

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 6730/February 5, 2020

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

In the Matter of	:	
	:	
TALMAN HARRIS and	:	ORDER
VICTOR ALFAYA	:	

This Order invites the Division of Enforcement and Respondent Talman Harris to supplement their motions for summary disposition, previously filed pursuant to 17 C.F.R. 201.250 (Rule 250). The Securities and Exchange Commission instituted proceedings against Harris with an Order Instituting Proceedings (OIP), pursuant to Section 15(b) of the Securities Exchange Act of 1934 on March 10, 2017.¹ Following the parties' motions for summary disposition, an Initial Decision was issued on June 28, 2019.² The Initial Decision was vacated by the Commission on its own initiative and remanded to the undersigned "to identify the facts and circumstances of Harris's misconduct that lead her to conclude that the public interest warrants the imposition of sanctions." *Talman Harris*, Exchange Act Release No. 87425, 2019 SEC LEXIS 4280, at *3 (Oct. 30, 2019) (Remand Order). The Remand Order was served on Harris by personal service on December 18, 2019.

As noted in the Initial Decision, the OIP based the proceeding against Harris on: (1) his conviction in *United States v. Scholander*, No. 1:15-cr-335 (N.D. Ohio) (Jan. 26, 2017), *as amended*, (Jan. 25, 2019), *appeal dismissed sub nom. United States v. Harris*, No. 19-3088 (6th Cir. Feb. 13, 2019) of conspiracy to commit securities fraud and wire fraud, in violation of 18 U.S.C. § 1349, and wire fraud, in violation of 18 U.S.C. § 1343; and (2) his injunction against violations of the antifraud provisions of the federal securities laws, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder and Section 17(a) of the Securities Act of 1933. The injunction was entered by default. Harris was convicted after a jury found him guilty of the offenses, reaching a general verdict on each count.³ Thus, while Harris is collaterally estopped from relitigating *SEC v. Cope* and *United States v.*

¹ The proceeding has ended as to Victor Alfaya. *Talman Harris*, Initial Decision Release No. 1381, 2019 SEC LEXIS 1548 (A.L.J. June 28, 2019), *finality order*, Exchange Act Release No. 87162, 2019 SEC LEXIS 3432 (Sept. 30, 2019).

² *Talman Harris*, Initial Decision Release No. 1380, 2019 SEC LEXIS 1547 (A.L.J. June 28, 2019).

³ For example, the Count 1 Verdict Form stated, in its entirety without elaboration as to the underlying facts, "We, the jury, find Defendant Talman Harris guilty of Conspiracy to Commit Securities Fraud or Wire Fraud, in violation of Title 18 United States Code, Section 1349, as charged in Count 1 of the Superseding Indictment." Jury Verdict Form, *United States v. Scholander* (Sept. 7, 2016), ECF No. 223.

Scholander in this proceeding, no factfinder in either case found “the facts and circumstances of Harris’s misconduct.”

In view of the remand, the parties are invited to supplement their motions for summary disposition, with additional arguments and/or additional reference to “undisputed pleaded facts, declarations, affidavits, documentary evidence or facts officially noticed pursuant to Rule 323.” *See* Rule 250(b). Supplements will be due on March 5, 2020, and replies on March 19, 2020.

IT IS SO ORDERED.

/S/ Carol Fox Foelak
Carol Fox Foelak
Acting Chief Administrative Law Judge