

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-19243

In the Matter of

**FIDELITY TRANSFER SERVICES,
INC. and RUBEN SANCHEZ**

Respondents.

**DIVISION OF ENFORCEMENT'S MOTION
FOR ENTRY OF DEFAULT JUDGMENT AND SANCTIONS**

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Pursuant to the August 6, 2020 Order to Show Cause in this matter, Exch. Act Release No. 89493 (August 6, 2020), the Division of Enforcement (“Division”) submits this motion for default judgment and sanctions against Fidelity Transfer Services, Inc. (“Fidelity”).

I. INTRODUCTION

This is an administrative proceeding against Fidelity and Ruben Sanchez (“Sanchez”). Fidelity is a transfer agent and Sanchez its sole officer. Fidelity failed to comply with three separate staff requests for required records, neglected to make certain required filings with the Securities and Exchange Commission (“SEC”), and ultimately failed to comply with an SEC subpoena for documents and testimony in connection with an ongoing investigation.

The instant proceeding was commenced on July 10, 2019. The Order Instituting Administrative and Cease-And-Desist Proceedings Pursuant to Sections 17A(c) And 21C of the Securities Exchange Act of 1934 and Section 9(b) of the Investment Company Act of 1940 (“OIP”) alleges that Fidelity willfully violated Sections 17(a)(1), 17(a)(3), 17(b)(1), and 17A(d)(1) of the Exchange Act and Rules 17Ac2-1(c) and 17Ac2-2(a) thereunder, and Sanchez willfully aided and abetted and caused Fidelity's violations of Sections 17(a)(and that 1), 17(a)(3), 17(b)(1), and 17A(d)(1) of the Exchange Act and Rules 17Ac2-1(c) and 17Ac2-2(a) thereunder..

Pursuant to SEC Rule of Practice 141(a)(2)(iii), the OIP was served on Respondent Fidelity at the business address on its most recent registration form. The Division has never been able to locate Sanchez to serve him and has abandoned its efforts to do so. Respondent Fidelity did not file an answer, and thus is in default. Accordingly, the Division moves, pursuant to Rules 155(a)(2) and 220(f) of the SEC’s Rules of Practice, for a finding that Fidelity is in default and for the imposition of remedial sanctions. The Division specifically requests that the Commission issue an order requiring Fidelity to cease and desist its violations and revoking its registration as a transfer agent.

II. FACTS

A. Respondents

Fidelity is a Nevada corporation formed in 2007 whose last-known mailing address was a P.O. Box in Bonita, California. OIP ¶ A.1. Fidelity has been registered with the SEC as a transfer agent pursuant to Section 17A of the Exchange Act since 2010. *Id.* From at least 2012 to July 2019, Fidelity was the transfer agent of record for GreenGro Technologies, Inc. (“GRNH”). *Id.*

Sanchez is the only known officer of Fidelity. OIP ¶ A.2. Sanchez holds no securities licenses and has never been registered with the SEC in any capacity. *Id.* His current whereabouts are unknown.

B. Fidelity’s Inaccurate and Untimely SEC Filings

Exchange Act Rule 17Ac2-1 describes the requirements for transfer agents’ registration with the SEC. OIP ¶ B.2 Under Rule 17Ac2-1(a), transfer agents must first file a Form TA-1 to apply for registration. *Id.* The TA-1 calls for certain basic information, including the address of the transfer agent’s principal office and its telephone number. *Id.* If any information on the TA-1 subsequently “becomes inaccurate, misleading, or incomplete,” Rule 17Ac2-1(c) then requires the registered transfer agent to correct that information by filing an amendment within 60 days. *Id.*

On June 10, 2010, Fidelity filed its Form TA-1 to register with the SEC as a transfer agent. OIP ¶ B.3. The form listed a Santa Barbara address as Fidelity’s sole location, and provided a telephone number with an area code corresponding to the same geographic area. *Id.* It was signed by Sanchez as President. *Id.* It has since become clear that this information is no longer accurate. *Id.* Fidelity has not been at the address listed since at least 2014, when staff from the SEC’s Office of Compliance Inspections and Examinations (“OCIE”) attempted and failed to conduct a surprise examination at Fidelity’s office location. *Id.* In addition, the phone number provided by Fidelity was inaccurate by no later than July 2018, when staff from the SEC’s Division of Enforcement called and found the number was answered by an unrelated business. *Id.* However, to date, Fidelity has filed no amendments to its initial TA-1 updating its

address or telephone number. *Id.*

Exchange Act Rule 17Ac2-2(a) requires registered transfer agents to file annual reports on Form TA-2 by March 31st, describing their transfer agent activity over the previous calendar year. OIP ¶ B.4. Form TA-2 also asks the filer to confirm whether it has amended its TA-1 as required during the relevant reporting period. *Id.*

