

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 98992 / November 20, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-20671

In the Matter of

Adam D. Bering, Esq.,

Respondent.

**ORDER PERMITTING ATTORNEY TO
RESUME APPEARING AND PRACTICING
PURSUANT TO RULE 102(e) OF THE
COMMISSION'S RULES OF PRACTICE**

I.

On December 10, 2021, the Commission instituted this proceeding, pursuant to Rule 102(e)(1)(iii) of the Commission's Rules of Practice, and issued an Order Instituting Administrative Proceedings Pursuant to Rule 102(e) of the Commission's Rules of Practice, Making Findings and Imposing Remedial Sanctions ("Order") that denied Adam D. Bering, Esq. ("Bering" or "Respondent") the privilege of appearing or practicing before the Commission as an attorney. *See In the Matter of Adam D. Bering, Esq.*, Admin Proc. No. 3-20671 (Dec. 10, 2021). The Commission's Order was based on its findings, by consent, that Bering willfully aided and abetted and caused violations of Section 13(a) of the Securities Exchange Act of 1934 ("Exchange Act") and Rules 13a-1 and 13a-13 thereunder, and Rule 2-02(b) of Regulation S-X. The Commission's Order included a provision permitting Bering, one (1) year from the date of the Order, to request that the Commission consider his reinstatement by filing an application with the Office of the General Counsel. This matter is before the Commission on Bering's application for reinstatement.

II.

Bering is a principal at Ernst & Young LLP ("EY") and during 2009 through 2018, was the engagement partner for tax credit services that EY provided to its client, Cintas Corporation ("Cintas"). During this time, the EY tax staff provided tax credit and incentive services to Cintas on a contingent fee basis that violated the auditor independence rules. Bering failed to perform a reasonable inquiry about the contingent fee billing arrangement and failed to halt the practice. On December 10, 2021, the Commission accepted Bering's Offer of Settlement and issued its Order which (1) found that he willfully aided and abetted and caused violations of Sections 13(a) of the Exchange Act and Rules 13a-1 and 13a-13 thereunder, and Rule 2-02(b) of Regulation S-

X; (2) ordered him to cease and desist from committing or causing any violations and any future violations of these provisions; and (3) fined him a civil penalty of \$10,000. *See* Order at Sections III, IV.

III.

By letter to the Commission's Office of the General Counsel, dated December 16, 2022, which was more than one year after the Order was issued, Bering applied for reinstatement of the privilege of appearing and practicing before the Commission as an attorney. His application included a certificate of good standing from his state bar (Ohio) and an affidavit addressing the conditions for reinstatement set forth in the Order. Under the terms of the Order, Bering was required to provide certain documentation and attestations to the Commission as part of his application for reinstatement to appear and practice before the Commission. Upon submission of the required documentation and attestations, and if the Commission (1) discovers no contrary information therein, and (2) determines that Bering truthfully and accurately attested to each of the items required, and the Commission discovers no information, including under Paragraph IV.G. of the Order, indicating that Bering has violated a federal securities law, rule or regulation or rule of professional conduct applicable to Bering since entry of the Order (other than by conduct underlying Respondent's original Rule 102(e) suspension), then, unless the Commission determines that reinstatement would not be in the public interest, the Commission shall reinstate Bering for cause shown. Order at ¶IV. H.

Based on the information supplied and attestations made, and on the Commission staff's independent inquiry, it appears that Bering has met the conditions set forth in the Order. Among other things, Bering has paid the civil penalty imposed on him by the Commission. He has also sworn that since entry of the Order, except for any actions concerning the conduct that was the basis for the Order, (i) he has complied with the Order; (ii) he is not currently suspended or disbarred as an attorney; (iii) he has not been convicted of, or charged with, a felony or a misdemeanor involving moral turpitude that would constitute a basis for suspension under Rule 102(e)(2); (iv) he has not been found to have committed, or been charged with committing, a violation of the federal securities laws or been enjoined from violating the federal securities laws; (v) he has not been found, or charged by a government agency, with having committed an act of moral turpitude; (vi) he has not been subject to disciplinary action by a bar, court or agency of any state for violations of applicable rules of professional conduct; (vii) his conduct is not at issue in any pending Commission or criminal law enforcement investigation, (viii) he is not the subject of any complaints or investigations by the bar or court of any state, territory, district, commonwealth, or possession; and (ix) he has complied with any and all orders, undertakings, or other remedial, disciplinary, or punitive sanctions resulting from any action taken by the bar or court of any state, territory, district, commonwealth, or possession, or other regulatory body. The Commission has discovered no information contrary to Bering's attestations.

Moreover, since entry of the Order, no information has come to the attention of the Commission relating to Bering's character, integrity, professional conduct, or qualifications to practice before the Commission that would be a basis for an adverse action against him pursuant to Rule 102(e), or that otherwise indicates that reinstatement would not be in the public interest.

IV.

Based on the foregoing, the Commission has determined that there is cause shown to reinstate Bering to appear and practice as an attorney before the Commission.

Accordingly, it is **HEREBY ORDERED** that Adam D. Bering, Esq., is reinstated to appear and practice as an attorney before the Commission.

By the Commission.

Vanessa A. Countryman
Secretary