment rights at stake, Mr. Sood's attorneys suggested that Mr. Sood's testimony be rescheduled until the Criminal Matter was resolved and offered to produce Mr. Sood for a proffer. Instead of waiting a few months until the Criminal Matter was resolved or proffering Mr. Sood, which could elicit useful testimony from Mr. Sood in aid in the Division's investigation, the Division decided to require Mr. Sood to provide testimony before the Criminal Matter was resolved, which caused Mr. Sood to assert his Fifth Amendment right during the testimony.

15. On June 19, 2019, the day after Mr. Sood traveled from New Jersey to Fort Worth, Texas to provide testimony, the Division issued two Wells Notices to Mr. Sood and PAWM.

16. On December 21, 2020, the Division filed an Order Instituting Administrative Proceedings Pursuant to Section 203(f) of the Investment Advisers Act of 1940 and Section 15(b)(6) of the Securities Exchange Act of 1934. On January 11, 2021, Mr. Sood subsequently filed his Answer to the Order Instituting Administrative Proceedings, admitting all facts and asserting various affirmative defenses.

17. On April 29, 2021, the Division filed a Motion for Summary Disposition and Memorandum of Points of Authorities in Support ("Division's Motion"). The Division maintains that an indefinite bar is warranted and in the public interest.

18. The Division's Motion contains no allegations that Mr. Sood made material misrepresentations to clients or potential clients about investments, misappropriated funds belonging to clients or prospective clients, or in any way defrauded clients. Furthermore, the Division's Motion contains no allegations that Mr. Sood profited from his conduct.[2]

III. ARGUMENT AND AUTHORITIES

A. Respondent Agrees that Summary Disposition is Appropriate.

Respondent agrees with the Division that summary disposition is appropriate in the instant matter. The parties disagree, however, about whether a bar should be imposed as part of such summary disposition.

[2] Other individuals involved in the conspiracy have profited from doing similar conduct in the past, while Mr. Sood did not profit.

B. **The Public Interest Does Not Support Imposing a Bar Against Respondent.**

Mr. Sood accepts responsibility for his actions and concedes liability. The only issue for the Commission to decide is whether, in light of Mr. Sood's actions, a bar is warranted. A collateral bar is "the severest of sanctions." *Khaled A. Eldaher*, Initial Dec. Rel. No. 857, 2015 SEC LEXIS 3360, *29 (Aug, 17, 2015). Such harsh sanction is only warranted when it serves the public interest. *Id.* at *25. To determine whether a sanction serves the public interest, the Commission should consider six factors:

> [T]he egregiousness of the defendant's actions, the isolated or recurrent nature of the infraction, the degree of scienter involved, the sincerity of the defendant's assurances against future violations, the defendant's recognition of the wrongful nature of his conduct, and the likelihood that the defendant's occupation will present opportunities for future violations.

Steadman v. SEC, 603 F.2d 1126, 1140 (5th Cir. 1979). This inquiry is flexible, and no one factor is dispositive. *See Kornman v. SEC*, 592 F.3d 173, 180 (D.C. Cir. 2010). Additionally, "each case has its own particular facts and circumstances which determine the appropriate penalty to be imposed[.]" *ZPR Investment Management, Inc. and Max E. Zavanelli*, Initial Dec. Rel. No. 602, 2014 SEC LEXIS 1797, at *180 (May 27, 2014).

In cases with similar culpability levels as here, however, the Commission and administrative law judges ("ALJ") alike universally deny imposing permanent bars. For instance, in *Khaled A. Eldaher* , 2015 SEC LEXIS 3360, Eldaher was accused of knowingly violating Section 15(a)(1) of the Exchange Act and "acting as an unregistered broker because he received 'transaction-based' compensation for soliciting Facebook investors on Prima Capital's behalf." *Id*. at *13. The Division argued that a lifetime bar was appropriate, while Eldaher countered that such "sanctions are too extreme and not tailored to the facts in this proceeding[,] . . . [and] punitive and grossly disproportionate to the violation alleged." *Id*. at *24. The ALJ