For the years 2010 through 2018, Fidelity has filed TA-2s for only seven of those nine years. OIP ¶ B.5. Two years—2014 and 2018—are missing entirely. *Id.* Of the seven years that were filed, four (2011, 2012, 2015, and 2016) were filed one to two years late. In each of its TA-2s, Fidelity also affirmed that no amendments to its TA-1 had been necessary in that reporting year. *Id.* However, this statement was untrue from at least 2014, when Fidelity should have been required to update its principal address and/or telephone number. *Id.* Therefore, Fidelity’s TA-2s in 2015, 2016, and 2017 included false statements of fact. *Id.* All of Fidelity’s TA-2s were signed by Sanchez. *Id.*

C. Fidelity’s Failure To Furnish Requested Records

Under Exchange Act Section 17(a)(1), registered transfer agents must “make and keep for prescribed periods such records, furnish such copies thereof, and make and disseminate such reports as the Commission, by rule, prescribes as necessary or appropriate.” OIP ¶ C.1. Section 17(a)(3) also lays out a similar obligation for registered transfer agents to make, keep, and furnish copies of records prescribed by rule by “the appropriate regulatory agency . . . in furtherance of the purposes of [Exchange Act S]ection 17A.” *Id.* Section 17(b)(1) requires registered transfer agents to permit “reasonable periodic, special, or other examinations by representatives of the Commission.” *Id.*

On July 21, 2014, OCIE staff attempted to conduct a surprise examination of Fidelity. OIP ¶ C.2. The examination staff visited the Santa Barbara office address provided by Fidelity in its Form TA-1; however, Fidelity was not at that address, and the property management company for the building had no record of Fidelity having been a tenant at that location within the

previous year. *Id.*

OCIE staff then called Fidelity at the phone number listed in its March 31, 2014 Form TA-2; the operator who answered informed staff that Fidelity had relocated to an office in Bonita, California. OIP ¶ C.3. Subsequent research has since revealed the Bonita address to be a U.S. Post Office box. Letters from OCIE sent to Fidelity's Santa Barbara and Bonita addresses on August 5, 2014 via certified mail were both returned as undeliverable. *Id.*

On December 9, 2014, OCIE staff emailed a letter to Sanchez, requesting basic required records from Fidelity pertaining to GRNH in connection with a broker-dealer examination. OIP ¶ C.4. After Sanchez and Fidelity did not produce the requested records, OCIE staff followed up with additional emails and voicemails, and finally managed to speak with Sanchez on two separate occasions in February 2015. *Id.* In both calls, Sanchez made excuses for not responding to the December 9, 2014 request. *Id.* Sanchez ultimately failed to produce any records in response to the December 9, 2014 request. *Id.*

On March 2, 2018, OCIE staff contacted Sanchez by telephone and informed him that they intended to request GRNH transfer agent records from Fidelity in connection with a broker-dealer examination. OIP ¶ C.5. OCIE subsequently emailed a request letter to Sanchez that same day, requesting that the records be produced by March 9, 2018. *Id.* After receiving no response, on March 12, 2018, OCIE staff tried once again to reach Sanchez by telephone, and then re-sent the original written request by email. *Id.* OCIE staff later received notifications from the SEC's secure email system that neither the March 2nd nor the March 12th emails to Sanchez had been read. *Id.* After additional failed attempts to contact Sanchez by telephone, OCIE sent a new written request for records to Sanchez on March 28, 2018 via UPS to Fidelity's Bonita address. *Id.*

