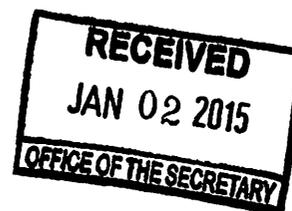


**UNITED STATES OF AMERICA
BEFORE THE SECURITIES AND EXCHANGE COMMISSION**



IN THE MATTER OF:	:	ADMINISTRATIVE PROCEEDING
MARK FEATHERS, RESP.	:	FILE NO.: 3-15755
	:	MARK FEATHERS' PETITION FOR COMMISSION'S FINAL REVIEW OF ORDER AS REQUIRED IN ORDER FOR RESPONDENT TO FILE REQUEST FOR FEDERAL APPELLATE COURT REVIEW OF A FINAL ORDER OF THE COMMISSION

INTRODUCTION

This respondent asks the Commissioners to now perform their final review under SEC's relevant Rules of Procedure, in order that there is either a ruling in this OIAP which is favorable to him, or so that this Respondent is afforded the opportunity to move this OIAP to the U.S. 9th Circuit Appellate Court.

The basis to this request is that there were clearly violations of Respondent's 4th and 5th Amendment rights in the civil court hearing (*SEC v. Small Business Capital Corp., et al*) which preceded this OIAP. These matters should have been properly adjudicated before the U.S. 9th Circuit Court of Appeals before SEC's Enforcement Division initiated its OIAP. These issues have been scheduled for review by the 9th Circuit. These same constitutional issues have precluded opportunity for a fair and just tribunal with the Commission's Administrative Proceedings.

Mark Cuban, a noted entrepreneur, and who was ultimately successful in a lawsuit defending himself against a civil action of the SEC, at a personal cost to himself of some \$20,000,000 according to published statements credited to Mr. Cuban, and who himself appears to have been the target of what he purports to be a decade of SEC misconduct, recently had these words, or very similar words, to say to national media about SEC's Enforcement Division:

"Burn it down to the ground, and make them start over".

The simple fact is that SEC's same Enforcement Division that failed miserably in preventing the billions of dollars damage from Madoff has had very little turnover since Madoff, and changes to its philosophical and Congressionally directed underpinnings, because "the same old people are in place" now as there were then. The shining stars in SEC's Enforcement Division, rising through the ranks of SEC, or in place by way of Executive Appointment and Congressional approval, and who might affect any needed changes with SEC Enforcement, typically move into, or back into, private industry before working very long for SEC, which is a matter of public record. What is left in SEC's Enforcement Division are career bureaucrats who do not appear to care for law, truth, justice, or the demands of the public.

Employees of SEC's Enforcement Division, who are Susan Hannan, Esq., and Roger Boudreau, CPA, acted in gross misconduct, and, or, fraud, in their so-called audit of the Respondent's companies,

and in their declarations in SEC's sealed *ex parte prima facie* Complaint which it presented to a federal district court, and whereby Respondent's assets, income, and livelihood were taken from him.. Boudreau concocted sham financial illustrations about this Respondent's companies (see Court Dockets 126 & 187), and Hannan, in instance after instance, omitted material disclosures in the fund's offering documents. SEC's senior trial prosecutor, John Bulgozdy, Esq., also twice falsely labeled SEC's recommended receiver as a "licensed CPA", even though he is not, and never has been (although that Receiver did falsely advertise himself as a CPA before his first SEC receivership appointment, it should be noted).

Because Respondent has not let up now for two years, or more, on these despicable acts of these SEC Enforcement Employees, and because the actual investors of Respondent's investment funds, by a ratio of some 15:1, supported his efforts to reorganize investment funds he founded and managed even *after* summary judgment against him, SEC appears to be quite outraged by any affront such as this – especially by a *pro se* party – and to any actual or potential blemish to its so-called gatekeeper role as the nation's securities enforcement agency. SEC appears to have now engineered yet another sealed *ex parte* proceeding against this Respondent, this time through the Department of Justice, and which recently resulted in an indictment against this Respondent. This respondent has complained on numerous occasions to SEC's OIG about the gross misconduct, or fraud, or worse of SEC employees, with no response ever back from them. SEC, in its entirety, and not just its Enforcement Division, appears to have little, if any, ability to self-regulate the actions of its own employees by the standards expected of the citizens of a modern democratic society for its tax-payer financed federal agencies.

