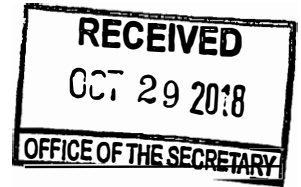


HARD COPY



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

**In the Matter of KAREN BRUTON,
Respondent.**

**ADMINISTRATIVE PROCEEDING
FILE NO. 3-18790**

RESPONDENT'S PETITION TO LIFT RULE 102(e)(3) TEMPORARY SUSPENSION

Mary C. Gill
Ga. Bar No. 294776
mary.gill@alston.com
Timothy J. Fitzmaurice
Ga. Bar No. 241959
tim.fitzmaurice@alston.com
One Atlantic Center
1201 West Peachtree Street
Atlanta, Georgia 30309-3424
Tel: (404) 881-7000
Fax: (404) 881-7777

Counsel for the Respondent

Table of Contents

Introduction..... 1

Background 3

 A. Karen Bruton..... 3

 B. The District Court Action. 4

 C. The Commission Issues the Temporary Suspension. 5

Argument 5

 I. The Temporary Suspension Is An Unlawful Punishment..... 5

 II. The Temporary Suspension Is Not In the Public Interest. 9

Conclusion 11

Table of Authorities

	Page(s)
Cases	
<i>In the Matter of BDO China Dahua CPA Co., et al.</i> , Admin. Proc. File Nos. 3-14872, 3-15116, 2013 SEC LEXIS 1298 (Apr. 30, 2013).....	7
<i>In the Matter of Diane D. Dalmy, Esq.</i> , Admin. Proc. File No. 3-17020, 2016 SEC LEXIS 354 (Jan. 27, 2016)	10
<i>In the Matter of Gregory M. Dearlove</i> , Admin. Proc. File No. 1-12064, 2006 SEC LEXIS 1684 (July 27, 2006).....	5, 6
<i>In the Matter of Jilaine H. Bauer, Esq.</i> , Admin. Proc. File No. 3-15020, 2012 SEC LEXIS 3509 (Nov. 13, 2012).....	10
<i>In the Matter of Joseph J. Aseoph, CPA and Darren M. Bennett, CPA</i> , Admin. Proc. File No. 3-15168, 2016 SEC LEXIS 2730 (Aug. 5, 2016).....	5
<i>In the Matter of Joseph L. Pittera, Esq.</i> , Admin. Proc. File No. 3-17507, 2016 SEC LEXIS 4012 (Oct. 26, 2016)	10
<i>In the Matter of Michael C. Pattison, CPA</i> , Admin. Proc. File No. 3-14323, 2012 SEC LEXIS 2973 (Sept. 20, 2012).....	3, 6, 7
<i>In the Matter of Michael R. Drogin, CPA</i> , Admin. Proc. File No. 3-10762, 2011 SEC LEXIS 135 (Jan. 11, 2011).....	7
<i>In the Matter of Ran H. Furman</i> , Admin. Proc. File No. 3-14532, 2011 SEC LEXIS 3877 (Nov. 3, 2011).....	11
<i>In the Matter of Robert W. Armstrong III</i> , Admin. Proc. File No. 3-9793, 2005 SEC LEXIS 1497 (June 24, 2005).....	7
<i>In the Matter of Stewart A. Merkin, Esq.</i> , Admin. Proc. File No. 3-15158, 2013 SEC LEXIS 571 (Feb. 25, 2013)	3, 10, 11
<i>In the Matter of Virginia K. Sourlis, Esq.</i> , Admin. Proc. File No. 3-15212, 2013 SEC LEXIS 1104 (Apr. 10, 2013).....	10
<i>Johnson v. SEC</i> , 87 F.3d 484 (D.C. Cir. 1996).....	6, 8
<i>Kokesh v. SEC</i> , 137 S. Ct. 1635 (2017).....	<i>passim</i>