On April 11, 2018, OCIE staff received a call from Sanchez. OIP ¶ C.6. Sanchez told staff he had not seen the request letter, but assured them if they re-sent it, he would provide the information the following day. *Id.* Staff confirmed his telephone number, mailing address, and email address, and re-sent the March 28th letter by email. *Id.* On April 26, 2018, staff received a

notification that the April 11th email had not been read. *Id.* No records were ever produced by Sanchez in response to the March 9, 2018 or March 28, 2018 requests. *Id.*

On June 21, 2018, Division staff issued a subpoena to Fidelity for transfer agent records related to GRNH. OIP ¶ C.7. The subpoena was sent via UPS to the Santa Barbara address, and was returned undelivered on July 9, 2018. *Id.* Division staff then attempted to contact Fidelity at the various phone numbers listed in its filings, but those numbers were apparently no longer connected to Fidelity. *Id.*

On November 27, 2018, Division staff attempted to contact Fidelity at the phone number listed in GRNH's most recent 10-Q, but found the number had been disconnected. OIP ¶ C.8. Division staff subsequently obtained Sanchez's cell phone number from GRNH's counsel. *Id.* Over the following week, Division staff made multiple attempts to reach Sanchez on his cell phone, finally managing to speak with him on December 7, 2018. *Id.* Division staff informed Sanchez that the Division staff intended to serve a subpoena on Fidelity, and confirmed that the Bonita mailing address, email address, and cell phone number where they had been attempting to reach Sanchez were all correct and current. *Id.* Sanchez also confirmed he could receive service of the Division's subpoena both at the Bonita address and via email. *Id.*

On December 10, 2018, Division staff issued a new subpoena to Fidelity and transmitted it to Sanchez (1) via UPS overnight to the Bonita address, and (2) as an attachment via secure email. OIP ¶ C.9. The new subpoena called for the production of transfer agent records by December 28, 2018, and required Sanchez to appear for testimony on February 21, 2019. *Id.* The UPS package was confirmed delivered the following day, but the email was returned undelivered. *Id.* Division staff also sent a copy of the December 10th subpoena via UPS to Fidelity's registered agent for service of process in Carson City, Nevada on December 14, 2018. *Id.* On December 20, 2018, the registered agent confirmed that it had received the subpoena and forwarded it to Fidelity. *Id.*

Fidelity failed to produce any documents in response to any of the Division staff requests, and Sanchez did not appear for testimony on February 21, 2019. OIP ¶ C.10.

D. Fidelity Violated the Exchange Act

As a result of the conduct described above, Fidelity willfully violated Sections 17(a)(1), 17(a)(3), 17(b)(1), and 17A(d)(1) of the Exchange Act and Rules 17Ac2-1(c) and 17Ac2-2(a) thereunder. OIP ¶ D.1.

As a result of the conduct described above, Sanchez willfully aided and abetted and caused Fidelity's violations of Sections 17(a)(1), 17(a)(3), 17(b)(1), and 17A(d)(1) of the Exchange Act and Rules 17Ac2-1(c) and 17Ac2-2(a) thereunder. OIP ¶ D.2.

E. Fidelity is in Default

These proceedings were commenced on July 10, 2019. Declaration of Lynn M. Dean ("Dean Decl.") ¶ 2; Ex. 1. The Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 17A(c) and 21C of the Securities Exchange Act of 1934 and Section 9(b) of the Investment Company Act of 1940 ("OIP") was served on Respondents by sending copies of the OIP addressed to Respondents' last-known addresses, by U.S. Postal Service certified mail, in accordance with SEC Rule of Practice 141(a)(2). *Id.* Respondents did not appear or respond to the OIP and the SEC was unable to obtain delivery confirmation. *Id.*

Pursuant to Rule of Practice 141(a)(2)(iii), as a registered transfer agent, Fidelity may be deemed served at the business address on their most recent registration form upon confirmation of attempted delivery. 17 CFR § 201.141(a)(2)(iii). On September 9, 2019, the Office of the Secretary re-served the OIP by certified mail on both Respondents at the address on Fidelity Transfer Services, Inc.'s most recent registration form. Dean Decl. ¶ 3.

