

The Gag Rule is not an empty threat. This has been briefed to the SEC throughout all of NCLA's challenges in three circuit courts of appeals and in the Supreme Court.

AFPF Powell Amicus Page 13: "Take, for example, the case of Michael Angelos. The SEC "construed" "[s]tatements made on behalf of" him "as denials of the allegations in the Complaint," filing a motion to vacate the settlement.⁹ The SEC conditioned withdrawal of its motion on a statement from Mr. Angelos: I settled this case without admitting or denying the allegations of the complaint. To comply with my settlement with the [SEC], I withdraw any statement made on my behalf that may have been inconsistent therewith. I am pleased that this settlement resolves the SEC's lawsuit against me. I will have no further comment other than any sworn testimony I may give in this or any other matter."

Here's a [link](#) to a release on SEC's own website that states "Statements made on behalf of defendant Angelos subsequent to the filing of this action were construed by the Commission as denials of the allegations in the Complaint and thus violative of this agreement to settle the action without admitting or denying these allegations. **As a result, on March 27, 1996, the Commission filed a motion to vacate the judgment entered against defendant Angelos.**" See also AFPF Amicus in Novinger in the Fifth Circuit, pp. 11-14.

See also Buckeye Institute Amicus Page 12.

The Floyd Abrams brief further cites this example of Michael Angelos and thoroughly develops the post-settlement enforcement of the Gag, as well as the license this gives the agency to misconstrue the proceedings with no redress or correction possible by the silenced settlers. Pages 16-21.

Finally, I attach the CEI Brief filed in the Second Circuit which also sets out the agency's post-settlement policing of settling parties, and their practices of threats and coerced compelled speech to retract statements that the agency believes violates the Gag. Pages 25-27, including "See, e.g., Excerpts From Exchange of Letters, N.Y. Times (May 2, 2003), <https://www.nytimes.com/2003/05/02/business/excerpts-from-exchange-of-letters.html> (quoting then-Chairman reprimanding defendant for publicly stating that the alleged conduct "was not a matter of concern to retail investors," and "caution[ing]" him that the gag provision "is enforceable by the court," and that the Commission takes inappropriate public statements "as seriously as a failure to comply with any other term of the settlement"); see also Settlement of Claims by Financial Regulatory Agencies: Hearing Before H.R. Fin. Servs. Comm., 112th Cong., 2012 WL 1743135 (May 17, 2012) (statement of Robert Khuzami, Director, Div. of Enforcement, SEC) ("Khuzami Statement") (describing SEC practice of demanding "retraction or correction" of defendants' public statements).