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

ADMINISTRATIVE PROCEEDINGS RULINGS Release No. 6121/September 28, 2018

ADMINISTRATIVE PROCEEDING File Nos. 3-17874 and 3-17875

In the Matter of

	:	
TALMAN HARRIS and	:	ORDER
VICTOR ALFAYA	:	

The Securities and Exchange Commission instituted the proceedings against Talman Harris and Victor Alfaya with Orders Instituting Proceedings (OIP), pursuant to Section 15(b) of the Securities Exchange Act of 1934 on March 10, 2017, and the two proceedings were consolidated on March 13, 2017. The proceeding is a follow-on proceeding based on *SEC v. Cope*, No. 1:14-cv-7575 (S.D.N.Y.), in which Respondents Talman Harris and Victor Alfaya were enjoined from violating the antifraud provisions of the federal securities laws and on *United States v. Scholander*, No. 1:15-cr-3335 (N.D. Ohio), in which Respondents were convicted of conspiracy to commit securities fraud and wire fraud, and Harris was additionally convicted of wire fraud and obstruction of justice.

Harris and Alfaya were served with the OIP on April 29 and May 18, 2017, respectively, by sending a copy by U.S. Postal Service Express Mail to each at his "usual place of abode . . . and obtaining a confirmation of receipt." 17 C.F.R. § 201.141(a)(2)(i). Alfaya filed an Answer to the OIP on June 20, 2017. Harris appeared at a telephonic prehearing conference on May 26, 2017, but did not file an Answer. On October 30, 2017, an Initial Decision imposed associational bars on Respondents. *Talman Harris*, Initial Decision Release No. 1213, 2017 WL 4942807 (A.L.J.).

Thereafter, the proceeding was stayed: On June 21, 2018, "[i]n light of the Supreme Court's decision in *Lucia v. SEC*," 138 S. Ct. 2044 (2018), the Commission stayed all pending administrative proceedings, including this one; the stay was operative through August 22, 2018. *Pending Admin. Proc.*, Securities Act of 1933 Release Nos. 10510, 2018 WL 3193858; 10522, 2018 WL 3494802 (July 20, 2018). On August 22, 2018, the Commission ended the stay and ordered a new hearing in each affected proceeding before an administrative law judge who had not previously participated in the proceeding, unless the parties expressly agreed to alternative procedures, including agreeing that the proceeding remain with the previous presiding administrative law judge. *Pending Admin. Proc.*, Securities Act Release No. 10536, 2018 WL 4003609, at *1 (August 22 Order). Accordingly, the proceeding was reassigned to the undersigned. *Pending Admin. Proc.*, Admin. Proc. Rulings Release No. 5955 (C.A.L.J. Sept. 12, 2018).

In view of the reassignment of the proceeding, Harris will be afforded an opportunity to file an Answer, and Alfaya, an amended Answer, which will be due by November 9, 2018. If Harris does not file an Answer, he will be deemed to be in default, and the undersigned will enter an order barring him from the securities industry. Alfaya (and Harris, if he files an Answer) and the Division should submit proposals for the conduct of further proceedings by December 14, 2018. The proposal may include resolving the proceeding by motion[s] for summary disposition pursuant to 17 C.F.R. § 201.250(b).¹ If Alfaya (or Harris, if he files an Answer) fails to submit a proposal (or to participate in a joint proposal), he will be deemed to be in default, and the undersigned will enter an order barring him from the securities industry. *See* August 22 Order, 2018 WL 4003609, at *1.

IT IS SO ORDERED.

<u>/S/ Carol Fox Foelak</u> Carol Fox Foelak Administrative Law Judge

¹ The Division is reminded of its obligation to make the investigative file available to a respondent, pursuant to 17 C.F.R. § 201.230, as a precondition for a motion for summary disposition pursuant to 17 C.F.R. § 201.250(b). *See Byron S. Rainner*, Exchange Act Release No. 59040, 2008 WL 5100855 (Dec. 2, 2008); *José P. Zollino*, Exchange Act Release No. 51632, 2005 WL 2615277 (Apr. 29, 2005).