<i>Marrie v. SEC</i> , 374 F.3d 1196 (D.C. Cir. 2004).....	7
<i>McCurdy v. SEC</i> , 396 F.3d 1258 (D.C. Cir. 2005).....	5
<i>Rowe v. New York State Div. of the Budget</i> , No. 1:11-CV-1150, 2012 U.S. Dist. LEXIS 132238 (N.D.N.Y. Sept. 17, 2012).....	9
<i>Saad v. SEC</i> , 873 F.3d 297 (D.C. Cir. 2017).....	2, 6, 7
<i>SEC v. Gentile</i> , Civil Action No. 16-1619 (JLL), 2017 U.S. Dist. LEXIS 204883 (D.N.J. Dec. 13, 2017)	9
<i>SEC v. Goble</i> , 682 F.3d 934 (11th Cir. 2012)	9
<i>SEC v. Tourre</i> , 4 F. Supp. 3d 579 (S.D.N.Y. 2014)	9
<i>Siegel v. SEC</i> , 592 F.3d 147 (D.C. Cir. 2010).....	5, 8
<i>Steadman v. SEC</i> , 603 F.2d 1126 (5th Cir. 1979)	10
SEC Rules of Practice	
Rule 102(e).....	<i>passim</i>

Pursuant to Rule 102(e)(3)(ii) of the Securities and Exchange Commission's Rules of Practice, Respondent Karen Bruton, by and through her undersigned counsel, hereby petitions the Commission to lift the *ex parte* temporary practice suspension (the "Temporary Suspension") issued pursuant to the September 19, 2018 Order Instituting Public Administrative Proceedings (the "OIP) and to set this matter down for a hearing. As will be shown below, the Temporary Suspension should be lifted because it is an unlawful punishment and there is no basis for the Commission to conclude that it is in the public interest to continue the Temporary Suspension.

Introduction

This is an unprecedented Rule 102(e)(3) proceeding, as it does *not* follow on the heels of an action by the Commission alleging that Karen Bruton engaged in any type of fraud or other malfeasance *as an accountant*. To be clear, the Commission has never alleged that Ms. Bruton engaged in any misconduct as an accountant. Indeed, Ms. Bruton has not performed accounting or tax services for any person or entity since 2007, *her CPA license has been inactive for more than 10 years*,¹ and she has not practiced before the Commission as an accountant in more than 30 years. In fact, she recently retired and is not currently employed. She devotes her time and energy to volunteer at a charity she founded that works to improve the lives of impoverished persons all over the world. Focused solely on her volunteer work, Ms. Bruton has no plan, intention or desire to obtain full- or even part-time employment, activate her CPA license,

¹ For this reason, it is inappropriate and incorrect for Ms. Bruton to be listed as "Karen Bruton, CPA" in the caption. Ms. Bruton does not hold herself out as a CPA, and she is prohibited from doing so by the rules of the North Carolina State Board of CPA Examiners, which issued her CPA license (Ms. Bruton's CPA license is not "from Tennessee," as the OIP incorrectly alleges). *See* 21 NCAC08A.0301(b)(20) ("Inactive,' . . . describes one who . . . does not use the title 'certified public accountant' nor does he or she allow anyone to refer to him or her as a 'certified public accountant'"). Accordingly, Ms. Bruton requests that "CPA" be stricken from the caption.

providing accounting or tax services to any person or entity, work in the securities, accounting or tax industries, or practice before the Commission.

With full knowledge of these facts, the Commission nevertheless brought this Rule 102(e)(3) proceeding against Ms. Bruton, even though she has neither the desire nor the opportunity to practice as an accountant and even though the SEC has never alleged that she engaged in any type of fraud or misconduct as an accountant. Further, the Commission inexplicably concluded that Ms. Bruton, who is not working in the securities, accounting or tax industries, has not practiced before the Commission in more than 30 years, and has not had an active CPA license in more than 10 years, posed such an immediate and imminent threat to the integrity of the Commission's processes that it was appropriate, necessary and in the public interest to temporarily suspend her—on an *ex parte* basis—from practicing before the Commission as an accountant.

The Temporary Suspension can only remain in place pending a final hearing if it is (1) remedial, rather than a punishment, and (2) in the public interest. For the reasons explained below, the Temporary Suspension fails on both fronts.