On October 8, 2019, the Office of the Secretary issued an Order in which it noted that Fidelity had been served as of September 9, 2019, but queried whether Sanchez could be served pursuant to Rule of Practice 141(a)(2)(iii). Order, Exch Act. Rel. No. 87248 (Oct. 8, 2019). The Secretary's office directed the Division to provide a status reporting regarding its efforts to serve Sanchez. *Id.* The Division ultimately reported that it has exhausted all known addresses for

Sanchez and has been unable to effect service on him. Dean Decl. Ex. 4, Ex. 2. Fidelity did not appear or respond to the OIP. Dean Decl. ¶ 4.

On August 6, 2020, the Commission issued an Order to Show Cause ordering Fidelity, by August 20, 2020, to show cause why it should not be deemed to be in default and why this proceeding should not be determined against it due to its failure to file and answer and to otherwise defend this proceeding. Order, Exch Act. Rel. No. 89493 (Aug. 6, 2020). The Order further directed that if Fidelity failed to file a response, the Division should file a motion for default and other relief by September 17, 2020. *Id.* Fidelity did not appear or respond to the OSC. Dean Decl. ¶ 5.

III. ARGUMENT

A. Fidelity Is In Default and the Allegations of the OIP May Be Deemed To Be True

Because Fidelity has not responded to the OIP, it is in default. Rule 155(a) of the SEC's Rules of Practice states:

A party to a proceeding may be deemed to be in default and the Commission or the hearing officer may determine the proceeding against the party upon consideration of the record, including the order instituting proceedings, the allegations of which may be deemed to be true, if that party fails: . . .

(2) To answer, to respond to a dispositive motion within the time provided, or otherwise to defend the proceeding

17 CFR § 201.155(a). Moreover, the OIP itself provides: "If Respondent fails to file the directed answer the Respondent may be deemed in default and the proceedings may be determined against him upon consideration of this Order, the allegations of which may be deemed to be true" Dean Decl. Ex. 1 (OIP at p. 6).

The Commission has already made findings that Fidelity was properly served with the OIP, and has failed to answer. *See* Order, Exch Act. Rel. No. 87248 (Oct. 8, 2019) and Order to

Show Cause, Exch Act. Rel. No. 89493 (Aug. 6, 2020). Under Rule 155(a), the allegations of the OIP may thus be deemed to be true and the Commission may determine the proceedings against the party upon consideration of the record, including the OIP. 17 CFR § 201.155(a).

B. The OIP Alleges Claims Against Fidelity for Violating the Exchange Act

The SEC may impose administrative sanctions against a transfer agent—up to and including revocation of registration—in certain situations, including upon a finding that such action “is in the public interest” and that the transfer agent has willfully made a false statement of material fact in its required reports to the SEC, or has willfully violated a provision of the federal securities laws. *See* Exchange Act § 17A(c)(3)(A) (citing to §§ 15(b)(4)(A) and (D) as two possible predicates for imposing sanctions against a transfer agent). “[W]illfully” in this context means intentionally committing the act which constitutes the violation”; it does not mean “that ‘the actor [must] also be aware that he is violating one of the Rules or Acts.’” *Wonsover v. SEC*, 205 F.3d 414 (D.C. Cir. 2000) (*quoting* *Gearhart & Otis, Inc. v. SEC*, 348 F.2d 798, 803 (D.C. Cir. 1965)).

Fidelity has committed multiple willful violations of the Exchange Act by intentionally refusing to respond to SEC inquiries and subpoenas, failing to correct basic contact information on forms filed with the SEC that its principal knew were no longer accurate, and failing to make necessary filings in a timely and accurate manner. Because Fidelity has repeatedly demonstrated its disregard for the federal securities laws and rules and the SEC’s regulatory authority over it, it is in the public interest for the Commission to order remedial sanctions against Fidelity.

1. Fidelity Failed to Provide Requested Records in Violation of Sections 17(a)(1), 17(a)(3), and 17(b)(1)

“Taken together, Sections 17(a)(1) and 17(b)(1) of the Exchange Act require registered transfer agents to furnish records to the Commission when requested.” *In the Matter of Phlo Corp. et al.*, Rel. No. 307, 87 SEC Docket 1101, 2006 WL 372657, at *19 (Feb. 17, 2006) (initial decision), *disposition on appeal* Rel. No. 55562, 90 SEC Docket 961, 2007 WL 966943