OS Received 06/02/2021

agreed and imposed a six-month suspension from association and from participating in penny stock offerings. *Id.* at *31. In doing so, the ALJ reasoned that "all the investors were made whole, and no investor witnesses testified as to economic loss or misrepresentations by Eldaher. . .[and] Eldaher's total compensation as a result of the violations was $15,478." *Id*. at *28-29. Additionally, despite an unclear duration of the conduct and recognition of wrongdoing, and a problematic disciplinary history, the ALJ believed "Eldaher expressed remorse and represented that he would 'absolutely not' repeat this breach" and that "[t]here is no question that he knows this is his last chance to remain in the industry." *Id.* Following the ALJ's ruling, the Commission adopted this decision as final. *Khaled A. Eldaher*, Rel. No. 76132 (Oct., 13, 2015).

Likewise, in *Clarke T. Blizzard and Rudolph Abel*, Initial Dec. Rel. No. 229, 2003 SEC LEXIS 3303 (June 13, 2003), *dismissed on other grounds at Clarke T. Blizzard and Rudolph Abel*, Rel. No. 3-10007 (June 23, 2004), the ALJ imposed a ninety-day suspension for conduct that could be compared to that of Mr. Sood's. In *Blizzard*, "[t]he OIP allege[d] that Clarke T. Blizzard and Rudolph Abel aided and abetted and caused violations by Shawmut Investment Advisers, Inc., (Shawmut) of the antifraud provisions of the Advisers Act - Sections 206(1) and 206(2). Shawmut allegedly violated those provisions because it failed to disclose to its clients that it used brokerage commissions generated from client transactions, or soft dollars, to compensate brokers for client referrals." *Id*. at *4-5. The Division requested "that Blizzard be barred from association with an investment adviser and be ordered to cease and desist from further violations and to pay disgorgement of $ 2,026,006 and a civil penalty of $200,000." *Id*. at *6-7. The ALJ, however, disagreed. The ALJ analyzed the *Steadman* factors and found that a ninety-day suspension was appropriate. *Id.* at *84. The ALJ explained:

> Blizzard's aiding and abetting violation was serious, but not egregious. It was isolated in that it pertained to one client, but it

OS Received 06/02/2021

> continued for many months. Blizzard did not have a high degree of scienter, but he was reckless . . . . Consistent with a vigorous defense of the charges against him, Blizzard has not affirmatively acknowledged the wrongful nature of his conduct. He is employed in the financial industry, and his occupation will present the opportunity for future violations. A ninety-day suspension, combined with the other sanctions ordered, is an appropriate remedy and deterrent and consistent with Commission precedent. Accordingly, a ninety-day suspension will be ordered.

Id. at *84; *see also John Jantzen*, Initial Dec. Rel. No. 472, 2012 SEC LEXIS 3446, *12-18 (Nov. 6, 2012) (imposing 5-year bar against investment advisor registered with the Commission who engaged in insider trading and profited $26,813.58), *accepted as final at John Jantzen*, Exchange Act Rel. No. 68396 (Dec. 10, 2012); *Lawrence L. Labine*, Initial Dec. Rel. No. 973, 2016 SEC LEXIS 795, *112-13 (Mar. 2, 2016) (finding "two-year investment company bar, and bar from association with any investment adviser, broker, or dealer, with a right to reapply for association in two years, are appropriate and in the public interest" where conduct violated antifraud provisions but the Commission "d[id] not believe LaBine sought to harm clients; there is no allegation or evidence that he mishandled client assets; and . . . the harm caused to the investors was not great in proportion to their net worth[.]"), *accepted as final at Lawrence L. Labine*, Securities Exchange Act Rel. No. 77697 (Apr. 22, 2016); *United States SEC v. Johnston*, 368 F. Supp. 3d 247, 253 (D. Mass. 2019) (analyzing *Steadman* and *Patel* factors and imposing 2-year bar on CFO for misleading investors about pending FDA approval of drug); *SEC v. All. Transcription Servs.*, No. CV 08-1464-PHX-NVW, 2010 U.S. Dist. LEXIS 10646, at *7-9 (D. Ariz. Feb. 8, 2010) (considering various factors and affirming denial of penny-stock bar).

Here, the Commission should follow suit and decline to impose a permanent bar against Mr. Sood as the *Steadman Factors* and prior settlements and administrative proceedings clearly weigh against imposing such bar.