The U.S. Supreme Court recently held that if “[a] civil sanction . . . cannot fairly be said *solely* to serve a remedial purpose, but rather can only be explained as also serving either retributive or deterrent purposes, [it] is punishment.” *Kokesh v. SEC*, 137 S. Ct. 1635, 1645 (2017) (emphasis in original) (quotations and citation omitted). Here, the Commission does not (and cannot) contend that the Temporary Suspension is *solely* or even partially remedial since, as one court explained, a “suspension . . . does not provide anything to the victims to make them whole or remedy their losses.” *Saad v. SEC*, 873 F.3d 297, 305 (D.C. Cir. 2017) (Kavanaugh, J., concurring). Instead, as the Commission itself has explained, suspensions under Rule 102(e),

such as the Temporary Suspension, are intended to “prevent [the alleged wrongdoer] and deter others from disregarding their professional responsibilities and protect the investing public.” *In the Matter of Michael C. Pattison, CPA*, Admin. Proc. File No. 3-14323, 2012 SEC LEXIS 2973, at *51 (Sept. 20, 2012). Thus, the Temporary Suspension “cannot fairly be said *solely* to serve a remedial purpose,” and, instead, “can only be explained as also serving either retributive or deterrent purposes.” *Kokesh*, 137 S. Ct. at 1645 (emphasis in original) (quotations and citation omitted). Accordingly, the Temporary Suspension is an unlawful punishment and it should be immediately lifted.

In addition, the Temporary Suspension is not in the public interest. When a respondent asks the Commission to lift a temporary suspension under Rule 102(e)(3) until a final hearing, the key public interest question is whether the Respondent “remains in a position to harm the Commission’s processes if the temporary suspension is lifted . . . pending the outcome of a hearing.” *In the Matter of Stewart A. Merkin, Esq.*, Admin. Proc. File No. 3-15158, 2013 SEC LEXIS 571, at *7 (Feb. 25, 2013). Here, Ms. Bruton’s CPA license is inactive, she is retired, and she has no desire, intent or plan to perform any accounting or tax services for any person or entity, obtain full- or part-time employment, work in the securities, accounting or tax industries, or practice before the Commission. In these circumstances, Ms. Bruton has neither the desire nor the opportunity to “harm the Commission’s processes” pending the outcome of a hearing, and there is no basis for the Commission to conclude that the Temporary Suspension serves the public interest.

Background

A. Karen Bruton.

Ms. Bruton is 69 years old. (OIP ¶ 1.) During the majority of her professional career, she worked as the corporate controller for a private company in Tennessee, and she has not practiced before the Commission in more than 30 years.

Specifically, from 1987 until 2007, Ms. Bruton worked at Franklin Industries, a private company in Tennessee. (Declaration of Karen Bruton (“Bruton Decl.”) ¶ 4, attached hereto as Exhibit A.) For the majority of her time at Franklin Industries, she served as the company’s corporate controller. (*Id.*) For several years towards the end of her tenure at Franklin Industries, she served as a vice president of the company. (*Id.*)

Since leaving Franklin Industries in 2007, Ms. Bruton has not performed accounting or tax services for any person or entity, and since June 2008, Ms. Bruton’s CPA license has been inactive. (*Id.* ¶¶ 2-3.) Shortly after she left Franklin Industries, Ms. Bruton formed a charity that works to improve the lives of impoverished persons around the world through economic empowerment, and she also became an options trader—first for her own account and eventually for two funds, HDB Investments, LLC and Hope Investments, LLC (together, the “Funds”). Recently, however, Ms. Bruton retired, and she is not currently employed. (*Id.* ¶ 5.) Instead, she volunteers at the charity that she founded, which works to improve the lives of impoverished persons around the world through economic empowerment. (*Id.* ¶ 6.) Ms. Bruton has no plan, intention or desire to (i) obtain full- or part-time employment, (ii) active her CPA license, (iii) provide accounting or tax services for any person or entity, (iv) work in the securities, accounting or tax industries, or (v) practice before the Securities and Exchange Commission. (*Id.* ¶ 7.)

B. The District Court Action.

In May 2016, the SEC filed a civil action against Ms. Bruton in the United States District Court for the Northern District of Georgia (the “District Court Action”). The SEC alleged that Ms. Bruton caused the Funds to execute an options trading strategy that avoided the realization of losses and generated an incentive allocation. The SEC did not allege that Ms. Bruton performed any accounting or tax services for either of the Funds, nor did the SEC allege that Ms. Bruton engaged in any type of fraud or other malfeasance as an accountant.

Ms. Bruton and the SEC reached a settlement agreement to resolve the District Court Action, in which Ms. Bruton neither admitted nor denied the SEC's allegations, and a Final Judgment was entered in the District Court Action on or around September 13, 2018. As part of her settlement agreement with the SEC, Ms. Bruton consented to the entry of a permanent, "obey the law" injunction that prohibits her from violating Sections 206(1), (2) and (4) of the Investment Advisers Act of 1940. (OIP ¶ 2.)

