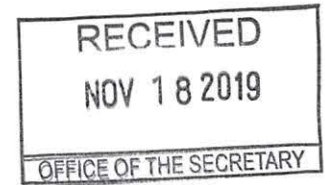


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ADMINISTRATIVE PROCEEDING  
FILE NO. 3-18422

**UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION**



**In the Matter of**

**JOSHUA D. MOSSHART,**

**Respondent.**

**Administrative Law Judge Carol Fox  
Foelak**

**DIVISION OF ENFORCEMENT'S  
RESPONSE TO RESPONDENT'S CROSS-MOTION FOR SUMMARY DISPOSITION**

November 15, 2019

Division of Enforcement  
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## **I. INTRODUCTION**

On October 28, 2019, the presiding judge issued an order stating that respondent Joshua D. Mosshart's June 11, 2018 "Answer" and January 28, 2019 "Supporting Evidence & Statement" shall be construed as a cross-motion for summary disposition seeking dismissal of this administrative proceeding. As directed by the Court, the Division of Enforcement respectfully submits this response to Mosshart's cross-motion. For all of the reasons articulated in its briefing on the Division's Rule 250(b) motion, summary disposition should be granted in the Division's favor. If, however, the Court denies the Division's motion, Mosshart's cross-motion must be denied as well because his papers have failed to demonstrate that there is no dispute as to the material facts.

## **II. ARGUMENT**

Mosshart's briefing to date claims that he in no way raised capital for EnviroBoard, and instead joined the company only to work on its sales and marketing, build a board of directors, and develop a public relations strategy. In his telling, Mosshart had transitioned out of the financial adviser industry to work at Enviro Board in a purely operational capacity. Even though 18 different Enviro Board investors – many of whom were his existing advisory clients at LPL – paid almost \$5 million to the company for its unregistered securities, and even though he was paid \$553,355 by the company in connection with those investments, Mosshart insists that when he told "all of my friends and family of my new business ventures," they later, without any urging from Mosshart, "invested on a non-solicited bases [sic] because they wanted to support a great cause and help support me and Enviro Board bringing affordable housing to the world." June 11, 2018 Mosshart Response ("Opp.") at p. 1, § I.

To the extent this Court denies the Division's motion for summary disposition, Mosshart's cross-motion should likewise be denied because his factual assertions are

controverted by substantial evidence, and consequently, a genuine issue of disputed material fact exists. *See In the Matter of Daspin*, Admin. Proc. File No. 3-16509, SEC Rel. No. 3409, 2015 WL 13548961, \*2 (Dec. 17, 2015) (denying respondent's motion for summary disposition – “At most, Daspin has shown that material facts alleged in the OIP are in dispute. But if material facts are in dispute, a motion for summary disposition must be denied.”). Stated succinctly:

- Peiffer testified that Mosshart was paid transaction-based commissions to solicit investment in Enviro Board. October 24, 2018 Division Reply Brief (“Reply”) at pp. 2-3.
- Camp testified that Mosshart was paid transaction-based commissions to solicit investment in Enviro Board. Reply at p. 2.
- Mosshart’s employment agreement explicitly said that Mosshart would be paid transaction-based commissions on investor funds he brought to the company. *Id.* at p. 3.
- A former LPL client of Mosshart’s averred that after her spouse unexpectedly passed away, Mosshart – in his capacity as her financial adviser – pushed her to invest \$400,000 in life insurance proceeds in Enviro Board’s unregistered securities, which she did. *Id.*
- Contemporaneous email correspondence between Mosshart, Camp, and potential investors in 2011 and 2012 evince Mosshart’s significant role in soliciting investments in Enviro Board. *Id.* at p. 4; March 1, 2019 Division Supplemental Reply Brief (“Supp. Reply”) at pp. 2-5.

Contrary to Mosshart’s *ex post* minimization of his role in soliciting investment in Enviro Board, there is ample proof before the Court that he violated the securities and broker-dealer registration requirements, and as a sophisticated market participant – he was long-associated with a dually registered broker-dealer and investment adviser – those violations were egregious. Mosshart’s cross-motion should be denied.

**III. CONCLUSION**

For all the reasons stated, the Division respectfully requests that its motion for summary disposition be granted, and that Mosshart be permanently barred pursuant to Section 15(b) of the Exchange Act and Section 203(f) of the Advisers Act.

Dated: November 15, 2019

Respectfully submitted,

DIVISION OF ENFORCEMENT

/s/ Gary Y. Leung

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**IN THE MATTER OF JOSHUA D. MOSSHART**

**Administrative Proceeding File No. 3-18422  
Service List**

Pursuant to Commission Rule of Practice 151 (17 C.F.R. § 201.151), I certify that the attached:

**DIVISION OF ENFORCEMENT'S  
RESPONSE TO RESPONDENT'S CROSS-MOTION FOR SUMMARY DISPOSITION**

was filed with the Office of the Secretary of the Commission and served by electronic mail and UPS Overnight Mail on November 15, 2019, upon the following parties as follows:

Vanessa Countryman, Secretary  
Securities and Exchange Commission  
100 F. Street, N.E., Mail Stop 1090  
Washington, D.C. 20549

(by facsimile to (703) 813-9793  
and United Parcel Service)

(original and three copies)

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Dated: November 15, 2019

/s/ Gary Y. Leung  
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