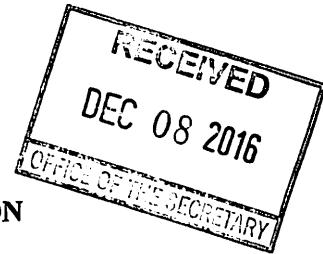


UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION



ADMINISTRATIVE PROCEEDING  
File No. 3-17651

Administrative Law Judge  
Cameron Elliot

---

<b>In the Matter of</b>	:	<b>RESPONDENT ADRIAN D. BEAMISH'S</b>
	:	<b>MOTION FOR JUDGMENT ON THE</b>
<b>ADRIAN D. BEAMISH, CPA,</b>	:	<b>PLEADINGS</b>
	:	
<b>Respondent.</b>	:	
	:	
	:	

---

Respondent Adrian D. Beamish (“Mr. Beamish”) by and through his counsel, respectfully moves for dismissal of this proceeding as a matter of law, pursuant to Rule 250(a), 17 C.F.R. § 201.250(a).

On October 31, 2016, the Securities and Exchange Commission (“Commission”) issued an Order Instituting Public Administrative Proceedings (“OIP”) against Mr. Beamish pursuant to Section 4C of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 102(e)(1)(ii) of the Commission’s Rules of Practice. The principal allegation is that Mr. Beamish failed to ensure that private venture capital fund Burrill Life Sciences Capital Fund III, LP’s (“Fund III” or the “Fund”) Year-End 2009, 2010, 2011 and 2012 financial statements contained adequate disclosures regarding a *single, actually disclosed* item: prepaid management fees from the Fund to its General Partner.

The OIP should be dismissed with prejudice for at least the following three reasons.

First, this case should be dismissed because it stretches Rule 102(e) beyond its permissible scope. Rule 102(e) is limited to allegations of unprofessional conduct in

connection with an appearance before the Commission. It does not extend, and was never intended to extend, to audit work performed in connection with the financial statements of a *private* investment fund, financial statements which were provided only to the Fund's highly sophisticated investors and never filed with the Commission or otherwise publicly disseminated. Mr. Beamish's alleged conduct in auditing Fund III's financial statements cannot form the basis of a Rule 102(e) enforcement action.

Second, the prepaid management fees that form the basis of the Division's claims were indisputably disclosed, repeatedly, over a course of many years. The Division does not dispute that there was *actual* and accurate disclosure of the fact and amount of payments made to the General Partner by the Fund in each of the financial statements' related party footnotes and therefore Mr. Beamish's conduct as pled cannot meet either Rule 102(e)'s negligence or recklessness standards required for a finding of improper professional conduct.

Third, the Division's claims based on the 2009 and 2010 audits must be dismissed as time barred. Since the relief sought by the Division under Rule 102(e) would be punitive, 28 U.S.C. § 2462 prohibits the Division from seeking penalties for claims that accrued more than five years before it filed the OIP on October 31, 2016.

This Motion is based on this Motion, the attached Memorandum of Points of Authorities, the Declaration of Thad A. Davis and supporting exhibit, all other pleadings and papers on file in this action, and on such other matters as may be presented to the Court before the ruling on this Motion.

//


//

//

WHEREFORE, Mr. Beamish, pursuant to Rule 250(a), 17 C.F.R. § 201.250(a), requests an Order dismissing with prejudice the Commission's Rule 102(e) enforcement action against Mr. Beamish as a matter of law.

Dated: December 7, 2016

Respectfully submitted,



---

Thad A. Davis  
Marc J. Fagel  
Monica K. Loseman  
Nicola M. Paterson  
Trial Counsel for Adrian D. Beamish  
(415) 393-8251 (Davis)  
(415) 393-8332 (Fagel)  
(303) 298-5784 (Loseman)  
(415) 393-8347 (Paterson)  
tdavis@gibsondunn.com  
mfagel@gibsondunn.com  
mloseman@gibsondunn.com  
npaterson@gibsondunn.com