UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-21525

In the Matter of

VANIA MAY BELL,

Respondent.

The Division of Enforcement respectfully submits this reply to the filing dated April 15, 2025, submitted by Respondent Vania May Bell, and in support of its motion for entry of an Order determining this proceeding upon the record.[1]

PRELIMINARY STATEMENT

The Division's Motion presented compelling and unrebutted evidence that satisfied the requirements of Section 203(f) of the Investment Advisers Act of 1940 ("Advisers Act") and, therefore, render an associational bar appropriate. This evidence shows that Bell was enjoined by a District Court, convicted in the parallel criminal proceeding, and that a bar is in the public interest because, among other things, Bell's intentional conduct caused economic devastation to the clients of the investment adviser with which she was associated. Div. Mot. at 5-8, 11-12.

[1] This brief uses the following conventions: "Division" means the Division of Enforcement; "Bell" means Respondent Vania May Bell; "Opposition" or "Bell Opp." is the four-page document submitted by Bell dated April 15, 2025; "OIP" means the Corrected Order Instituting Proceedings Pursuant to Section 203(f) of the Investment Advisers Act of 1940 and Notice of Hearing dated July 11, 2023; "Order" means the Commission's *Order Granting an Extension of Time to Respond to Motion for Entry of Default* dated February 7, 2025; "Div. Mot." or "Motion" means the Division's Motion for Entry of Default and Imposition of Remedial Sanctions Against Respondent dated October 28, 2024; and "ECP" means Executive Compensation Planners, Inc., formerly a registered investment adviser.

Bell does not dispute any of the facts or evidence submitted by the Division in support of the Motion. In her Opposition, Bell does not disclaim an intention to return to the securities industry once she is released from prison. Instead, Bell argues that there is no jurisdiction here because she did not have a securities license and that this proceeding should be dismissed because of principles of double jeopardy and other vague "constitutional" violations. As shown below, these arguments are baseless. The Commission should declare Bell in default or determine this proceeding by summary disposition under Rule 250(b) because there are no genuine issues of fact to be determined.[2]

ARGUMENT

I. Bell's Arguments Are Without Merit

In her Opposition, Bell first argues that the Commission has no jurisdiction over her because during the years of her misconduct, she was "neither licensed under the federal securities laws nor subject to fiduciary responsibilities" and had merely clerical or ministerial responsibilities. Bell Opp. at 2. Bell is wrong. Advisers Act Section 203(f) states that the Commission may bar persons "associated with an investment adviser at the time of the alleged misconduct," if they were convicted of certain offenses set forth in this section and such a sanction is in the public interest. Div. Mot. at 10. Advisers Act Section 202(a)(17) defines the phrase "person associated with an investment adviser" to "include[] any employee of such investment adviser . . . [except that persons] whose functions are clerical or ministerial shall not be included in the meaning of such term." *Id*. at 11. As the controller and chief compliance

[2] Bell's Opposition purports to be a "motion to dismiss," Bell Opp. at 1, which is not expressly provided for in the Rules of Practice. Even if construed as a motion for a ruling on the pleadings under Rule 250(a), however, the motion should be denied because Rule 250(a) requires that the factual allegations in the OIP be accepted as true and all reasonable inferences drawn in the Division's favor. The Opposition neither accepts as true the allegations in the OIP nor cites any law or legal precedent demonstrating that the OIP should be dismissed. For this reason, and for the grounds set for in the Division's Motion, Bell's "motion to dismiss" should be denied.

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officer at ECP,[3] a registered investment adviser, Bell was a "person associated with an investment adviser." *Id.* at 11-12. Bell's lack of a securities license does not preclude her from being barred. *See Teicher v. SEC*, 177 F.3d 1016, 1017-18 (D.C. Cir. 1999) (holding that Commission has authority to bar unregistered persons); *Tzemach David Netzer Korem*, Exchange Act Rel. No. 70044, 2013 WL 3864511, at *8 (July 26, 2013) ("It is well established that [the Commission is] authorized to sanction an associated person of an unregistered broker-dealer or investment adviser in a follow-on administrative proceeding"). Further, the Commission has barred individuals like Bell who served in compliance or administrative roles at an adviser. *See, e.g., Jennifer Campbell*, Rel. No. 6333, 2023 WL 4126894 (June 21, 2023) (order imposing collateral bars against chief compliance officer of registered investment adviser).

