

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-19814

In the Matter of

WARREN A. DAVIS,

Respondent.

**DIVISION OF ENFORCEMENT’S BRIEF ON THE
APPROPRIATENESS OF CONSOLIDATION OF PROCEEDINGS**

On November 16, 2022, the Commission issued an Order Requesting Briefs, pursuant to Commission Rule of Practice 201(a),¹ addressing whether this proceeding should be consolidated for a hearing with the proceeding *In the Matter of Gibraltar Global Securities, Inc.*, File No. 3-19815 (“Gibraltar proceeding”). *Warren A. Davis*, Exchange Act Release No. 96326, 2022 WL 17039049 at *1-2 (Nov. 16, 2022).

The Division of Enforcement (“Division”) agrees with the Commission that it is appropriate to consolidate these two proceedings under Rule of Practice 201(a) because these proceedings involve common questions of law and fact and therefore help avoid unnecessary cost or delay, and also because no prejudice would result from such consolidation.

¹ 17 C.F.R. § 201.201(a).

BACKGROUND

A. Factual and Legal Allegations in Both Proceedings Are Identical

On May 27, 2020, the Order Instituting Proceedings (“OIP”) in this matter was issued pursuant to Section 15(b) of the Exchange Act. *Warren A. Davis.*, Exchange Act Release No. 88962, 2020 WL 2764740 (May 27, 2020). On May 28, 2020, the OIP in the Gibraltar proceeding was issued pursuant to Section 15(b) of the Exchange Act. *Gibraltar Global Sec., Inc.*, Exchange Act Release No. 88965, 2020 WL 2791432 (May 28, 2020).

As alleged in both OIPs, on July 2, 2015, in a civil action captioned *Securities and Exchange Commission v. Gibraltar Global Securities, Inc. and Warren A. Davis*, case no. 13-cv-02575 (CDB), in the United States District Court for the Southern District of New York (the “Civil Action”), a default judgment was entered permanently enjoining Davis and Gibraltar from future violations of Section 15(a) of the Exchange Act and Section 5 of the Securities Act of 1933. OIP ¶¶ II.2. Generally, the OIPs also alleged that, between approximately March 2008 through August 2012, Davis—Gibraltar’s President—acted as an unregistered broker-dealer in violation of Section 15(a) of the Exchange Act, and that Respondent participated in the offering and sale of a penny stock. OIP ¶¶ II.1, II.3-4.

Specifically, the OIPs alleged that Davis and Gibraltar set up a website through which they solicited prospective U.S. customers by advertising a broad range of brokerage services. OIP ¶ II.3. As an inducement to U.S. customers, Gibraltar’s website advertised the formation of offshore international business corporations with nominee officers and directors that enabled U.S. customers to trade anonymously “without paying taxes on [their] profits.” *Id.* Gibraltar’s business model attracted a number of U.S. customers seeking to sell shares of low-priced, thinly traded microcap

issuers, and Gibraltar routinely accepted deposits of microcap stocks from U.S. promoters and brokers, arranged for the transfer agent to re-title the stock certificates in Gibraltar's name, and deposited the shares into various securities accounts Gibraltar maintained at broker-dealers located in the United States. *Id.* When Gibraltar's customers instructed Gibraltar to sell the microcap stocks, Gibraltar placed corresponding sell orders with U.S. brokers. *Id.* After the sales were executed, Gibraltar instructed the U.S. brokers to wire the sale proceeds back to its bank account maintained at the Royal Bank of Canada in the Bahamas. *Id.* Gibraltar then wired the sale proceeds (less Gibraltar's 2-3% commission) back to its U.S. customers. *Id.* During the relevant time, Davis and Gibraltar sold approximately \$100 million of low-priced microcap securities. OIP ¶¶ II.4. In addition to operating as an unregistered broker-dealer in the U.S., Davis and Gibraltar participated in the unlawful unregistered offering and sale of over 10 million shares of MDOR—a penny stock—on behalf of U.S. customers, for proceeds of over \$11 million. *Id.* In short, the OIPs summarized the allegations that formed the basis of the Civil Action. OIP ¶¶ II.1, II.3-4.

B. Both Davis and Gibraltar Face Identical Pending Motions for Default

As the Commission noted in its Order Requesting Briefs,² both Davis and Gibraltar have failed to file an answer to their respective OIPs or to respond to the orders to show cause why they should not be found to be in default. *See Warren A. Davis*, Exchange Act Release No. 93265, 2021 WL 4593473 (Oct. 6, 2021); *Gibraltar Global Sec., Inc.*, Exchange Act Release No. 93266, 2021 WL 4593475 (Oct. 6, 2021). As a result, the Division has previously filed two separate but identical motions for entry of default and the imposition of remedial sanctions against both Davis and Gibraltar, and these motions remain pending.³

² *Warren A. Davis*, Exchange Act Release No. 96326, 2022 WL 17039049 at *2 (Nov. 16, 2022).

³ [Warren A. Davis \(sec.gov\)](#); [Gibraltar Global Securities, Inc.](#)

ARGUMENT

Commission Rule of Practice 201(a) provides in pertinent part that “proceedings involving common questions of law or fact may be consolidated for hearing of any or all matters at issue in such proceedings ... to avoid unnecessary cost or delay,” provided that there is no prejudice of “any rights under these Rules of Practice.”⁴

These two proceedings should be consolidated pursuant to Commission Rule 201(a) because, as demonstrated in the Background section above, they present identical facts and legal issues as they arise from the same Civil Action in federal district court previously brought by the Commission against both respondents, and thus involve common questions of law and fact. Consolidation of these proceedings would therefore help the Commission avoid any unnecessary cost or delay in these currently separate administrative proceedings. This is particularly relevant here, as both respondents have failed to file answers to the OIPs or respond to the previous orders to show cause issued by the Commission, and now face identical pending motions for entry of default judgment and remedial sanctions that raise the same legal issues. There is also no prejudice to respondents from consolidation of these proceedings. As a result, the common questions of law and fact raised by these proceedings are best answered by one Hearing Officer in one administrative proceeding rather than in two separate proceedings.

In short, the Division agrees with the Commission’s assessment in the Order Requesting Briefing that consolidation of these two proceedings satisfies the requirements of Rule of Practice 201(a),⁵ and respectfully requests that the Commission consolidate these proceedings and rule on the pending motions for default judgment and remedial sanctions.

⁴ 17 C.F.R. § 201.201(a).

⁵ *Warren A. Davis*, Exchange Act Release No. 96326, 2022 WL 17039049 at *2 (Nov. 16, 2022).

Respectfully submitted,

DIVISION OF ENFORCEMENT

By its attorney,

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Dated: December 14, 2022

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the Motion for Default and Imposition of Sanctions was served on this 14th day of December, 2022, in the manner indicated below:

By Email:

[REDACTED]

Warren A. Davis

[REDACTED]

By Federal Express:

Warren A. Davis

[REDACTED]

/s/Fernando Campoamor Sánchez

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