OS Received 06/02/2021

Factor one: *Mr. Sood's conduct was wrong, but not egregious*. Mr. Sood was a minor player, with a limited role, in a large conspiracy. *See* Sentencing Tr. 9:4-5, Testimony of the Sentencing Judge ("[W]ith respect to Mr. Sood, I agree [. . .] that he was not an instigator, he was not a major participant."). He was "seduc[ed] by the prospect of having such high-profile clients . . . in an otherwise blameless life," *id.*, and to date, has only received nominal monthly retainer payments from two professional athlete clients.

Specifically, in September 2017, the Department of Justice brought two criminal complaints against Mr. Sood and nine other individuals in the United States District Court for the Southern District of New York. *See* Complaint, *United States v. Evans*, No. 17-mag-7119 (S.D.N.Y Sept. 26, 2017); *see* Complaint, *United States v. Gatto*, No. 17-mag-7120 (S.D.N.Y. Sept. 26, 2017). In the *Evans* complaint, Mr. Sood was charged with making, and conspiring to make payments to assistant coaches of NCAA basketball teams so that the coaches would encourage their players to hire Mr. Sood as an investment advisor if they became professionals.[3] Notably, however, he declined to make payments on several occasions and only eventually made a $2,000 payment by check to Mr. Evans in June 2017. Mr. Sood never secured a client through his relationship with or payment to Mr. Evans. In the *Gatto* complaint, Mr. Sood was charged with making, and conspiring to make, payments to the families and friends of NCAA basketball players for the same reasons. Again, in this scheme, Mr. Sood only made one payment to a high school player's father – a payment that was funded by an undercover FBI agent and not Mr. Sood himself. Mr. Sood similarly did not secure any clients through his limited involvement in

[3] Being a financial advisor for professional basketball player is not lucrative until, and if, the client is successful enough to sign a second contract, because NBA rookie contracts do not typically provide enough funds for clients to invest. Mr. Sood's sentencing judge provided, "And the way the business works is until an athlete gets a second contract – and that's several years – at least four years into their NBA career – Mr. Sood didn't stand to really make money on that." Sentencing Tr. 4: 8-11.

the *Gatto* matter. Notably absent from either of these complaints are any allegations Mr. Sood made material misrepresentations to clients or potential clients about investments or misappropriated funds belonging to clients or prospective clients – because he did not.

The sentencing judge recognized Mr. Sood's conduct for what it was: "an aberration in an otherwise blameless life." Sentencing Tr. 9:7-10. In light of this, Mr. Sood was given the least severe sanction of any co-defendant — a $25,000 fine without incarceration or probation. In contrast, the main co-defendants involved in the Department of Justice's investigation, most of whom are unquestionably more culpable than Mr. Sood, were given sentences ranging from probation to up to nine months in prison. *See, e.g.*, Sentencing, *U.S. v. Gatto*, Case No. 17-cr-00686 (S.D.N.Y. Mar. 5, 2019) (James Gatto received a nine-month sentence); Sentencing, *U.S. v. Evans*, Case No. 17-cr-00684 (S.D.N.Y. June 7, 2019) (Lamont Evans was sentenced to three months). Furthermore, all of the co-defendants have been given sentences far below the sentencing guideline range. *See, e.g.*, Sentencing, *U.S. v. Evans*, Case No. 17-cr-00684 (S.D.N.Y. June 7, 2019) (the guidelines range for Lamont Evans was 18-24 months and he given a three-month sentence); (Sentencing, *U.S. v. Gatto*, Case No. 17-cr-00686 (S.D.N.Y. Mar. 5, 2019) (the guidelines range for James Gatto was three to four years and he was given a nine-month sentence).

Mr. Sood's cooperation led to the conviction of several more culpable individuals. In fact, his cooperation was so exemplary that his efforts were applauded by both the Judge and the Government. *See* Sentencing Tr. 2:19-24, Testimony of the Sentencing Judge("I'd like to note that Mr. Sood's assistance to the government has been enormously helpful[.]"); *id.* Testimony of the AUSA 7:11-8:14 (noting Mr. Sood's cooperation was "extremely timely," very forthcoming, and incredibly useful as he was a "crucial witness" and "acted as sort of the

narrator of what had happened for the jury and was an incredibly important witness."). In addition to being open and honest with the Department of Justice and the Commission, Mr. Sood has been forthcoming with his clients about the actions that led to his guilty plea, and the public Criminal Matter ensures that all future clients will learn in great detail about his actions.

