

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

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In the Matter of : INITIAL DECISION MAKING FINDINGS  
: AND IMPOSING SANCTION BY DEFAULT  
WALDYR DA SILVA PRADO NETO : May 20, 2014

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**SUMMARY**

This Initial Decision bars Waldyr Da Silva Prado Neto (Prado) from the securities industry.

**I. BACKGROUND**

The Securities and Exchange Commission (Commission) instituted this proceeding with an Order Instituting Proceedings (OIP) on January 23, 2014, pursuant to Section 15(b) of the Securities Exchange Act of 1934 (Exchange Act). The OIP alleges that Prado was enjoined against violation of the antifraud provisions of the federal securities laws. He was served with the OIP in accordance with 17 C.F.R. § 201.141(a)(2)(iv) by April 28, 2014.<sup>1</sup> To date, he has failed to file an Answer to the OIP, due within twenty days of service. See OIP at 2; 17 C.F.R. § 201.220(b). Accordingly, he has failed to answer or otherwise to defend the proceeding within the meaning of 17 C.F.R. § 201.155(a)(2). Therefore, Prado is in default, and the undersigned finds that the allegations in the OIP are true. See OIP at 3; 17 C.F.R. §§ 201.155(a), .220(f).

**II. FINDINGS OF FACT**

Prado is permanently enjoined against violation of Exchange Act Sections 10(b) and 14(e) and Rules 10b-5 and 14e-3. Final Judgment, SEC v. Waldyr Da Silva Prado Neto, No. 1:12-cv-

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<sup>1</sup> Prado, who is believed to be in Brazil, was served with the OIP by notice published in the *International New York Times* on April 7, 14, 21, and 28, 2014, after attempts to serve him in Brazil by other means proved unsuccessful. Pursuant to 17 C.F.R. § 201.141(a)(2)(iv), “[n]otice of a proceeding to a person in a foreign country may be made by any method specified in [17 C.F.R. § 201.141(a)(2)], or by any other method reasonably calculated to give notice, provided that the method of service used is not prohibited by the law of the foreign country.” In this case, service by notice published in the *International New York Times* complies with 17 C.F.R. § 201.141(a)(2)(iv). Waldyr Da Silva Prado Neto, Admin. Proc. Rulings Release No. 1338, 2014 SEC LEXIS 1081 (A.L.J. Mar. 26, 2014).

7094 (S.D.N.Y. Jan. 7, 2014), ECF No. 46.<sup>2</sup> He was also ordered to disgorge \$397,110.01 of ill-gotten gains plus prejudgment interest of \$41,622.90 and to pay a civil penalty of \$5,195,500 in restitution. Id.

Prado, age 43, is a Brazilian citizen who had been working and residing in Miami, Florida, until he fled to Brazil in September 2012. From 1999 through May 2012, Prado was a registered representative associated with Wells Fargo Advisors, LLC (Wells Fargo Advisors), a broker-dealer registered with the Commission, or its predecessor entities.

Between May and September 2010, Prado engaged in insider trading in the securities of Burger King Holdings, Inc. (Burger King). Burger King was the subject of negotiations that it would be acquired by private equity firm 3G Capital Partners Ltd. (3G Capital), and Prado, while a registered representative at Wells Fargo Advisors, learned about the impending acquisition from a brokerage customer who invested in a fund managed by 3G Capital used to acquire Burger King. Prado misappropriated material nonpublic information about the Burger King acquisition from this customer and used this information to trade Burger King securities in his Wells Fargo Advisors account before the September 2, 2010, acquisition announcement and reaped over \$175,000 in illicit profits. Prado tipped at least four of his brokerage customers who purchased Burger King securities before the announcement and together they reaped profits of \$1.9 million.

### **III. CONCLUSIONS OF LAW**

Prado has been permanently enjoined “from engaging in or continuing any conduct or practice in connection with any such activity” as a broker or dealer within the meaning of Sections 15(b)(4)(C) and 15(b)(6)(A)(iii) of the Exchange Act.

### **IV. SANCTION**

Prado will be barred from the securities industry. This sanction will serve the public interest and the protection of investors, pursuant to Section 15(b)(6), and accord with Commission precedent and the sanction considerations set forth in Steadman v. SEC, 603 F.2d 1126, 1140 (5th Cir. 1979). As described in the Findings of Fact, Prado’s unlawful conduct was recurring over a period of several months, egregious, involved a high degree of scienter, and resulted in unlawful gains of almost \$2 million. The fact that Prado is a fugitive shows his unwillingness to recognize the wrongfulness of his conduct and illustrates the risk of future misconduct if he were allowed to resume his former business activities. Because of the Commission’s obligation to ensure honest securities markets, an industry-wide bar is appropriate.

### **V. ORDER**

IT IS ORDERED that, pursuant to Section 15(b) of the Securities Exchange Act of 1934, 15 U.S.C. § 78o(b), WALDYR DA SILVA PRADO NETO IS BARRED from associating with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or

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<sup>2</sup> Official Notice, pursuant to 17 C.F.R. § 201.323 is taken of the docket report and the court’s orders in SEC v. Waldyr Da Silva Prado Neto.

nationally recognized statistical rating organization and from participating in an offering of penny stock.<sup>3</sup>

This Initial Decision shall become effective in accordance with and subject to the provisions of Rule 360 of the Commission's Rules of Practice, 17 C.F.R. § 201.360. Pursuant to that Rule, a party may file a petition for review of this Initial Decision within twenty-one days after service of the Initial Decision. A party may also file a motion to correct a manifest error of fact within ten days of the Initial Decision, pursuant to Rule 111 of the Commission's Rules of Practice, 17 C.F.R. § 201.111. If a motion to correct a manifest error of fact is filed by a party, then that party shall have twenty-one days to file a petition for review from the date of the undersigned's order resolving such motion to correct a manifest error of fact. The Initial Decision will not become final until the Commission enters an order of finality. The Commission will enter an order of finality unless a party files a petition for review or a motion to correct a manifest error of fact or the Commission determines on its own initiative to review the Initial Decision as to a party. If any of these events occur, the Initial Decision shall not become final as to that party.<sup>4</sup>

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Carol Fox Foelak  
Administrative Law Judge

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<sup>3</sup> Thus, he will be barred from acting as a promoter, finder, consultant, or agent; or otherwise engaging in activities with a broker, dealer, or issuer for purposes of the issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock, pursuant to Exchange Act Section 15(b)(6)(A), (C).

<sup>4</sup> A respondent may also file a motion to set aside a default pursuant to 17 C.F.R. § 201.155(b). See Alchemy Ventures, Inc., Exchange Act Release No. 70708, 2013 SEC Lexis 3459, at \*5-6 (Oct. 17, 2013); see also David Mura, Exchange Act Release No. 72080, 2014 SEC LEXIS 1530 (May 2, 2014).