(Mar. 30, 2007) (Commission decision revoking transfer agent registration and barring associated person). Specifically, under Section 17(a)(1), registered transfer agents must “make and keep for prescribed periods such records, furnish such copies thereof, and make and disseminate such reports as the Commission, by rule, prescribes as necessary or appropriate,” while Section 17(b)(1) requires registered transfer agents to permit “reasonable periodic, special, or other examinations by representatives of the Commission.” In addition, Section 17(a)(3) also lays out an obligation, similar to that under Section 17(a)(1), for registered transfer agents to make, keep, and furnish copies of records prescribed by rule by “the appropriate regulatory agency . . . in furtherance of the purposes of [Exchange Act S]ection 17A.” “The Commission’s authority to access a registrant’s books and records is unconditional, subject only to the requirement that any such examination be reasonable.” *Phlo Corp.*, at *19.

The OIP alleges that Fidelity has failed to respond to three different sets of SEC requests for transfer agent records—first from New York Regional Office OCIE in late 2014 and early 2015, then from Chicago Regional Office OCIE and from Los Angeles Regional Office Enforcement in 2018. Dean Decl. Ex. 1 (OIP at ¶¶ C.2-C.10). Each of the SEC requests included records that are required by the SEC’s rules governing transfer agents, and that are central to a transfer agent’s most basic duties. For example, Chicago OCIE’s March 2, 2018 and March 28, 2018 letters to Fidelity requested reports of daily transfer activity, which are required under Rule 17Ad-6(a)(1), and which are to be kept by transfer agents for a period of not less than two years under Rule 17Ad-7(a). *Id.* at ¶ C.5. Likewise, Los Angeles Enforcement’s December 10, 2018 subpoena called for GRNH’s shareholder list, which a transfer agent is required to “maintain and keep current” under Rule 17Ad-10(b).¹ *Id.* at ¶ C.9. In all three instances, Fidelity’s failure to produce was also willful, as Sanchez was clearly aware of the requests, having discussed each of them with SEC staff on at least one occasion, and nevertheless chose not to comply. *Id.* at ¶¶

¹ To the extent any of the requested records were not required by rule to be made or kept, those records were nevertheless subject to reasonable examination by the Commission pursuant to Section 17(b)(1). *See Phlo Corp.*, *supra*, at *20.

C.4-C.6. By failing to produce records in response to known requests from the SEC, Fidelity willfully violated Sections 17(a)(1), 17(a)(3), and 17(b)(1).

2. Fidelity Failed to Update Its TA-1 in Violation of Section 17A(d)(1) and Rule 17Ac2-1(c)

Section 17A(d)(1) of the Exchange Act prohibits registered transfer agents from “engag[ing] in any activity as . . . transfer agent in contravention of such rules and regulations [] as the Commission may prescribe.” Any violation of an SEC rule relating to transfer agents is an automatic violation of Section 17A(d)(1). *See Phlo Corp., supra*, at *17. “A showing of scienter is not required to sustain a violation of Section 17A(d)(1) or the Commission’s implementing rules and regulations.” *Id.*

Rule 17Ac2-1 describes the requirements for transfer agents’ registration with the Commission. Under Rule 17Ac2-1(a), transfer agents must first file a Form TA-1 to apply for registration. The TA-1 calls for certain basic information, including the address of the transfer agent’s principal office and its telephone number. If any information on the TA-1 subsequently “becomes inaccurate, misleading, or incomplete,” Rule 17Ac2-1(c) then requires the registered transfer agent to correct that information by filing an amendment within 60 days.

Here, the OIP alleges that Fidelity filed its TA-1 on June 10, 2010, listing a Santa Barbara address as its sole office location. Dean Decl. Ex. 1 (OIP at ¶ B.3). By no later than July 2014, when Los Angeles OCIE staff attempted an on-site examination of Fidelity—and likely for at least a year prior to that—the Santa Barbara address was no longer accurate; however, Fidelity did not then and has never filed an amendment to its TA-1 providing a new address. *Id.* Moreover, because the Bonita address is a P.O. Box location, it is improper to use it as an address on the Form TA-1, which asks for the address of the “principal office where transfer agent activities are, or will be, performed.” In addition, the phone number provided by Fidelity was inaccurate by no later than July 2018, when LARO Enforcement staff telephoned and the number was answered by an unrelated business. Dean Decl. Ex. 1 (OIP at ¶ B.3). That phone number has also never been updated or amended in Fidelity’s filings. *Id.* (OIP at ¶ B.5).