Next, Bell argues that imposing remedial sanctions in this proceeding violates her constitutional right not to be subjected to double jeopardy for the same conduct.[4] She is incorrect. The Supreme Court in *Hudson v. United States*, 522 U.S 93, 99 (1989) (emphasis in original), stated that the Double Jeopardy Clause "protects only against the imposition of multiple *criminal* punishments for the same offense." It is well-established that imposing administrative sanctions following a criminal conviction does not violate the Double Jeopardy Clause because it does not constitute a criminal punishment. *See Gary M. Kornman*, Exchange Act Rel. No. 59403, 2009 WL 367635, at *12 (Feb. 13, 2009) (rejecting argument that investment adviser bar following criminal conviction violates Double Jeopardy Clause because the bar is a remedial sanction and "is designed to protect the public, and the sanction is not

[3] In her plea allocution, Bell stated that she "was given the title of controller and chief compliance officer." Div. Mot. Ex. 6 at 28. The sentencing memorandum filed by the U.S. Attorney's Office stated that Bell "held various titles including comptroller and chief compliance officer." *Id*. Ex. 12 at 2.

[4] The Double Jeopardy Clause to the United States Constitution provides that no person shall "be subject for the same offense to be twice put in jeopardy of life or limb." U.S. Const. Amend. V.

historically viewed as punishment") (*citing Hudson v. United States*, 522 U.S. at 98-99); *William F. Lincoln*, Exchange Act Rel. No. 39629, 1998 WL 80228, at *5 (Feb. 9, 1998) (holding that follow-on administrative proceeding "is not barred by the Double Jeopardy Clause").[5]

Third, Bell claims that this proceeding's failure to enforce "Article III protections (i.e. trial by jury, due process) to impose civil penalties for securities fraud" violates her "Fifth and Fourteenth Amendment right under the United States Constitution." Bell Opp. at 3. This proceeding, however, seeks non-monetary remedial sanctions and does not seek to impose "civil penalties for securities fraud." Bell is similarly mistaken to the extent she is arguing in her Opposition that she has a right to a jury trial under *SEC v. Jarkesy*, 603 U.S. 109 (2024). The Supreme Court in *Jarkesy* held that the Seventh Amendment to the Constitution entitles a defendant to a jury trial when the SEC seeks civil penalties against that defendant for securities fraud. *Id.* at 120. As stated above, the Division is not seeking to impose a civil penalty against Bell in this proceeding, but rather a bar.

Bell's remaining arguments are unavailing. She argues that the criminal action was brought in an "unrelated venue," is "duplicative . . . selective enforcement" and therefore cannot form the basis for this follow-on proceeding. Bell Opp. at 4. This is incorrect. To the contrary, longstanding Commission precedent supports the use of evidence from a prior criminal action in

[5] In a related argument, Bell argues that because the criminal case against her has been "already resolved," this proceeding should be barred under the "doctrine of res judicata (or claim preclusion)." Bell Opp. at 2-3. Res judicata, however, provides only that a judgment on the merits in a prior suit bars a second suit between the same parties on the same cause of action. *Parklane Hosiery Co. v. Shore*, 439 U.S. 322, 327 n.5 (1979). Here, the Commission is not asserting the same causes of action that were asserted against Bell in the prior civil and criminal actions. Moreover, the fact that the criminal case is "resolved" means only that she is prohibited from relitigating or challenging the findings in that case, not that the Commission is prohibited from relying on those findings in this administrative proceeding. *See Marcus Beam*, Rel. No. 6752, 2024 WL 4527352, at 2 (Oct. 18, 2024) (under collateral estoppel or issue preclusion, "[a] convicted respondent therefore cannot dispute the fact of conviction, the elements of the offense he was convicted of, or any additional facts admitted to in a plea agreement or during a plea colloquy"); *Gary M. Kornman*, 2009 WL 367635, at *13 (rejecting argument that res judicata barred follow-on proceeding based on criminal conviction).

