

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDINGS RULINGS  
Release No. 638/February 6, 2008

ADMINISTRATIVE PROCEEDINGS  
File No. 3-12736

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In the Matter of	:	
	:	ORDER DENYING MOTION TO
JONATHAN CARMAN	:	CORRECT MANIFEST ERRORS
	:	OF FACT
	:	

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On January 25, 2008, I issued an Initial Decision that barred Respondent Jonathan Carman (Carman) from association with any broker or dealer. On February 4, 2008, Carman filed a motion to correct manifest errors of fact in the Initial Decision (Motion to Correct). Carman urges me to “demand” a full transcript of the record from the underlying injunctive action in federal district court and to “suspend” any action against him in this proceeding (Carman Declaration, dated Feb. 2, 2008, ¶ 7).<sup>1</sup>

Rule 111(h) of the Rules of Practice of the Securities and Exchange Commission (Commission) allows a party to file a motion to correct a manifest error of fact within ten days after issuance of an Initial Decision. Rule 111(h) further explains that a motion to correct is properly filed “only if the basis for the motion is a patent misstatement of fact in the Initial Decision.” The Motion to Correct does not demonstrate a patent misstatement of fact in the Initial Decision, and it will therefore be denied.

The Motion to Correct challenges the district court’s findings of fact and its award of disgorgement in the underlying civil injunctive action. However, Carman may not do so in this follow-on administrative proceeding, as explained previously (Prehearing Conference of Sept. 24, 2007, at 11; Initial Decision at 4-5). The Motion to Correct also attempts to present new evidence in the form of several exhibits. However, Carman has not shown that there were reasonable grounds for failing to introduce this evidence when he opposed the Division of Enforcement’s motion for summary disposition. *Cf.* Rule 452 of the Commission’s Rules of Practice. In these circumstances, the newly offered evidence is rejected. Finally, the Motion to Correct, at 2, challenges my decision to resolve this dispute through summary disposition. At an early stage of the proceeding, I explained the summary disposition process and Carman agreed to use it (Prehearing Conference of Sept. 24, 2007, at 18-19). He cannot legitimately change his mind after the fact.

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<sup>1</sup> Throughout the proceeding, Carman has stated that he is not interested in returning to employment in the securities industry (Prehearing Conference of Sept. 24, 2007, at 11, 13; Motion to Correct at 2, 7, 12).

IT IS ORDERED THAT Carman's motion to correct manifest errors of fact in the Initial Decision is denied.

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James T. Kelly  
Administrative Law Judge