Sanchez filed the initial TA-1, and therefore knew what information was in it; he also demonstrated, through his subsequent conversations with Division staff that he knew the address and telephone number in the TA-1 were no longer accurate. *Id.* Yet he did not file an amendment to Fidelity’s Form TA-1 to correct any of this misinformation. *Id.* Fidelity has therefore willfully violated Rule 17Ac2-1(c) and Section 17A(d)(1) by failing to keep current its registration information with the SEC.

3. Fidelity Failed to File Timely TA-2s in Violation of Section 17A(d)(1) and Rule 17Ac2-2(a)

Rule 17Ac2-2(a) requires registered transfer agents to file annual reports on Form TA-2 by March 31st, describing their transfer agent activity over the previous calendar year. The OIP alleges between 2010 through 2018, Fidelity filed TA-2s for only seven of those nine years. Dean Decl. Ex. 1 (OIP at ¶ B.5). Two years are missing entirely, including 2018, which was due to have been filed at the end of March 2019. *Id.* Of the seven years that Fidelity did file, four were filed one to two years late. *Id.* As Sanchez was the sole person making these filings—and, indeed, the only person who apparently *could* make filings on Fidelity’s behalf—both the act of filing untimely and the act of failing to file were intentionally committed by a “person charged with [a] duty [who] knows what he is doing.” *Id.*; *Wonsover*, 205 F.3d at 414 (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)). By failing to file several of its annual reports, and filing others untimely, Fidelity has repeatedly and willfully violated Rule 17Ac2-2(a), thereby also violating Section 17A(d)(1).

4. Fidelity Willfully Made Materially False Statements in an Application for Registration or Report Filed with the SEC

Sections 17A(c)(3) and (c)(4)(C) of the Exchange Act, incorporating by reference Section 15(b)(4)(A), authorize the SEC to impose remedial sanctions in an administrative proceeding against a transfer agent or associated person who has, among other things, “willfully made or caused to be made in any application for registration or report required to be filed with the Commission . . . any statement which was at the time and in light of the circumstances under

which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein.”

The OIP alleges that Fidelity filed Forms TA-2 for seven of the nine years between 2010 and 2018. Dean Decl. Ex. 1 (OIP at ¶ B.5). Form TA-2 asks the filer to confirm whether it has amended its TA-1 as required during the relevant reporting period.² In each of the seven TA-2s that it filed, Fidelity responded that this question was “[n]ot applicable,” indicating that no such amendment had been necessary in that reporting year. *Id.* This statement was untrue from at least 2014, but Fidelity falsely claimed its TA-1 required no amendment in its 2015, 2016, and 2017 TA-2 filings. *Id.* This false statement was material, because it concealed the fact that Fidelity had failed to provide its current business address to the SEC, without which SEC staff were substantially hindered in their ability to contact, obtain documents from, and conduct on-site examinations of Fidelity—all acts vital to the SEC’s oversight of registered transfer agents. The filing of these false statements was clearly “willful.” Sanchez took affirmative actions to answer the question on the form and then file the form with the SEC. *Wonsover v. SEC*, 205 F.3d 414 (D.C. Cir. 2000) (quoting *Gearhart & Otis, Inc. v. SEC*, 348 F.2d 798, 803 (D.C. Cir. 1965)). Moreover, the falsity of the representations regarding Fidelity’s business address must have been known to Sanchez. He knew that Fidelity was not using the Santa Barbara or Bonita addresses as its business address, and he knew Fidelity’s Form TA-1, contained those false statements because he filled out the forms and filed them. Thus, the evidence supports a finding that Sanchez subjectively intended to file the materially false information with the SEC.