In considering this request by this Respondent, he respectfully asks that the Commissioners recognize that the line has become increasingly blurred as to if SEC is acting as a civil agency or a criminal agency and if it has acted in bad faith and overstepped its bounds; See *United States v. Kordel*, 397 U.S. 1, 6 (1970); *SEC v. First Fin. Group, Inc.*, 659 F.2d 660, 667 (5th Cir. 1981); *SEC v. Dresser Indus., Inc.*, 638 F.2d 1368, 1374 (D.C. Cir. 1980) (*en banc*).

The actual investors of these funds at the time of their surprise seizure and injunction did not initiate a lawsuit against respondent, SEC did. The Commissioners should consider if its proper that SEC does not have to show that there will be irreparable injury or harm to investors, or that no other remedy is available; See *SEC v. Amerifirst Funding, Inc.*, No. 3:07-CV-1188-D, 2007 WL 2192632, at *x n. 7 (N.D. Tex. July 31, 2007) (quoting *SEC v. Prater*, 289 F. Supp. 2d 39, 49 (D. Conn. 2003)). Perhaps Congress or the Courts, or both, need to force changes onto SEC, for, given the communications in the scores of sworn pleadings and letters to the court of actual fund investors, SEC has brought harm to them, not the Respondent.

SEC Enforcement audits and investigations have been likened to inquisitions. Indeed, SEC's administrative law process appears to show an overture of this process, when they appear to clearly not allow opportunity, or disregard opportunity, for independent fact finding, such as appears to have occurred here.

The constitutional implications of parallel proceedings are magnified when taking into consideration the increasingly aggressive nature of the Department of Justice in securities violations cases, which becomes even more trouble when it works with the SEC to force plea agreements." See Naftalis, *supra* note 1, at 1259 (both quoting the copyrighted 2011 Houston Business and Tax Law Journal, page 224, Section VI). This Respondent would ask the Commissioners to consider that these "constitutional implications" are heightened even further with the third leg of concurrent SEC administrative proceedings, in particular against a *pro se* Respondent who's assets, income, and career

were taken from him by way of a sealed *ex parte* Complaint in which SEC employees produced sham financial illustrations about the Respondent's company's financial performance, in which they omitted key material disclosures of offering documents, and in which they falsely labeled their recommended federal equity receiver as a "licensed CPA".

A *presumption of innocence* of any kind, whatsoever, was never afforded this Respondent during his Enforcement Review. SEC Enforcement employees never so much as formally or informally met with Respondent during their Enforcement review, outside of formal testimony. Such a meeting might have allowed SEC Enforcement to understand Respondent's company's business model, which SEC Enforcement never appears to have bothered to care to do. While SEC may be able to benefit from a lowered burden of proof available to it in a sealed *ex parte prima facie* showing, such a lowered burden should not have allowed SEC's Enforcement employees to both produce false financial illustrations, omit key offering document disclosures, and falsely label their receiver as a licensed CPA; *See Jones v. United States*, 526 U.S. 227, 242-243 (1999).

In accordance with Section 704 of the Administrative Procedure Act, 5 U.S.C. 704, and 17 CFR 200.30-1, Respondent respectfully asks the Commission for their final review on this matter, in order to have the Commission rule favorably in his behalf for this OIAP, or in order for this Respondent to pursue judicial review of the Commission's final order with the U.S. 9th Circuit Court of Appeals.

January 2nd, 2015

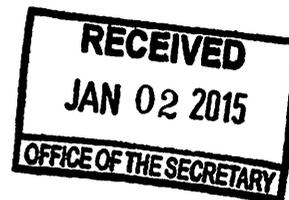


Mark Feathers, Respondent

Fax to: (202) 772-9324

To: SEC Commisioners & Secretary, SEC

Copy: SEC Enforcement/John Bulgozdy, Esq.
[REDACTED]



From: Mark Feathers

RE: OIAP No. 3-15755

January 2nd, 2014

Please see attached in the matter of subject OIAP.

Best Met