The Division cherry-picks portions from *Joseph P. Galluzzi*, Exchange Act Rel. No. 46405, 2002 WL 1941502 (Aug. 23, 2002) and *Sheryans Desai,* Exchange Act Rel. No. 80129, 2017 WL 782152 (Mar. 1, 2017) as if the cases are analogous to Mr. Sood's conduct. They are not and any notion that they are is blatantly wrong. In both *Galluzzi* and *Sheryans Desai*, the respondents were sentenced to over a year in prison and made material representations to investors which caused them significant financial harm. *See Galluzzi*, 2002 WL 1941502 ("Galluzzi made material misstatements and omissions with scienter in connection with the purchase or sale of securities. As a result of his actions, Galluzzi was sentenced to several years in prison, ordered to pay over one half million dollars in disgorgement and restitution, and enjoined from future violations of antifraud provisions of the securities laws."); *Sheryans Desai* , 2017 WL 782152 ("Desai engaged in a fraudulent scheme whereby he convinced individuals to invest over $225,000 with SSC by making numerous material misrepresentations. . . . [A]fter accepting Desai's guilty plea, the district court sentenced him to a prison term of 15 months followed by three years of supervised release and ordered him to pay $121,260 in restitution."). These egregious acts are not comparable to Mr. Sood's minor role in the conspiracy schemes where he did not profit, no investors were harmed, and no probation, let alone incarceration, was awarded, and should be rejected outright.

Accordingly, imposing a permanent bar against Mr. Sood, who's conduct was wrong, but not egregious would be excessive, against the weight of precedent, and should be

rejected by the Commission. *See, e.g., William Hutchens*, Rel. No. 2514 (May 9, 2006) (imposing three-month suspension for similar conduct that involved violations of the Advisers Act—paying for business—but did not result in tangible harm to the investors or others in the securities industry); *MedCap Management & Research LLC and Charles Frederick Toney, Jr.*, Rel. No. 2801 (Jan. 9, 2017) (imposing one-year bar for reporting misleading results to hedge fund investors and violating the Investment Advisors Act); *Lawrence M. Labine*, Initial Decision Rel. No. 973, 2016 SEC LEXIS 795, *1-2 (March 2, 2016) (imposing two-year bar for "violat[ions of] the antifraud provisions of the federal securities laws because he 1) did not disclose potential incentive compensation for the sales, 2) did not disclose his fundraising role and commitments to Domin-8 to sell the debentures, and 3) made material misrepresentations about the investment's risks."), *accepted as final at Lawrence L. Labine*, Securities Exchange Act Rel. No. 77697 (Apr. 22, 2016).

Factor Two: *Mr. Sood's conduct was isolated.* Mr. Sood was a part of two conspiracy schemes for a short duration of approximately one year. In contrast, Mr. Sood has been working in the securities industry his entire career since 1997 without prior incident, and since being charged during 2017, Mr. Sood has not received a complaint from any of his clients. During these schemes, Mr. Sood played a very minor role. Such isolated indiscretions in the context of an otherwise exemplary career does not warrant a bar. *John Jantzen*, Initial Decisions Rel. No. 472, Exchange Act Rel. No. 68396, 2012 SEC LEXIS 3446, *4-6 (Nov. 6, 2012) (noting, "the isolated nature of Jantzen's misconduct weighs in favor of imposing a more lenient sanction. The Commission has not alleged that Jantzen engaged in any other acts of insider trading, nor does Jantzen have a record of any securities violations during his prior twenty years

as a licensed securities professional."), *accepted as final at John Jantzen*, Exchange Act Rel. No. 68396 (Dec. 10, 2012).

