

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-20007

<p>In the Matter of</p> <p>Smartag International, Inc.,</p> <p>Respondents.</p>
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DIVISION OF ENFORCEMENT'S
MOTION FOR SUMMARY DISPOSITION AS TO
SMARTAG INTERNATIONAL, INC. AND BRIEF IN SUPPORT

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MOTION FOR SUMMARY DISPOSITION

The Division of Enforcement (“Division”), by counsel, pursuant to Commission Rules of Practice 154 and 250, moves for an order of summary disposition revoking the registration of each class of securities of Smartag International, Inc. (“SMRN”) registered pursuant to Securities and Exchange Act of 1934 (“Exchange Act”) Section 12. There is no genuine issue concerning any material fact and, pursuant to Exchange Act Section 12(j), the Division, as a matter of law, is entitled to an order revoking the registration of each class of securities of SMRN registered pursuant to Exchange Act Section 12.

An analysis of the *Gateway* factors confirms that revocation is appropriate in this case. SMRN’s violations are continuous and ongoing and its purported efforts to remedy its past violations have been wholly insufficient. The Commission has repeatedly held that delinquencies like SMRN’s constitute a serious and egregious violation of Exchange Act Section 13(a)’s reporting requirements. SMRN was aware of its obligations and not only failed to file timely reports, but also provided no updates to investors as to why it was unable to make its filings. SMRN’s excuses about the COVID-19 pandemic and third-parties do not create issues of material fact nor do they support a lesser sanction than revocation. While the Commission has been sensitive to potential delays brought on by the pandemic, SMRN’s violations existed for more than a year prior. The Commission has also stressed the importance of public companies continuing to make materially accurate and complete disclosures in accordance with the federal securities laws, notwithstanding the pandemic. SMRN has failed to do so. Accordingly, revocation of SMRN’s registration is necessary and appropriate for the protection of investors.

BRIEF IN SUPPORT

I. Statement of Undisputed Facts

A. Issuer Background

Smartag International, Inc. develops block chain technology used in the business of e-Commerce trading, procurement, collection and distribution through a joint venture company in Hong Kong. Harris Decl. Ex. 6.¹ Lock Sen Yow serves as the company's Chief Executive Officer, Chief Financial Officer, Secretary and Director. *Id.* SMRN (CIK No. 1511325) is a defaulted Nevada corporation located in Las Vegas, NV with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Harris Decl. Exs. 1 and 2. As of July 28, 2020, the common stock of SMRN was quoted and traded on OTC Link, whose parent company is OTC Markets Group Inc., had six market makers and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3). Harris Decl. Ex. 3.

B. SMRN's Filings History with the Commission

SMRN is delinquent in its periodic filings with the Commission, having filed no periodic reports since it filed a Form 10-K for the period ended September 30, 2018, which reported a net loss of \$440,970 for the fiscal year. Order Instituting Proceedings ("OIP"), ¶ II.A.1; Harris Decl. Exs. 6 and 8.

On February 14, 2019, SMRN filed a Notification of Late Filing on Exchange Act Form 12b-25 for its Exchange Act Form 10-Q for the period ended December 31, 2018. In this form,

¹From the Declaration of Sandhya C. Harris in Support of the Division of Enforcement's Motion for Summary Disposition and Brief in Support ("Harris Decl.") and accompanying exhibits, attached. The Division asks, pursuant to Rule of Practice 323, that the Court take official notice of Ex. 1 and all other information and filings on EDGAR referred to in this brief and/or filed as exhibits with the accompanying Harris Declaration. To reduce the volume of documents in this submission, the Division has attached as exhibits excerpted copies of certain voluminous documents with just the cover page and relevant pages included. The Division will provide complete copies of any of these documents if requested by the Court or by the respondent.

the company gave the following explanation of the reasons for its failure to file its Form 10-Q and its plan to do so:

The Registrant's quarterly report on Form 10-Q could not be filed within the prescribed time period because the financial statements and narrative required could not be completed without unreasonable effort or expense. The Company expects to file its December 31, 2018 Form 10-Q Quarterly Report with the U.S. Securities and Exchange Commission within five calendar days of the prescribed due date.

Harris Decl. Ex. 10. The Form 12b-25 entitled SMRN to a fifteen calendar-day extension within which to file its Form 10-Q for the period ended December 31, 2018. Exchange Act Rule 12b-25(b)(2)(ii). To this day, SMRN has failed to file that Form 10-Q. Harris Decl. Exs. 5 and 8. SMRN failed to file Forms 12b-25 for any of the subsequent missing periodic reports. *Id.*

C. The Instant Proceeding

On April 21, 2020, the Division of Corporation Finance ("Corporation Finance") sent a delinquency letter by email to SMRN at the address shown on SMRN's website. Harris Decl. Exs. 5 and 11. SMRN responded to the email on April 22, 2020 acknowledging receipt of the letter. *Id.* The delinquency letter stated that SMRN appeared to be delinquent in its periodic filings and warned that it could be subject to institution of an Exchange Act Section 12(j) proceeding without prior notice if it did not file its required reports within fifteen days of the date of the letter. SMRN emailed Corporation Finance on May 4, 2020 requesting additional time with no specifics as to the date it expected to become current. Harris Decl. Ex. 5.

On September 16, 2020, the Division instituted this proceeding. At that time, SMRN had failed to file six periodic reports and had not made a compliant periodic filing, timely or otherwise, since it filed its Exchange Act Form 10-K for the period ended September 30, 2018 on January 14, 2019. Harris Decl. Exs. 6 and 8.

Simultaneously with the institution of this proceeding, the Commission issued an order suspending trading in the securities of SMRN for ten business days. *Smartag International, Inc.*, Exchange Act Rel. No. 89888, Commission File No. 3-2007 (September 16, 2020).

