

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



In the Matter of:

MICHAEL W. CROW,
ALEXANDRE S. CLUG,
AURUM MINING, LLC, and
THE CORSAIR GROUP, INC.

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: ADMINISTRATIVE PROCEEDING

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: File No. 3-16318
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**ALEXANDRE S. CLUG'S RESPONSE TO DIVISION'S SUPPLEMENTAL BRIEF
DATED JANUARY 9, 2019, PER COMMISSION'S BRIEFING ORDER DATED
DECEMBER 10, 2018¹;**

I, Alexandre S. Clug, submit this Response to the Division's Supplemental Brief dated January 9th, 2019, as permitted in the Commission's December 10, 2018 order.

RESPONSE

The Division raises two issues in its Supplemental Brief that warrant a response.

First, after failing to raise the issue in its briefs, the Division now states for the first time that it is requesting additional relief from Aurum Mining LLC, PanAm Terra, Inc., and The Corsair Group, Inc. The Commission should not permit the Division's last minute attempt to insert this issue. Allowing this expansion of the scope of relief sought would deprive those entities of the opportunity to defend themselves. Thus, they would effectively be denied their rights to due

¹ Unfortunately, I am still not able to afford an attorney, so I am filing this *pro se*. But for the sake of full disclosure, I note that I did ask an attorney to review this response before filing.

process. In any event, it is a matter of record that all three entities no longer exist. None of them has any operations or bank accounts. PanAm filed its Final tax return for year ending 2013. The Corsair Group filed its Final tax return for year ending 2014. Aurum filed its Final tax return for year ending 2015.

Second, the Division asks the Commission to ignore the fact that the ALJ has now twice found that I have a limited ability to pay in asking the Commission to order additional financial penalties and disgorgement. The Division misleadingly states that I “admitted” a “failure to disclose his *all-cash* purchase of a home...”. In fact, and as is documented in prior filings, I did not make an “all-cash” purchase of a home. Rather, I obtained all the funds used to make this supposed “*all-cash*” purchase through a private loan. The loan requires that I make monthly payments, which I continue to pay every month. ALJ Patil, in his ‘Order Ratifying in Part and Revising in Part Prior Actions’ dated April 20, 2018, correctly found there was no evidence of “bad-faith and an intent to deceive.” The Division’s contrary statements may be inflammatory, but they are contrary to the evidence.

The Division also says the Commission should impose additional financial penalties and disgorgement because my conduct was purportedly especially egregious. Rather than viewing the entire record in context, the Division’s arguments cherry-pick evidence, take it out of context, and draw inferences that are unreasonable when viewed in context. The Division uses inflammatory rhetoric in place of evidence to try to paint me as an intentional fraudster who enriched himself at others’ expense. But the evidence shows not only that I was not enriched, but that in fact I invested (and lost) my own personal funds in the businesses in the hope of keeping them afloat and enabling investors to realize returns. As ALJ Patil found:

There was no evidence that Clug lived lavishly or spent money recklessly. He appeared to be as a sincere individual who made regrettable decisions, in large part because he attempted to undertake endeavors that he was ill-equipped for. He strove committedly to ensure the businesses succeeded, in order to return money to investors, but was unable to do so. He appears to be a hard-working, generally good person.

Initial Decision at page 80.

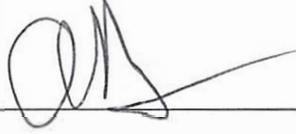
Finally, the Division again elevates cherry-picking and inflammatory language over evidence in arguing that additional disgorgement should be ordered. The Division says “The expenses of Aurum Mining, *a fraudulent enterprise*, should not be exempt from disgorgement.” But after considering all the evidence and testimony, the ALJ did not find Aurum to be a *fraudulent enterprise*. It was a real company with real employees and a management working on mining operations. There is no basis for calculating disgorgement on any basis other than the amount by which the respondent profited: “Disgorgement is remedial and not punitive. The court's power to order disgorgement extends only to the amount with interest by which the defendant profited from his wrongdoing. Any further sum would constitute a penalty assessment.” *SEC v. Blatt*, 583 F.2d 1325, 1335 (5th Cir. 1978); *SEC v. ETS Payphones, Inc.*, 408 F.3d 727, 735 (11th Cir. 2005). The amount of disgorgement imposed by ALJ Patil already exceeds the amount by which I profited from the companies.

CONCLUSION

Based on the foregoing, in addition to my briefs and other filings, I respectfully request that the Commission reverse ALJ Patil's rulings as set forth in my briefs, and reject the Division's requests for additional relief.

Dated: January 23, 2019

Respectfully submitted,

By: 

Alexandre S. Clug

CERTIFICATE OF SERVICE

I hereby certify that on January 23, 2019, I served a copy of this Petition by fax and mail to the Commission's Secretary, Office of the Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE, Mail Stop 1090, Washington, DC 20549, and a true and correct copy of the foregoing was furnished via Electronic Delivery to:

Honorable Judge Jason S. Patil at Patilj@sec.gov
David Stoelting at StoeltingD@sec.gov