

Securities Regulation Daily Wrap Up, ENFORCEMENT— SEC Denies Lift of Temporary Suspension for Attorney Whose False Opinion Letter Aided Fraud, (Apr. 11, 2013)

By Rodney F. Tonkovic, J.D.

The SEC has denied a motion by a suspended attorney to lift a temporary suspension. Virginia K. Sourlis, Esq. was temporarily suspended pursuant to Rule of Practice 102(e) following a district court judgment finding that she had aided and abetted violations of the antifraud provisions of the Exchange Act by issuing a false opinion letter. The Commission found it appropriate to continue the suspension pending the holding of a public hearing and decision by an administrative law judge, and set the matter down for a public hearing ([*In the Matter of Virginia K. Sourlis, Esq.*](#), Release No. 34-69358, April 10, 2013).

The Commission's complaint, filed in the Southern District of New York, alleged that Sourlis issued a false legal opinion letter that facilitated a company's illegal public offering of millions of shares of stock. The court concluded that Sourlis had aided and abetted the company's fraud and granted summary judgment in favor of the Commission.

In a subsequent administrative proceeding, the Commission found it "appropriate and in the public interest" that Sourlis be temporarily suspended from practice. The temporary suspension would become permanent unless Sourlis filed a petition seeking to lift it within thirty days of service of the OIP. The Commission would then either lift the temporary suspension or set the matter down for a hearing, or both.

Sourlis challenged the suspension on a number of grounds, including that the temporary suspension was based on seven-year-old facts and was barred by the statute of limitations and that scienter was lacking in the underlying violation. The Office of the General Counsel opposed the petition, arguing, among other things, that the suspension was timely because the Rule 102(e) cause of action accrued when the

district court entered its order and that Sourlis was attempting to relitigate the district court's findings.

The SEC determined to deny the petition and set the matter down for a hearing before an administrative law judge. This, the Commission stated, would serve the public interest and protect the Commission's processes. The Commission explained that the district court ruling provided a statutory basis for the suspension and, since Sourlis intends to keep working in the securities law field, she remains in a position to harm the Commission's processes if the temporary suspension is lifted pending the outcome of a hearing. The Commission expressed no opinion as to the merits of Sourlis' claims.

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