C. The Commission Issues the Temporary Suspension.

Shortly after the Final Judgment was entered in the District Court Action, the Commission instituted this Rule 102(e)(3) proceeding against Ms. Bruton. The OIP, which was issued on an *ex parte* basis, temporarily enjoins Ms. Bruton from practicing before the Commission, pursuant to Rule 102(e)(3)(i)(A). The OIP states that "the Commission deems it appropriate and in the public interest that Bruton be temporarily suspended from appearing or practicing before the Commission" because "the Commission finds that a court of competent jurisdiction has permanently enjoined Bruton . . . from violating the Federal securities laws." (OIP, at 2.)

Argument

I. The Temporary Suspension Is An Unlawful Punishment.

"The Commission may impose sanctions" under Rule 102(e), such as the Temporary Suspension, "for a remedial purpose, but not for punishment." *McCurdy v. SEC*, 396 F.3d 1258, 1264 (D.C. Cir. 2005).² To comply with this requirement, the Commission has repeatedly held

² See also *Siegel v. SEC*, 592 F.3d 147, 157 (D.C. Cir. 2010) ("[I]t is important to remember that the agency [the Commission] may impose sanctions for a remedial purpose, but not for punishment.") (quotations and citations omitted); *In the Matter of Joseph J. Aseoph, CPA and Darren M. Bennett, CPA*, Admin. Proc. File No. 3-15168, 2016 SEC LEXIS 2730 at *86 (Aug. 5, 2016) ("As recognized by the U.S. Court of Appeals for the D.C. Circuit, '[t]he Commission may impose sanctions for a remedial purpose, but not for punishment' under Rule 102(e)." (quoting *McCurdy v. SEC*, 396 F.3d 1258, 1264 (D.C. Cir. 2005))); *In the Matter of Gregory M. Dearlove*,

that it “disciplines professionals pursuant to Rule 102(e) in order to protect the integrity of its processes” and that it “believe[s]” a suspension under Rule 102(e) “is remedial because it will prevent [the alleged wrongdoer] and deter others from disregarding their professional responsibilities and protect the investing public.” *Pattison*, 2012 SEC LEXIS 2973, at *50-51 (quotations and citation omitted).

Last year, however, the U.S. Supreme Court held in *Kokesh v. SEC*, 137 S. Ct. 1635 (2017), that if “[a] civil sanction . . . cannot fairly be said *solely* to serve a remedial purpose, but rather can only be explained as also serving either retributive or deterrent purposes, [it] is punishment.” 137 S. Ct. at 1645 (emphasis in original) (quotations and citation omitted). Although it did not specifically address sanctions under Rule 102(e), “the *Kokesh* analysis matters here” because “[t]he Supreme Court’s reasoning in *Kokesh* was not limited to the specific statute at issue there.” *Saad*, 873 F.3d at 305 (Kavanaugh, J., concurring). Thus, after *Kokesh*, to be lawful, suspensions under Rule 102(e) must “*solely* . . . serve a remedial purpose.” *Kokesh*, 137 S. Ct. at 1645 (emphasis in original). That is, suspensions under Rule 102(e) must be *solely* “directed toward correcting or undoing the effects of” the alleged misconduct of the Respondent. *Johnson v. SEC*, 87 F.3d 484, 491 (D.C. Cir. 1996) (holding that a censure and six month suspension was “certainly not ‘remedial’” because it was “not directed toward correcting or undoing the effects of Johnson’s allegedly faulty supervision”). But, of course, a “suspension . . . does not provide anything to the victims to make them whole or remedy their losses.” *Saad*, 873 F.3d at 305 (Kavanaugh, J., concurring). Indeed, “[u]nder any common understanding of the term ‘remedial,’ expulsion and suspension . . . are not remedial. Rather, expulsion and suspension are punitive.” *Id.* at 304.

CPA, Admin. Proc. File No. 1-12064, 2006 SEC LEXIS 1684, at *175 (July 27, 2006) (“The Commission may impose sanctions under Rule 102(e) for a remedial purpose, but not for punishment.”).

Accordingly, “in light of the Supreme Court’s analysis in *Kokesh*, expulsion or suspension . . . is a penalty, not a remedy.” *Id.* at 305.