Factor Three: *Mr. Sood did not act with a high degree of scienter.* Admittedly Mr. Sood pleaded guilty to felony charges, but contrary to the Government's contention, Mr. Sood was not motivated by profits and, in fact, did not anticipate profiting from his actions for many years (nor did he), if at all. Rather, Mr. Sood had a modest upbringing and wanted to assist athletes, who often received poor investment advice, reach their full financial potential. He also refused to participate in the scheme – declining to pay bribes on numerous occasions – before giving in to the pressures from his co-conspirators. Mr. Sood made a grave error in judgment, but he never intended to harm any athlete, or other investor, nor did he. *See also,* Sentencing Tr. 12:8-13, Testimony of Sentencing Judge ("I don't think Mr. Sood . . . intended to harm a university.")

Factor Four: *Mr. Sood deeply regrets his role in the bribery schemes*. He pleaded guilty to felony charges and has and will continue to pay the price for his misconduct. He has consistently taken responsibility for his misconduct and "[e]verything in his background suggests he is an upstanding and honest man." *Id*. 9:6-7, Testimony of Sentencing Judge. Mr. Sood desires nothing more than to move forward honorably, serving his clients legally and honestly.

Factor five: *Mr. Sood has consistently recognized the wrongful nature of his conduct*. For example, at his sentencing hearing, Mr. Sood offered the following sincere words:

> I would like to apologize to the Court and to the people that I hurt for the last few years. I've disappointed my friends, my family and myself. I have no one to blame but myself for these actions. I fully accept responsibility for my actions. I will continue to do what is necessary to rebuild the trust of my friends, my family, my clients, and everyone else I've disappointed.

Id. 6:3-10. Moreover, Mr. Sood provided instrumental assistance to the government in related criminal cases and, despite the Division's contentions otherwise, both the AUSA and sentencing judge acknowledged this cooperation was extremely timely. *See id.* 7:12-17, Testimony of AUSA ("his cooperation was extremely timely. He indicated very early on that he intended to cooperate. He came in and proffered with us quickly, and he was proffering and working with us well before any of the trials that occurred here took place, well before any guilty pleas."); *id*. 9:11, Testimony of Sentencing Judge (describing Mr. Sood's cooperation as "very prompt" and "painstaking"). He served as a crucial witness for the government, testifying multiple days in multiple trials and "at bottom, acted as sort of the narrator of what had happened for the jury and was an incredibly important witness." *Id.* 8:13-15, Testimony of AUSA.

This cooperation should not be underscored or minimized. Mr. Sood has done, and will continue to do, everything he can to rectify the wrongs he has committed and "rebuild the trust of [his] friends, [his] family, [his] clients, and everyone else he's disappointed." *Id*. . 6:7-10. Accordingly, factor five of the *Steadman* factors unequivocally weighs against imposing a bar on Mr. Sood.

Factor six: Lastly, Mr. Sood acknowledges that he works in the securities industry, which presents an opportunity for future violations. This factor, however, should not be held against Mr. Sood in light of his sincere assurances against future violations, painstaking assistance to the government in related criminal proceedings, blemish free history in the security industry prior to 2016, lack of investor harm for his indiscretions at issue, and no investor complaints about Mr. Sood in the over four years since he participated in the conspiracy. *See John Jantzen*, Initial Dec. Rel. No. 472, 2012 SEC LEXIS 3446, *2 (Nov. 6, 2012) ("While it is true that continued employment in the securities industry would provide Jantzen with the

opportunity for future violations, overall, a temporary associational bar will serve as a sufficient deterrent to any future misconduct."), *accepted as final at John Jantzen,* Exchange Act Rel. No. 68396 (Dec. 10, 2012).

Thus, factors one through five of the *Steadman* factors weigh overwhelmingly against imposing any bar, let alone a permanent bar, against Mr. Sood. Mr. Sood is an honest man who made a mistake. He has consistently acknowledged his wrongdoing and has informed his friends, family, and clients of the same. Accordingly, the Commission should decline to impose a bar against Mr. Sood as such is excessive, punitive, and against the public interest.

C. **Mr. Sood Did Not Harm Investors.**

Mr. Sood's conduct did not harm any investors, nor was it ever his intention to do so. Mr. Sood's conduct, which was regrettable, was an attempt to gain traction in the competitive world of financial advising for professional athletes. Mr. Sood was misled to believe that the only way to be introduced to these types of prospective clients is to make payments to their family members and coaches. None of the criminal complaints involving Mr. Sood claim that Mr. Sood harmed any investors, nor has the Division made the claim.

