

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 6956 / April 2, 2026

ADMINISTRATIVE PROCEEDING
File No. 3-22619

In the Matter of

**BERNARDO MENDIA-
ALCARAZ,**

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
PROCEEDINGS PURSUANT TO SECTION
203(f) OF THE INVESTMENT ADVISERS
ACT OF 1940 AND NOTICE OF HEARING**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against Bernardo Mendia-Alcaraz (“Respondent” or “Mendia-Alcaraz”).

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENT

1. Mendia-Alcaraz, 53 years old, is a resident of San Francisco, California. From at least approximately October 2018, Mendia-Alcaraz wholly owned, controlled, and served as the Managing Partner of Toltec Capital LLC (“Toltec Capital”), an unregistered private equity firm. For a portion of the time in which they engaged in the conduct underlying the complaint

described below, Toltec Capital and Mendia-Alcaraz functioned as investment advisers to at least one of Toltec Capital's investment funds – the Toltec S&P 500 Index ETF Fund IV (“S&P Fund”) – which was marketed to investors as a fund that would invest in securities, specifically four S&P 500 Exchange-Traded Funds. The S&P Fund was structured as a joint venture in which Toltec Capital served as the joint venture principal and each private party investor was the joint venture investor. According to the Fund's offering documents, Toltec Capital was the manager of the Fund and had developed “proprietary analytics,” which allowed fund managers to “accurately predict changes to the S&P 500 index and capitalize on the volatility of the index through short-internal positions in index fund ETF positions.” Mendia-Alcaraz also solicited investors to invest in the S&P Fund and held himself out as Toltec Capital's Managing Partner, a role described in the investor agreements as managing and controlling the day-to-day operations of the Fund, including the administration of Fund assets. Toltec Capital and Mendia-Alcaraz received an economic benefit from their management of the S&P Fund. According to the Fund's offering documents, Toltec Capital, which Mendia-Alcaraz again owned and controlled, would receive half of the Fund's net profits. Mendia-Alcaraz also received an economic benefit by misappropriating investor funds from the S&P Fund, as further detailed below. Based on his position of control, Mendia-Alcaraz was a “person associated with” an investment adviser, Toltec Capital, for purposes of Section 203(f) of the Advisers Act.

B. ENTRY OF THE INJUNCTION

2. On December 16, 2025, a final judgment was entered against Mendia-Alcaraz, permanently enjoining him from future violations of Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933 (“Securities Act”), Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 10b-5 thereunder, and Sections 206(1), 206(2), and 206(4) and Rule 206(4)-8 thereunder of the Investment Advisers Act of 1940 (“Advisers Act”), as set forth in the judgment entered in the civil action entitled Securities and Exchange Commission v. Bernardo Mendia-Alcaraz, et al., Civil Action Number 3:24-cv-05823-RS, in the United States District Court for the Northern District of California.

3. From at least December 2019 through September 2023, Mendia-Alcaraz engaged in securities fraud and unregistered securities offerings involving at least six private investment funds, including the S&P Fund. In connection with these unregistered offerings, Mendia-Alcaraz, through Toltec Capital, raised approximately \$3.3 million from at least 41 investors through a fraudulent scheme and by making materially false and misleading statements. Specifically, during this period, Mendia-Alcaraz guaranteed that investors would receive a return of their full invested capital plus, for certain funds, interest payments or dividends, when, in fact, Toltec Capital did not have the financial means to fulfill these guarantees. As of the date of the filing of the federal court action, Toltec Capital and Mendia-Alcaraz had not returned the investment principal to approximately 33 of their 41 investors, totaling approximately \$2.2 million in lost principal, which does not include owed interest and dividend payments. Toltec Capital and Mendia-Alcaraz also promised investors that their money would be used only for investment purposes, when, in fact, Mendia-Alcaraz used investor money to make Ponzi-like payments to other investors and to pay for his personal expenses. Mendia-Alcaraz too portrayed himself as a successful asset manager but misleadingly failed to disclose his multiple bankruptcy filings and

criminal history of check fraud and theft. From at least approximately April 2021 through May 2023, Mendia-Alcaraz again functioned as an investment adviser through his involvement in the S&P Fund, in which he managed the Fund and the Fund strategy, solicited investors, and directly benefited from the Fund through Toltec Capital and through his misappropriation of investor assets.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative proceedings be instituted to determine:

A. Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford Respondent an opportunity to establish any defenses to such allegations; and

B. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 203(f) of the Advisers Act.

