

UNITED STATES OF AMERICA Before the  
SECURITIES AND EXCHANGE COMMISSION

In the Matter of

DONALD J. FOWLER,

Respondent.

ADMINISTRATIVE PROCEEDING  
File No. 3-19740

**DONALD FOWLER'S OPPOSITION TO THE ENFORCEMENT  
DIVISION'S MOTION FOR SUMMARY DISPOSITION**

As previously advised, Donald Fowler has appealed the underlying District Court judgment upon which this administrative proceeding is based to the U.S. Court of Appeals for the Second Circuit. Mr. Fowler will be filing his appellate brief tomorrow, August 6, 2020. The appellate brief sets forth strong grounds upon which the court judgment below should be vacated or significantly limited which, if adopted by the Court of Appeals, may moot this proceeding. We will supplement this opposition with Mr. Fowler's appellate brief by no later than August 7, 2020. In light of the foregoing, we respectfully submit it would be an abuse of discretion for the Commission to grant summary disposition without awaiting Second Circuit guidance.

Dated: New York, New York  
August 5, 2020

EMMET, MARVIN & MARTIN, LLP



By: \_\_\_\_\_

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, per 17 C.F.R § 201.150, the notice of the foregoing has been emailed to David Stoelting at StoeltingD@sec.gov on this 5th day of August, 2020. Additionally, an electronic copy was submitted to apfilings@sec.gov.

*/s/ Beth Khinchuk*

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Beth Khinchuk