The analysis that suspensions under Rule 102(e) are unlawful punishments after *Kokesh* because they “cannot fairly be said *solely* to serve a remedial purpose,” and, instead, “can only be explained as also serving either retributive or deterrent purposes,” is confirmed by the Commission’s own decisions regarding the purpose of Rule 102(e) and the sanctions issued thereunder. *Kokesh*, 137 S. Ct. at 1645 (emphasis in original) (quotations and citation omitted). The Commission has held on numerous occasions that it “disciplines professionals pursuant to Rule 102(e) in order to protect the integrity of its own processes” and that it “believe[s]” suspensions under Rule 102(e) are “remedial because [they] will prevent [the alleged wrongdoer] and *deter others* from disregarding their professional responsibilities and protect the investing public.” *Pattison*, 2012 SEC LEXIS 2973, at *50-51 (quotations and citation omitted) (emphasis added).³ In *Kokesh*, however, the U.S. Supreme Court held if a civil sanction, such as a suspension under Rule 102(e), is “imposed as a consequence of violating a public law and it is intended to deter, not compensate,” then it “bears all the hallmarks” of a punishment. *Kokesh*, 137 S. Ct. at

³ *Marrie v. SEC*, 374 F.3d 1196, 1200 (D.C. Cir. 2004) (“Rule 102(e) provides the Commission with a means to ensure that the professionals on whom it relies perform their tasks diligently and with a reasonable degree of competence. It is directed at protecting the integrity of the Commission’s own processes, as well as the confidence of the investing public in the integrity of the financial reporting processes.”) (quotations and citation omitted); *In the Matter of BDO China Dahua CPA Co., et al.*, Admin. Proc. File Nos. 3-14872, 3-15116, 2013 SEC LEXIS 1298, at *19 (Apr. 30, 2013) (“The purpose of Commission Rule 102(e)(1)(iii) is remedial and the rule is directed at protecting the integrity of the Commission’s own processes and the confidence of the investing public in the integrity of the financial reporting process.” (quotations and citations omitted)); *In the Matter of Michael R. Drogin, CPA*, Admin. Proc. File No. 3-10762, 2011 SEC LEXIS 135, at *5-6 (Jan. 11, 2011) (“The purpose of Rule 102 is to protect the integrity of the Commission’s processes”); *In the Matter of Robert W. Armstrong III*, Admin. Proc. File No. 3-9793, 2005 SEC LEXIS 1497, at *47 (June 24, 2005) (“The Commission disciplines professionals pursuant to Rule 102(e) in order to ‘protect the integrity of its own processes.’” (citation omitted)).

1644. Specifically, *Kokesh* held that if a civil sanction is intended, even only in part, to deter others from violating the law, it is “inherently punitive,” and not remedial, “because deterrence is not a legitimate nonpunitive government objective.” *Id.* at 1643 (quotations and citation omitted). Thus, the Commission’s own decisions regarding the purpose and intent of Rule 102(e) suspensions confirm that those suspensions “cannot fairly be said *solely* to serve a remedial purpose” after *Kokesh*, and, instead, “can only be explained as also serving either retributive or deterrent purposes.” *Id.* at 1645 (emphasis in original) (quotations and citation omitted). As a result, the Temporary Suspension is an unlawful punishment that should be immediately lifted.

In addition, even if the Commission concludes, contrary to the U.S. Supreme Court’s decision in *Kokesh*, that the Temporary Suspension is not an unlawful punishment, it should still be immediately lifted for the additional and independent reason that the Commission has failed to articulate any remedial purpose served by the Temporary Suspension. In the OIP, the Commission does not (because it cannot) assert the Temporary Suspension is “directed toward correcting or undoing the effects of” Ms. Bruton’s alleged misconduct. *Johnson*, 87 F.3d at 491. Instead, the OIP provides one reason why “the Commission deems it appropriate and in the public interest that Bruton be temporarily suspended from appearing or practicing before the Commission” under Rule 102(e): “a court of competent jurisdiction has permanently enjoined Bruton . . . from violating the Federal securities laws.” (OIP, at 2.) But “[t]o justify a sanction as remedial, the agency must do more than say, in effect, petitioners are bad and must be punished.” *Siegel*, 592 F.3d at 157 (quotations and citation omitted). Accordingly, the Commission has failed to articulate any remedial purpose served by the Temporary Suspension.

