

U.S. SECURITIES AND EXCHANGE COMMISSION

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Matter of

CHRISTOPHER M. GIBSON,

A.P. No. 3-17184

Respondent.

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**RESPONDENT’S PETITION FOR REVIEW**

Respondent Christopher M. Gibson (“Gibson”), pursuant to Rules 410 and 411 of the Rules of Practice, petitions for review of an Initial Decision issued on March 24, 2020 in the captioned matter, and each and every part thereof, on the ground that the decision contains findings of fact that are not supported by a preponderance of the evidence and are clearly erroneous, contains conclusions of law that are contrary to binding precedent and are clearly erroneous, and reflects exercises of discretion that the Commission should review. Pursuant to Rules 410(b) and 411(b), Gibson states as issues for review the Initial Decision’s determinations:

(1) That Gibson violated Investment Advisers Act §§ 206(1), (2) and (4), and Rule 206(4)-8 thereunder.

(2) That Gibson violated Securities Exchange Act §10(b) and Rule 10b-5(a) and (c) thereunder.

(3) That Gibson engaged in frontrunning in connection with sales of the common stock of Tanzanian Royalty Exploration Corporation (“TRX”) in September 2011. The evidence does not establish that Gibson engaged in frontrunning, and a conclusion that he violated the securities laws by selling TRX securities would be inconsistent with applicable caselaw. Moreover, the Operating Agreement and Offering Memorandum of Geier International Strategies Fund, LLC (“GISF”) permitted Gibson to engage in sales of TRX securities.

(4) That Gibson breached his fiduciary duty to GISF by failing to disclose conflicts of interest arising from sales of TRX securities in September 2011.

(5) That Gibson operated under a conflict of interest when he facilitated GISF's purchase of a block of TRX shares from the eighty percent owner of GISF in a private transaction in October 2011, and later facilitated GISF's sale of such shares with other TRX shares owned by GISF in market transactions in November 2011. The majority owner was disadvantaged and not favored by the transaction, and he acted to help GISF market its remaining position of TRX securities. In addition, the transaction did not further any relationship between the eighty percent owner and Gibson.

(6) That Gibson, while operating under an undisclosed conflict of interest, failed to take measures to remedy or eliminate such conflict before executing the transaction between GISF and its eighty percent owner.

(7) That Gibson engaged in frontrunning by purchasing and recommending the purchase of TRX put options in October and November 2011. The evidence does not establish that Gibson engaged in frontrunning, and a conclusion that he violated the securities laws by purchasing or recommending the purchase of puts on TRX securities would be inconsistent with applicable caselaw. Moreover, GISF's Operating Agreement and Offering Memorandum permitted Gibson to purchase or recommend the purchase of puts on TRX securities.

(8) That Gibson operated under conflicts of interest, breached fiduciary duties owed to GISF, and/or failed to disclose to GISF that he engaged in frontrunning in connection with his purchase of or recommendation to purchase options on TRX securities.

(9) That any purportedly violative conduct, statement or omission was material.

(10) That Gibson acted with scienter or negligence.

(11) That based upon findings of violations, sanctions should be imposed and include a cease-and-desist order; a prohibition from activities listed in Investment Company Act §9(b); a securities industry bar under Investment Advisers Act §203(f); an order for \$82,088.81 disgorgement; an order for prejudgment interest from December 1, 2011 on the disgorgement amount; and an order for \$102,000 in civil penalties.

In addition to the foregoing, Gibson further seeks review on Constitutional grounds and on the grounds that prejudicial errors were committed in the conduct of the proceeding. In particular, Gibson asserts that: (a) Gibson has been denied due process; (b) the ALJ who presided over this hearing was insulated from removal by multiple layers of tenure protection in violation of the removal clause of Article II of the U.S. Constitution; (c) Gibson is entitled to a trial by jury under the Seventh Amendment to the Constitution; and (d) the proceeding is barred by the statute of limitations because the Commission failed to commence a valid proceeding consistent with Constitutional requirements within five years of the conduct at issue.

Gibson also asserts under Rule 410(d) his inability to pay disgorgement, interest or a penalty, and will file with his opening brief a sworn financial disclosure statement containing the information specified in Rule 630(b).

Finally, Gibson reserves his right under Rule 411(d) to raise all issues to be specified in his opening brief.

/s/ Thomas A. Ferrigno

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Dated: April 10, 2020

### **Certificate of Service and Filing**

I certify that on April 10, 2020, pursuant to the Commission's March 18, 2020 order in all pending administrative proceedings, Rel. Nos. 33-10767, 34-88415, IA-5467, and IC-33820, I caused the foregoing to be filed with the Commission by sending it electronically to [apfilings@sec.gov](mailto:apfilings@sec.gov); and that pursuant to the parties' March 23, 2020 stipulation, I caused the foregoing to be served on Gregory R. Bockin and Nicholas C. Margida, counsel for the Division of Enforcement, by sending it electronically to [bocking@sec.gov](mailto:bocking@sec.gov) and [margidan@sec.gov](mailto:margidan@sec.gov).

/s/ Thomas A. Ferrigno