

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 89672 / August 26, 2020

Admin. Proc. File No. 3-17941

In the Matter of  
AXESSTEL, INC.

ORDER DISMISSING PROCEEDING

On April 24, 2017, we instituted administrative proceedings under Section 12(j) of the Securities Exchange Act of 1934 against Axesstel, Inc.<sup>1</sup> The order instituting proceedings alleged that Axesstel violated periodic reporting requirements and ordered a hearing to determine whether the allegations were true and, if so, whether suspension or revocation of the registration of Axesstel's securities was necessary and appropriate for the protection of investors. On the Commission's own motion, we now dismiss the proceeding.

On July 6, 2017, an administrative law judge issued an initial decision ordering that the registration of Axesstel's securities be revoked.<sup>2</sup> The initial decision found that it was "undisputed that Axesstel failed to file its required periodic reports" and that "Axesstel represented that it does not plan to return to compliance." No party filed a petition for review. The Commission also determined not to review the initial decision on its own initiative. On October 5, 2017, the Commission issued a notice that the initial decision had become final.<sup>3</sup> The Commission's EDGAR database reflects that the revocation was effective on October 6, 2017.

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<sup>1</sup> *Axesstel, Inc.*, Exchange Act Release No. 80519, 2017 WL 1458397 (May 9, 2017).

<sup>2</sup> *Axesstel, Inc.*, Initial Decision Release No. 1152, 2017 WL 2908015 (July 6, 2017).

<sup>3</sup> *Axesstel, Inc.*, Exchange Act Release No. 81831, 2017 WL 4480205 (Oct. 5, 2017).

On November 30, 2017, the Commission remanded this proceeding to the ALJ who issued the initial decision and ordered that she conduct a *de novo* reconsideration and reexamination of the record to determine “whether to ratify or revise in any respect all prior actions taken” in the proceeding.<sup>4</sup> As part of the remand, the parties were given the opportunity to submit new evidence.<sup>5</sup> No party submitted new evidence and, on January 22, 2018, the ALJ ratified all prior actions she had taken, including the initial decision.<sup>6</sup>

On August 22, 2018, in light of the Supreme Court’s decision in *Lucia v. SEC*,<sup>7</sup> the Commission again remanded this proceeding but this time remanded to a different ALJ.<sup>8</sup> The Commission ordered that Axesstel “be provided with the opportunity for a new hearing before an ALJ who did not previously participate in the matter.”<sup>9</sup>

On September 6, 2018, Axesstel and the Division of Enforcement filed a joint stipulation stating that Axesstel “waives any claim or entitlement to . . . a new hearing before another ALJ or the Commission itself.” The stipulation further provided that Axesstel “waives any and all challenges to the administrative proceedings or any and all orders that may be issued during or at the conclusion of those proceedings, whether before the ALJ, the Commission, or a court, based upon any alleged or actual defect in the appointment” of the ALJ.

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<sup>4</sup> *Pending Administrative Proceedings*, Exchange Act Release No. 82178, 2017 WL 5969234, at \*1-2 (Nov. 30, 2017).

<sup>5</sup> *Axesstel, Inc.*, Admin. Proc. Rulings Release No. 5382, 2017 WL 11428727 (Dec. 14, 2017).

<sup>6</sup> *Axesstel, Inc.*, Admin. Proc. Rulings Release No. 5478, 2018 WL 8414580 (Jan. 22, 2018).

<sup>7</sup> 138 S. Ct. 2044 (2018).

<sup>8</sup> *Pending Administrative Proceedings*, Exchange Act Release No. 83907, 2018 WL 4003609, at \*1 (Aug. 22, 2018).

<sup>9</sup> *Id.*

In light of the stipulation and the fact that Axesstel no longer has a class of securities registered under Exchange Act Section 12, we have determined to dismiss the proceeding. Revocation and suspension of registration are the only remedies available in a proceeding instituted under Section 12(j) of the Exchange Act.<sup>10</sup>

Accordingly, IT IS ORDERED that this proceeding is dismissed.

By the Commission.

Vanessa A. Countryman  
Secretary

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<sup>10</sup> Cf. *Expleo Solutions, Inc.*, Exchange Act Release No. 78638, 2016 WL 4426914, at \*1 (Aug. 22, 2016) (granting the Division of Enforcement’s motion to dismiss a proceeding instituted under Section 12(j) of the Securities Exchange Act of 1934 against a respondent that no longer had a class of securities registered under Exchange Act Section 12 “[b]ecause revocation and suspension of registration are the only remedies available in a proceeding instituted under Section 12(j)”); *Sahas Techs.*, Securities Act Release No. 9189, 2011 WL 553599, at \*1 (Feb. 17, 2011) (granting the Division of Enforcement’s motion to dismiss a proceeding instituted under Section 8(d) of the Securities Act of 1933 to determine whether to issue a stop order suspending the effectiveness of a registration statement where respondent filed an application to withdraw the registration statement and the Division of Corporation Finance indicated that it did not object to the withdrawal of the registration statement).