Moreover, the “obey the law” injunction that was entered against Ms. Bruton does not provide *any* basis—remedial or otherwise—for the Commission to conclude that the Temporary

Suspension should not be lifted. The permanent injunction entered against Ms. Bruton prohibits her from violating Sections 206(1), (2) and (4) of the Investment Advisers Act of 1940. (OIP, at 2.) As numerous courts have explained, however, this type of “‘obey-the-law’ injunction . . . simply require[s] [Ms. Bruton] to obey the already established federal laws and regulations relating to securities,” and does “not . . . require[] [Ms. Bruton] to do anything more than obey the law; a basic understanding of all citizens and those involved with securities.” *SEC v. Gentile*, Civil Action No. 16-1619 (JLL), 2017 U.S. Dist. LEXIS 204883, at *9 (D.N.J. Dec. 13, 2017).⁴ In other words, the injunction against Ms. Bruton does not place her in a different position than any other person who is currently practicing before the Commission, and it would be illogical for the Temporary Suspension to remain in place solely because Ms. Bruton—like everyone else—is prohibited from violating Sections 206(1), (2) and (4) of the Investment Advisers Act of 1940.

* * *

For each of the reasons explained above, the Temporary Suspension is an unlawful punishment and it should be lifted immediately.

II. The Temporary Suspension Is Not In the Public Interest.

The Temporary Suspension should also be lifted because there is no basis for the Commission to conclude that it is in the public interest. In connection with a petition to lift a temporary suspension under Rule 102(e)(3), the public interest analysis focuses on whether the

⁴ See also, e.g., *SEC v. Goble*, 682 F.3d 934, 949 (11th Cir. 2012) (“As the name implies, an obey-the-law injunction does little more than order the defendant to obey the law.”); *SEC v. Tourre*, 4 F. Supp. 3d 579, 598 (S.D.N.Y. 2014) (“[T]he Court is skeptical of the utility of this kind of ‘obey-the-law’ injunction—after all, everyone is required to obey the law”); *Rowe v. New York State Div. of the Budget*, No. 1:11-CV-1150 (LEK/DRH), 2012 U.S. Dist. LEXIS 132238, at *18-19 (N.D.N.Y. Sept. 17, 2012) (“‘Obey the law’ injunctions . . . do not require the defendants to do anything more than that already imposed by law”).

Respondent “remains in a position to harm the Commission’s processes if the temporary suspension is lifted . . . pending the outcome of a hearing.” *Merkin*, 2013 SEC LEXIS 571, at *7.⁵ Where an individual remains licensed as an attorney or a CPA, and has not expressed an intent to stop practicing before the Commission or in the securities industry, the Commission has denied petitions to lift temporary suspensions because such persons “remain in a position to harm the Commission’s processes.” *Id.* (denying petition to lift temporary suspension under Rule 102(e) because the respondent “remains licensed as an attorney and has not expressed any intent to stop working in the area of securities law”).⁶ The respondent’s intention to continue practicing before

⁵ The factors set forth in *Steadman v. SEC*, 603 F.2d 1126 (5th Cir. 1979) are not relevant to the public interest inquiry in a petition to lift a temporary suspension under Rule 102(e)(3), nor are the *Steadman* factors relevant to a Rule 102(e)(3) proceeding where, as here, the Commission has never alleged that the respondent engaged in any type of fraud or misconduct as an accountant. Nevertheless, and for the avoidance of doubt, Respondent reserves all of her rights, defenses and arguments in this proceeding and in *In the Matter of Bruton and Hope Advisors, LLC*, Administrative Proceeding File No. 3-18789, regarding the *Steadman* factors.

