UNITES STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-18867

In the Matter of

DANIEL JOSEPH TOUIZER,

Respondent.

RESPONDENT'S REPLY TO THE DIVISION'S SUPPLEMENT

Respondent, Daniel Joseph Touizer ("Respondent" or "Touizer") hereby respectfully replies to the Division's Supplement, dated April 14, 2020.

The Division's Supplement does not refute any of Touizer's extensive arguments in opposition to the Division's motion for summary disposition or Touizer's pending motion for *Brady* disclosure. Despite the Eleventh Circuit's decision, following which Touizer will petition for rehearing, following which Touizer might bring a petition for writ of certiorari and/or *coram nobis*, summary disposition pursuant to 17 C.F.R. § 201.250 is still not to be entered mechanically but, rather, still requires an *independent* review of the facts to determine whether an industry bar is truly in the public interest. S*ee e.g*., *Ross Mandell*, Exchange Act Release No. 71668, 2014 SEC LEXIS 849, at *7-8 (Mar. 7, 2014) (Commission must "review each case on its own facts" and make findings); *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979). Touizer has "present[ed] genuine issues with respect to facts that could mitigate his or her misconduct, … under [which] circumstances, an order granting summary disposition would not be appropriate." *John S. Brownson*, 77 SEC Docket 3636, 3640 n.12 (Jul. 3, 2002); *Blinder, Robinson & Co. v. S.E.C.,* 837

F.2d 1099, 1111-13 (D.C. Cir. 1988) (admonishing that, irrespective of the outcome in the criminal action, "the SEC cannot turn a deaf ear to evidence that should, in reason, bear upon the judgment that the Commission is called upon to render"). The issues Touzier presented remain largely unrebutted.

Relatedly, Touizer's *Brady*[1] motion is still pending. The Division does not deny that it failed to disclose the facts or substance of exculpatory statements it admits it has obtained during the Commission's investigation. *See, e.g., In the Matter of John Thomas Capital Mgmt. Grp. LLC d/b/a Patriot28 LLC & George R. Jarkesy, Jr.*, Release No. 3733 (Dec. 6, 2013) (holding that "the disclosure of material exculpatory facts not otherwise available to the respondent" is required even "when those facts are recited in privileged documents;" and, otherwise, the Division must, at a minimum, provide respondent with "the substance of the materially exculpatory statements").

CONCLUSION

For the foregoing reasons, the Division's motion for summary disposition should be denied or Touizer's *Brady* motion should be granted.

Dated: April 16, 2020

Respectfully Submitted,

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[1] *Brady v. Maryland*, 373 U.S. 83, 87 (1963); and *see*, 17 C.F.R. § 201.230(b)(2).

CERTIFICATE OF SERVICE

I, David S. Harris, hereby certify that, on this 16th day of April, 2020, the foregoing was filed by facsimile at (202) 772-9324 and by email at APFilings@sec.gov. A true and correct copy of the foregoing was on served on this day by electronic mail at schiffa@sec.gov and glage@smgqlaw.com.

Dated: April 16, 2020

s/David S. Harris
David S. Harris
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