

inquiry of the fourth element is whether it is in the “public interest” to impose the bars because her actions were egregious, recurrent, and involved a high degree of scienter; she has not provided adequate assurance against future violations; she has not recognized the wrongful nature of her conduct; and it is likely that she would commit future securities laws violations. *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979), *aff’d on other grounds*, 450 U.S. 91 (1981). All of these factors weigh in favor of imposing the bars as discussed in the Division’s motion.

Moreover, Sgarro’s Response highlights her refusal to accept responsibility for her actions. She argues that the Government “wrongfully punished” her “without proper investigation into [her] conduct.” *See* Response at p. 3. She claims that the Eleventh Circuit “confirmed” that her conduct ended in June 2011, instead of August 2015 as stated in Sgarro’s criminal judgment, and that the Division’s counsel offered to resolve that “mistake.” Not so. In fact, the Division’s counsel rejected Sgarro’s suggestion to revise its papers to reflect that her misconduct ended in June 2011 and pointed out that the August 2015 offense end date in her criminal judgment, *United States v. Sgarro*, 1:16-cr-20715-MGC (Dec. 1, 2017) [DE 732], remains unchanged following the Eleventh Circuit’s affirmance of her conviction and sentence. *United States v. Wheeler*, 16 F.4th 805, 831 (11th Cir. 2021). Furthermore, while Sgarro claims to “not have any dispute being disbarred” because “she was an unregistered broker,” she refuses to acknowledge her solicitation of, and misrepresentations to, investors. *See* Response at pp. 1-2.

Sgarro’s remaining factual attacks are unavailing. She challenges facts that are immaterial, such as her change of address and reduction of imprisonment due to compassionate grounds. She otherwise merely denies allegations, like that she solicited investors and made false statements to them, without presenting any evidence contrary to the record developed during her criminal jury trial.

II. Sgarro's Pursuit of Post-Conviction Relief Does Not Prevent Imposition of the Bars

What Sgarro really seeks is for the Commission to indefinitely delay this proceeding until she obtains post-conviction relief. To that end, Sgarro claims that she has uncovered “new evidence” and requires the appointment of counsel to represent her “with all the latest new evidence.” *See* Response at pp. 1, 3. But these rehashed arguments provide no basis to deny summary disposition. “[O]nce a conviction has been entered, further challenges in the criminal case do not bear on follow-on administrative proceedings unless and until those challenges are successful.” *Daniel Joseph Touizer*, Exchange Act Release No. 85321, 2019 WL 1225724, at *1-2 (Mar. 14, 2019) (cleaned up) (collecting cases). She also claims that she requires counsel to advise her on the parts of the OIP that are “unclear.” *See* Response at p. 2. But Sgarro has had ample opportunity to consult with counsel about the OIP issued over one year ago on April 8, 2022. Furthermore, this proceeding has already been stayed multiple times, partly because of Sgarro’s claim that she needed time to identify and retain counsel. *Anita Sgarro*, 2022 WL 16834143; *Anita Sgarro*, 2022 WL 3757568.

III. Conclusion

For the reasons discussed above and in the Division’s motion, the Division asks the Commission to sanction Sgarro by barring her from (1) association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, and (b) participating in any offering of a penny stock.

May 23, 2023

Respectfully submitted,

**Moot,
Stephanie**

Digitally signed by
Moot, Stephanie
Date: 2023.05.23
15:08:33 -04'00'

Stephanie N. Moot
Senior Trial Counsel
Direct Line: (305) 982-6313
moots@sec.gov

DIVISION OF ENFORCEMENT
SECURITIES AND EXCHANGE COMMISSION
801 Brickell Avenue, Suite 1950
Miami, FL 33131
Phone: (305) 982-6300
Fax: (703) 813-9526

CERTIFICATE OF SERVICE

Pursuant to Rule 150 of the Commission's Rules of Practice, I hereby certify that on May 23, 2023, the foregoing was filed using the eFAP system, and that a true and correct copy of said filing is being served via email on the following persons entitled to notice:

Via Email

Anita Sgarro

Email: [REDACTED]

Moot,
Stephanie

Digitally signed by
Moot, Stephanie
Date: 2023.05.23
15:08:55 -04'00'

Stephanie N. Moot
Senior Trial Counsel