⁶ *Accord In the Matter of Joseph L. Pittera, Esq.*, Admin. Proc. File No. 3-17507, 2016 SEC LEXIS 4012, at *6-7 (Oct. 26, 2016) (denying petition to lift temporary suspension under Rule 102(e) because “[i]t appears that Pittera remains licensed as an attorney” and he has “suggest[ed] that he may continue or resume practicing” securities law; “[i]t therefore appears that Pittera remains in a position to harm the Commission’s processes if the temporary suspension is lifted . . . pending the outcome of a hearing”); *In the Matter of Diane D. Dalmy, Esq.*, Admin. Proc. File No. 3-17020, 2016 SEC LEXIS 354, at *9 (Jan. 27, 2016) (denying petition to lift temporary suspension under Rule 102(e) because the Respondent “is licensed as an attorney and has not expressed an intent to stop working in securities law. She thus remains in a position to harm the Commission’s processes if the temporary suspension is lifted . . . pending the outcome of a hearing”) (quotations and citation omitted); *In the Matter of Virginia K. Sourlis, Esq.*, Admin. Proc. File No. 3-15212, 2013 SEC LEXIS 1104, at *7 (Apr. 10, 2013) (declining to lift temporary suspension under Rule 102(e) because the Respondent “remains licensed as an attorney and has not expressed any intent to stop working in the field of securities laws. She thus remains in a position to harm the Commission’s processes if the temporary suspension is lifted . . . pending the outcome of a hearing”); *In the Matter of Jilaine H. Bauer, Esq.*, Admin. Proc. File No. 3-15020, 2012 SEC LEXIS 3509, at *8 (Nov. 13, 2012) (denying petition to lift temporary suspension under Rule 102(e) because respondent “remains licensed as an attorney in two different states and continues to work in the securities field as a compliance consultant. She thus remains in a position to harm the Commission’s processes if the temporary suspension is lifted . . . pending the outcome of a hearing”).

the Commission or in the securities industry appears to carry more weight than the status of his or her professional license. For example, in one case, the Commission denied a petition to lift a Rule 102(e) temporary suspension even though the Respondent's CPA license had "expire[d] several years ago" because he was still performing "accounting-related work" that included "'CFO-type' consulting services . . . to small companies that do not need a full time CFO." *In the Matter of Ran H. Furman*, Admin. Proc. File No. 3-14532, 2011 SEC LEXIS 3877, at *8 (Nov. 3, 2011).

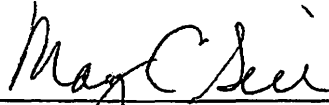
Here, Ms. Bruton's CPA license has been inactive for more than 10 years, she has not "practiced" before the Commission in more than 30 years, she does not presently work in the securities industry, she does not provide accounting or tax services to any person or entity, and, perhaps most importantly, she does not have any intention of ever practicing before the Commission, working in the securities industry, or providing accounting or tax services to any person or entity. (Bruton Decl. ¶¶ 4-7.) In these circumstances, Ms. Bruton is *not* "in a position to harm the Commission's processes if the temporary suspension is lifted . . . pending the outcome of a hearing." *Merkin*, 2013 SEC LEXIS 571, at *7. Accordingly, there is no basis for the Commission to conclude that the Temporary Suspension serves the public interest, and it should be immediately lifted.

Conclusion

For each of the reasons explained herein, Ms. Bruton respectfully requests that the Temporary Suspension be immediately lifted. In addition, Ms. Bruton requests that this matter be set down for a final hearing at a time and place designated by the Commission.

Respectfully submitted this 18th day of October, 2018.

ALSTON & BIRD



Mary C. Gill
Ga. Bar No. 294776
mary.gill@alston.com
Timothy J. Fitzmaurice
Ga. Bar No. 241959
tim.fitzmaurice@alston.com
One Atlantic Center
1201 West Peachtree Street
Atlanta, Georgia 30309-3424
Tel: (404) 881-7000
Fax: (404) 881-7777

Counsel for Respondent

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 18th day of October, 2018, a true and correct copy of the foregoing **RESPONDENT'S PETITION TO LIFT RULE 102(e)(3) TEMPORARY SUSPENSION** was delivered to the following via facsimile and by depositing a true and correct copy in the U.S. mail, first class postage prepaid:

Office of the Secretary
U.S. Securities and Exchange Commission
100 F Street NE
Washington, D.C. 20549
Mailstop 1090
Attn: Secretary of the Commission, Brent J. Fields
Fax: (703) 813-9793

A true and correct copy of the foregoing **RESPONDENT'S PETITION TO LIFT RULE 102(e)(3) TEMPORARY SUSPENSION** was delivered to the following via email and by depositing a true and correct copy in the U.S. mail, first class postage prepaid:

M. Graham Loomis (loomism@sec.gov)
Robert Gordon (gordonr@sec.gov)
Joshua A. Mayes (mayesj@sec.gov)
United States Securities & Exchange Commission
950 E. Paces Ferry Road NE, Suite 900
Atlanta, GA 30326