a subsequent administrative proceeding. Div. Mot. at 9-10 (citing cases that Commission may rely on facts and evidence from criminal action). Bell also argues that ECP's broker-dealer, Securities America Inc., had "primary responsibility" for any wrongdoing at ECP which absolves her of responsibility. Bell. Opp. at 4. In her plea allocution, however, Bell did not point to these companies to excuse her conduct. Div. Mot. at 5-8, Ex. 6 at 29-30. Instead, she admitted that she knowingly committed crimes, that she knew her conduct was against the law, and that she acted with an intent to defraud. *Id.*

II. Remedial Sanctions Should Be Imposed

Although the Order stated (at 2) that "it would be premature to deem Bell in default," Bell has still not filed a proper answer and therefore should be found in default. More than one year ago, the Commission warned Bell that under Rule of Practice 220 an "answer must specifically admit, deny, or state that the Respondent does not have sufficient information to admit or deny each allegation in the OIP. If Respondent fails to do so, she will be held in default." *Vania May Bell*, Rel. No. 6544, 2024 WL 473713, at *1 (Feb. 7, 2024) (*citing* 17 C.F.R. § 201.220).

Despite this warning, Bell has yet to file an answer that complies with Rule 220 and, accordingly, Bell remains in default. Under Commission Rule of Practice 155(a)(2), when a respondent is in default, the Commission may determine the proceeding against the respondent upon consideration of the record, including the OIP, the allegations of which may be deemed true. 17 C.F.R. § 201.155(a)(2).

If Bell's April 15, 2025 filing is construed as an answer, the Division is entitled to a summary disposition under Rule of Practice 250(b), for the reasons set forth in its Motion. *See* 17 C.F.R. § 201.250(b); *Kornman v. SEC*, 592 F.3d 173, 182-83 (D.C. Cir. 2010) (upholding

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Commission's use of summary disposition in a follow-on proceeding); *Albert K. Hu*, Rel. No. 6497, 2023 WL 8469447, *4 (Dec. 6, 2023) (imposing investment adviser bar following Rule 250(b) summary disposition motion).

Under Rule 250(b), summary disposition is appropriate because there is no genuine issue regarding any material fact and the Division is entitled to summary disposition as a matter of law.[6] Despite being afforded repeated opportunities to do so, Bell has failed to show that there is a need for an in-person evidentiary hearing to resolve any genuine disputed issue of fact. The factual and legal bases supporting the Division's motion for summary disposition are set forth in the Division October 2024 motion, *see* Div. Mot., and are more than sufficient to justify the relief requested.

CONCLUSION

Based on the foregoing, as well as the Division's Motion filed October 28, 2024, the Division respectfully requests that the Commission sanction Bell by barring her from association with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

Dated: April 29, 2025
New York, NY

/s/ *David Stoelting*

David Stoelting
Tracy Sivitz
Division of Enforcement
Securities and Exchange Commission
100 Pearl St., Suite 20-100
New York, NY 10004
212.336.0174
stoeltingd@sec.gov
Counsel for the Division of Enforcement

[6] The Division has advised Bell in a letter dated August 23, 2023, that documents required to be made available under Commission Rule of Practice 230(a)(1) are available for inspection and copying. *See* Reply of the Division of Enforcement dated Nov. 17, 2023, at 1, Ex. 2.

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CERTIFICATE OF SERVICE

On April 29, 2025, I caused the attached REPLY OF THE DIVISION OF ENFORCEMENT to be filed electronically on the efap system and served on the following person via UPS overnight delivery to:

Ms. Vania May Bell
Register Number [redacted]
[redacted]
[Legal Mail]