C. Remedial Sanctions are In the Public Interest

Remedial sanctions against Fidelity are in the public interest. Under the Exchange Act, the SEC may seek a variety of remedies to address violations of the laws, rules, and regulations governing transfer agents and their associated persons. Section 17A(c)(3) of the Exchange Act

² Specifically, the question states: “During the reporting period, has the Registrant amended Form TA-1 within 60 calendar days following the date on which information reported therein became inaccurate, incomplete, or misleading?”

authorizes the SEC to censure, place limitations on the activities, functions, or operations of, suspend, or revoke the registration of a transfer agent if it finds the sanction is in the public interest, and that the transfer agent has willfully made false statements of material fact in its required reports to the SEC (§ 15(b)(4)(A)), or willfully violated a provision of the Exchange Act or the rules or regulations thereunder (§ 15(b)(4)(D)). Section 21C of the Exchange Act provides that the SEC may enter cease-and-desist orders against any person that is violating, has violated, or is about to violate, or that is, was, or would be the cause of a violation of, any provision of the Exchange Act or any rule or regulation thereunder. A cease and desist order and revocation of Fidelity's registration are both warranted here.

The Fifth Circuit's decision in *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979), is recognized as the leading case that establishes the standard courts should use when evaluating administrative actions involving disciplinary sanctions. *See, e.g., Gibson v. SEC*, 561 F.3d 548, 554-55 (6th Cir. 2009); *Seghers v. SEC*, 548 F.3d 129, 134 (D.C. Cir. 2008); *Lowry v. SEC*, 340 F.3d 501, 504 (8th Cir. 2003); *In the Matter of Gregory D. Tindall*, 2012 SEC LEXIS 3244 (Order by Default, Oct. 12, 2012). Under *Steadman*, a court must consider a number of factors when imposing disciplinary sanctions: (1) the egregiousness of the respondent's actions; (2) the isolated or recurrent nature of the infraction, (3) the degree of scienter involved, (4) the sincerity of the respondent's assurances against future violations, (5) the respondent's recognition of the wrongful nature of his conduct, and (6) the likelihood that the respondent's occupation will present opportunities for future violations. *Steadman*, 603 F.2d at 1140. The SEC also considers whether the sanction will have a deterrent effect. *Michael V. Lipkin and Joshua Shainberg*, Initial Dec. Rel. No. 317 (Aug. 21, 2006), 88 S.E.C. Docket 2346, 2006 WL 2422652 *4. "[N]o one factor is dispositive." *In re Michael C. Pattison, CPA*, No. 3-14323, 2012 WL 4320146, at *8 (Commission Op. Sept. 20, 2012).

Here, all of these considerations weigh in favor of revocation of Fidelity's registration as a transfer agent. Fidelity falsely claimed its TA-1 required no amendment in its 2015, 2016, and 2017 TA-2 filings. This false statement was material, because it allowed Fidelity to conceal the

fact that it had failed to provide its current business address to the SEC, without which SEC staff were substantially hindered in their ability to conduct oversight of registered transfer agents. The filing of these false statements was clearly “willful:” Sanchez took affirmative actions to answer the question on the form and then file it with the SEC and his scienter is attributable to Fidelity. *See In re ChinaCast Educ. Corp. Sec. Litig.*, 809 F.3d 471, 476 (9th Cir. 2015) (scienter of senior controlling officers may be imputed to corporation); *SEC v. Manor Nursing Ctrs.*, 458 F.2d 1082, 1096-97, n.16-18 (2d Cir. 1979) (same).

Fidelity’s conduct was thus egregious, and the violations took place over many years. Further, as evidenced by its failure to appear in this proceeding, Fidelity has made no assurances against future violations. *Steadman*, 603 F.2d at 1140. It is therefore in the public interest that Fidelity be ordered to cease and desist its violations and that its registration as a transfer agent be revoked.

IV. CONCLUSION

For the foregoing reasons, the Division respectfully requests that the Commission issue an order requiring Fidelity to cease and desist its violations of the federal securities laws and revoking its registration as a transfer agent.

September 17, 2020

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that on September 17, 2020, I caused the foregoing document to be served on the following persons, by electronic mail, facsimile, or by UPS overnight mail as stated:

Securities and Exchange Commission
APFilings@sec.gov

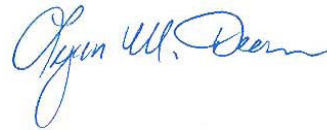
(By Electronic mail)

Mr. Ruben Sanchez
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(Respondent)

(By U.S. Mail)

Fidelity Transfer Services, Inc.
c/o Ruben Sanchez
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(Respondent)

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Lynn M. Dean