ALSTON & BIRD



Timothy J. Fitzmaurice
Ga. Bar No. 241959
tim.fitzmaurice@alston.com
One Atlantic Center
1201 West Peachtree Street
Atlanta, Georgia 30309-3424
Tel: (404) 881-7000
Fax: (404) 881-7777

Counsel for Respondent

1

2

3

4

5

6

7

EXHIBIT A

DECLARATION OF KAREN BRUTON

Pursuant to 28 U.S.C. § 1746, the undersigned states as follows:

1. My name is Karen Bruton. I am over twenty-one years of age and have personal knowledge of the matters set forth in this declaration.
2. I previously held a Certified Public Accounting ("CPA") license that was issued by the North Carolina State Board of CPA Examiners.
3. Since in or around June 2008, my CPA license has been inactive.
4. From in or around 1987 until in or around 2007, I worked at Franklin Industries, which was a private company in Tennessee, as corporate controller and, for several years towards the end of my tenure at the company, as a vice president. Since leaving Franklin Industries in or around 2007, I have not performed accounting or tax services for any person or entity.
5. I am retired, and I am not currently employed.
6. I am currently a volunteer at a charity I founded that works to improve the lives of impoverished persons around the world through economic empowerment.
7. I have no plan, intention or desire to (i) obtain full- or part-time employment, (ii) active my CPA license, (iii) provide accounting or tax services for any person or entity, (iv) work in the securities, accounting or tax industries, or (v) practice before the Securities and Exchange Commission.

I declare under penalty of perjury that the following is true and correct.

Executed on this 15 day of October, 2018 in New York, New York.



Karen Bruton

EXHIBIT A

DECLARATION OF KAREN BRUTON

Pursuant to 28 U.S.C. § 1746, the undersigned states as follows:

1. My name is Karen Bruton. I am over twenty-one years of age and have personal knowledge of the matters set forth in this declaration.
2. I previously held a Certified Public Accounting ("CPA") license that was issued by the North Carolina State Board of CPA Examiners.
3. Since in or around June 2008, my CPA license has been inactive.
4. From in or around 1987 until in or around 2007, I worked at Franklin Industries, which was a private company in Tennessee, as corporate controller and, for several years towards the end of my tenure at the company, as a vice president. Since leaving Franklin Industries in or around 2007, I have not performed accounting or tax services for any person or entity.
5. I am retired, and I am not currently employed.
6. I am currently a volunteer at a charity I founded that works to improve the lives of impoverished persons around the world through economic empowerment.
7. I have no plan, intention or desire to (i) obtain full- or part-time employment, (ii) active my CPA license, (iii) provide accounting or tax services for any person or entity, (iv) work in the securities, accounting or tax industries, or (v) practice before the Securities and Exchange Commission.

I declare under penalty of perjury that the following is true and correct.

Executed on this 15 day of October, 2018 in New York New York.



Karen Bruton

EXHIBIT A

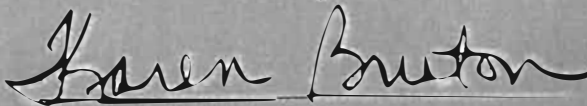
DECLARATION OF KAREN BRUTON

Pursuant to 28 U.S.C. § 1746, the undersigned states as follows:

1. My name is Karen Bruton. I am over twenty-one years of age and have personal knowledge of the matters set forth in this declaration.
2. I previously held a Certified Public Accounting ("CPA") license that was issued by the North Carolina State Board of CPA Examiners.
3. Since in or around June 2008, my CPA license has been inactive.
4. From in or around 1987 until in or around 2007, I worked at Franklin Industries, which was a private company in Tennessee, as corporate controller and, for several years towards the end of my tenure at the company, as a vice president. Since leaving Franklin Industries in or around 2007, I have not performed accounting or tax services for any person or entity.
5. I am retired, and I am not currently employed.
6. I am currently a volunteer at a charity I founded that works to improve the lives of impoverished persons around the world through economic empowerment.
7. I have no plan, intention or desire to (i) obtain full- or part-time employment, (ii) active my CPA license, (iii) provide accounting or tax services for any person or entity, (iv) work in the securities, accounting or tax industries, or (v) practice before the Securities and Exchange Commission.

I declare under penalty of perjury that the following is true and correct.

Executed on this 15 day of October, 2018 in New York, New York.


Karen Bruton