UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 8th day of June, two thousand twenty-one.

PRESENT: RAYMOND J. LOHIER, JR.,
WILLIAM J. NARDINI,
Circuit Judges,
JOHN P. CRONAN,
*Judge.**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff-Appellee,

v. 20-2751-cv

ANDY ALTAHAWI,

*Defendant-Appellant.***

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* Judge John P. Cronan, of the United States District Court for the Southern District of New York, sitting by designation.

** The Clerk of Court is directed to amend the caption as above.

FOR DEFENDANT-APPELLANT:	ROBERT G. HEIM, Tarter Krinsky & Drogin LLP, New York, NY
FOR PLAINTIFF-APPELLEE:	BROOKE WILLIG (Jeffrey A. Berger, Senior Litigation Counsel, *on the brief*), *for* Michael A. Conley, Acting General Counsel, Securities and Exchange Commission, Washington, D.C.

Appeal from an order of the United States District Court for the Southern District of New York (Denise L. Cote, *Judge*).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the order of the District Court is AFFIRMED.

Andy Altahawi appeals from the July 21, 2020 order of the United States District Court for the Southern District of New York (Cote, J.), denying his motion under Rule 60(b)(5) and Rule 60(b)(6) of the Federal Rules of Civil Procedure to modify the District Court's June 7, 2019 consent judgment between Altahawi and the Securities and Exchange Commission (SEC). We assume the parties' familiarity with the underlying facts and prior record of proceedings, to which we refer only as necessary to explain our decision to affirm.

For substantially the reasons stated in the District Court's July 21, 2020 opinion and order, we conclude that the District Court did not abuse its discretion in concluding that Altahawi failed to establish that the potential tax consequences under the consent judgment provide a basis for relief in this case under Rule 60(b)(5) or Rule 60(b)(6). In particular, we see no abuse of discretion in the District Court's determination that the potentially unfavorable tax treatment about which Altahawi complains, including the creation of a Fair Fund pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, 15 U.S.C. § 7246, did not constitute a significant change in circumstances under Rule 60(b)(5) warranting an alteration of the consent judgment, which specifically anticipated that the SEC might establish such a fund. App'x 117 (the SEC "may propose a plan to distribute the Fund subject to the Court's approval"); see Barcia v. Sitkin, 367 F.3d 87, 99 (2d Cir. 2004); Rufo v. Inmates of Suffolk Cnty. Jail, 502 U.S. 367, 385 (1992) ("Ordinarily . . . modification [of a consent decree] should not be granted where a party relies upon events that actually were anticipated at the time it entered into a decree.").

We have considered Altahawi's remaining arguments and conclude that they are without merit. For the foregoing reasons, the order of the District Court is AFFIRMED.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of Court