IV.

IT IS ORDERED that a public hearing before the Commission for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed by further order of the Commission, pursuant to Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondent shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220(b) of the Commission's Rules of Practice, 17 C.F.R. § 201.220(b).

IT IS FURTHER ORDERED that the Division of Enforcement and Respondent shall conduct a prehearing conference pursuant to Rule 221 of the Commission's Rules of Practice, 17 C.F.R. § 201.221, within fourteen (14) days of service of the Answer. The parties may meet in person or participate by telephone or other remote means; following the conference, they shall file a statement with the Office of the Secretary advising the Commission of any agreements reached at said conference. If a prehearing conference was not held, a statement shall be filed with the Office of the Secretary advising the Commission of that fact and of the efforts made to meet and confer.

If Respondent fails to file the directed Answer, or fails to appear at a hearing or conference after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against him upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310.

This Order shall be served forthwith upon Respondent by any means permitted by the Commission's Rules of Practice.

The Commission finds that it would serve the interests of justice and not result in prejudice to any party to provide, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), that notwithstanding any contrary reference in the Rules of Practice to service of paper copies, service to the Division of Enforcement of all opinions, orders, and decisions described in Rule 141, 17 C.F.R. § 201.141, and all papers described in Rule 150(a), 17 C.F.R. § 201.150(a), in these proceedings shall be by email to the attorneys who enter an appearance on behalf of the Division, and not by paper service.

Attention is called to Rule 151(a), (b) and (c) of the Commission's Rules of Practice, 17 C.F.R. § 201.151(a), (b) and (c), providing that when, as here, a proceeding is set before the Commission, all papers (including those listed in the following paragraph) shall be filed electronically in administrative proceedings using the Commission's Electronic Filings in Administrative Proceedings (eFAP) system access through the Commission's website, www.sec.gov, at <http://www.sec.gov/eFAP>. Respondent also must serve and accept service of documents electronically. All motions, objections, or applications will be decided by the Commission.

The Commission finds that it would serve the interests of justice and not result in prejudice to any party to provide, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), that notwithstanding any contrary reference in the Rules of Practice to filing with or disposition by a hearing officer, all filings, including those under Rules 210, 221, 222, 230, 231, 232, 233, and 250 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.210, 221, 222, 230, 231, 232, 233, and 250, shall be directed to and, as appropriate, decided by the Commission. This proceeding shall be deemed to be one under the 75-day timeframe specified in Rule of Practice 360(a)(2)(i), 17 C.F.R. § 201.360(a)(2)(i), for the purposes of applying Rules of Practice 233 and 250, 17 C.F.R. §§ 201.233 and 250.

The Commission finds that it would serve the interests of justice and not result in prejudice to any party to provide, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), that the Commission shall issue a decision on the basis of the record in this proceeding, which shall consist of the items listed at Rule 350(a) of the Commission's Rules of Practice, 17 C.F.R. § 201.350(a), and any other document or item filed with the Office of the Secretary and accepted into the record by the Commission. The provisions of Rule 351 of the Commission's Rules of Practice, 17 C.F.R. § 201.351, relating to preparation and certification of a record index by the Office of the Secretary or the hearing officer are not applicable to this proceeding.

The Commission will issue a final order resolving the proceeding after one of the following: (A) The completion of post-hearing briefing in a proceeding where the public hearing has been completed; (B) The completion of briefing on a motion for a ruling on the pleadings or a motion for summary disposition pursuant to Rule 250 of the Commission's Rules of Practice, 17 C.F.R. § 201.250, where the Commission has determined that no public hearing is necessary; or (C) The determination that a party is deemed to be in default under Rule 155 of the Commission's Rules of Practice, 17 C.F.R. § 201.155, and no public hearing is necessary.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not “rule making” within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

For the Commission, by its Secretary, pursuant to delegated authority.

Vanessa A. Countryman
Secretary