Three professional athletes who have engaged Mr. Sood provided declarations that state that they were not harmed by Mr. Sood and did not feel pressure to retain Mr. Sood or continue to use Mr. Sood's help. Furthermore, all three professional athletes state that after they learned of the criminal complaint and Mr. Sood pleading guilty, they would still want to retain Mr. Sood. They also state that had they learned about Mr. Sood's legal issues at the time they first engaged him, it would not have affected their desire to retain Mr. Sood. *See* Kuzma Decl. (Ex. 3); Reed Decl. (Ex. 4); Ayodele Decl. (Ex. 5).

Not only were Mr. Sood's clients not harmed by Mr. Sood's conduct, but they have benefitted immensely from Mr. Sood's work and advice. For instance, Mr. Sood met Kyle

Kuzma in 2017 through Christian Dawkins who was working at ASM Sports when Kuzma was an undrafted prospect. Kuzma Decl. at 2. Kuzma stated that Mr. Sood helped him: (i) raise his credit score, (ii) coordinate his family's relocation to Los Angeles, (iii) setup CDs and other investment vehicles, (iv) finance a car when he first relocated to Los Angeles, and (v) deal with certain complicated family matters. *Id*. at 5. Additionally, Mr. Sood assisted Kuzma in setting up a trust, which Kuzma appointed Mr. Sood as the Trustee. *Id.* at 7. Mr. Sood also serves as an unpaid board member of Kuzma's foundation that donated around $150,000 to the YMCA in Kuzma's hometown and the Children's Institute in Los Angeles to help with food distribution efforts for families in need during the COVID-19 pandemic. *Id*. at 9.

Another professional athlete who engaged Mr. Sood in 2017, Davon Reed, was introduced to Mr. Sood through Steven Pina who was working at ASM Sports. Reed Decl. at 1. Reed stated that Mr. Sood has helped him: (i) "develop and increase my knowledge about business and various investments opportunities," (ii) create and manage Reed's LLC, (iii) setup CDs and other investment vehicles, (iv) create Reed's Foundation and raise money for projects that are important to Reed, and (v) helped Reed "deal with certain complicated family matters." *Id*. at 5.

Akin Ayodele, who played in the National Football League, provided another declaration about his positive experience engaging Mr. Sood and then later becoming a business partner of Mr. Sood. Ayodele Decl. at 1-3. Mr. Sood has helped Ayodele with: (i) managing his "investment portfolios while [he] was an active player in the NFL," (ii) providing "access to alternative investment opportunities such as real estate and direct investments where other advisors did not or refused to since they would potentially lose management fees," and (iii) allowing Ayodele to "leverage his experience so [he] was not taken advantage by other advisors

that were trying to sell him high risk investments not appropriate for [him]." *Id*. Ayodele also discussed how Mr. Sood was unlike other advisors who try to sell expensive investment products that mainly benefit the advisor and not the client. *Id*. at 3d. After Ayodele earned an MBA, he joined Mr. Sood as a business partner.

Given that Mr. Sood's conduct did not harm any investors and, in fact, has made a very positive impact on his client's lives, the Commission should not impose a bar on Mr. Sood.

IV. CONCLUSION

For the forgoing reasons, Mr. Sood respectfully requests that the Commission decline to bar Munish Sood from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; and from participating in any offering of a penny stock as such bar is not in the public interest. In the event that the Commission determines that a penalty should be imposed on Mr. Sood, Respondent respectfully requests that the Commission impose a suspension instead of a bar. Finally, Mr. Sood respectfully requests a hearing on this issue once this matter is fully briefed.

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Respectfully submitted,

/s/ Jay A. Dubow

Jay A. Dubow (PA 41741)
Richard J. Zack (PA 77142)
Thomas H. Cordova (PA 326489)
TROUTMAN PEPPER HAMILTON SANDERS LLP
3000 Two Logan Square
Eighteenth and Arch Streets
Philadelphia, PA 19103-2799
Tel: (215) 981-4000
Jay.Dubow@Troutman.com
Richard.Zack@Troutman.com
Thomas.Cordova@Troutman.com

Counsel for Respondent Munish Sood

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