On November 11, 2020 SMRN, through its counsel, filed an Answer of Respondent and Request for Hearing along with the Supporting Affidavit of CEO Yow. SMRN's answer and supporting affidavit claimed that the CEO of Respondent has been "trapped" in Malaysia due to COVID travel Restrictions. Answer at ¶ 2. SMRN also attributed its delinquency to lack of cooperation with the company's previous financial advisor which forced SMRN to engage a new firm. *Id.* The Yow Affidavit, which accompanied the Answer, also alleged that SMRN's financials are all prepared and are waiting upload to OTCIQ Link (pending OTC Markets approval of Respondents application). Answer, Yow Aff. ¶ 2.f. As of January 29, 2021, SMRN's financials do not appear on the OTC Markets website. Harris Decl. Ex. 12

On January 4, 2021, the parties submitted a Joint Notice Regarding Prehearing Conference laying out the briefing schedule.

II. Argument in Support of Summary Disposition

A. Standards Applicable to the Division's Summary Disposition Motion

Rule of Practice 250(a) permits a party to move "for summary disposition of any or all allegations of the order instituting proceedings" before hearing, with leave of the hearing officer. Rule of Practice 250(b) provides that a hearing officer may grant a motion for summary disposition if there is no genuine issue with regard to any material fact and the party making the motion is entitled to summary disposition as a matter of law. *See Michael Puorro*, Initial Decision Rel. No. 253, 2004 SEC LEXIS 1348, at *3 (June 28, 2004) citing Rule of Practice 250; *Garcis, U.S.A.*, Securities Exchange Act of 1934 Rel. No. 38495, 1997 SEC LEXIS 838 (April 10, 1997) (granting motion for summary disposition). As one Administrative Law Judge

explained:

By analogy to Rule 56 of the Federal Rules of Civil Procedure, a factual dispute between the parties will not defeat a motion for summary disposition unless it is both genuine and material. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-48 (1986). Once the moving party has carried its burden, ‘its opponent must do more than simply show that there is some metaphysical doubt as to the material facts.’ *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986). The opposing party must set forth specific facts showing a genuine issue for a hearing and may not rest upon the mere allegations or denials of its pleadings. At the summary disposition stage, the hearing officer’s function is not to weigh the evidence and determine the truth of the matter, but rather to determine whether there is a genuine issue for resolution at a hearing. *See Anderson*, 477 U.S. at 249.

Edward Becker, Initial Decision Rel. No. 252, 2004 SEC LEXIS 1135, at *5 (June 3, 2004).

This proceeding was instituted under Exchange Act Section 12(j). Section 12(j) empowers the Commission, where it deems it “necessary and appropriate for the protection of investors” to either suspend (for a period not exceeding twelve months) or permanently revoke a security’s registration “if the Commission finds, on the record after notice and opportunity for hearing, that the issuer of such security has failed to comply with any provision of this title or the rules and regulations thereunder.” It is appropriate to grant summary disposition and revoke an issuer’s registration in a Section 12(j) proceeding where, as here, there is no dispute that the registrant has failed to comply with Exchange Act Section 13(a). *See China-Biotics, Inc.*, Exchange Act Rel. No. 70800, 2013 SEC LEXIS 3451, at *65 (November 4, 2013); *AIC International, Inc.*, Initial Decision Rel. No. 324, 2006 SEC LEXIS 2996, at *3 (December 27, 2006); *Bilogic, Inc.*, Initial Decision Rel. No. 322, 2006 SEC LEXIS 2596, at *12 (November 9, 2006); *iBiz Technology Corp.*, Initial Decision Rel. No. 312, 2006 SEC LEXIS 1406, at *11 (June 16, 2006); *St. George Metals, Inc.*, Initial Decision Rel. No. 298, 2005 SEC LEXIS 2465, at *12 (September 29, 2005); *Investco, Inc.*, Initial Decision Rel. No. 240, 2003 SEC LEXIS 2792, at *7 (November 24, 2003); *Nano World Projects Corp.*, Initial Decision Rel. No. 228,

2003 SEC LEXIS 1968, at *3 (May 20, 2003).

B. The Division is Entitled to Summary Disposition Against SMRN for its Failures to Comply with Exchange Act Section 13(a) and Rules 13a-1 and 13a-13 Thereunder

There is no dispute of material fact that SMRN has failed to comply with Exchange Act Section 13(a) and Rules 13a-1 and 13a-13 thereunder and the Division is entitled to summary disposition as a matter of law. Section 13(a) of the Exchange Act and Rules 13a-1 and 13a-13 promulgated thereunder require issuers of securities registered pursuant to Section 12 of the Exchange Act to file periodic and other reports with the Commission. Exchange Act Section 13(a) is a cornerstone of the Exchange Act, establishing a system of periodically reporting invaluable information about issuers of securities. The Commission has stated:

Failure to file periodic reports violates a central provision of the Exchange Act. The purpose of the periodic filing requirements is to supply investors with current and accurate financial information about an issuer so that they may make sound decisions. Those requirements are “the primary tool[s] which Congress has fashioned for the protection of investors from negligent, careless, and deliberate misrepresentations in the sale of stock and securities.” Proceedings initiated under Exchange Act Section 12(j) are an important remedy to address the problem of publicly traded companies that are delinquent in the filing of their Exchange Act reports, and thereby deprive investors of accurate, complete, and timely information upon which to make informed investment decisions.

Gateway International Holdings, Inc., Exchange Act Rel. No. 53907, 2006 SEC LEXIS 1288, at *26 (May 31, 2006) (“*Gateway*”), quoting *SEC v. Beisinger Indus. Corp.*, 552 F.2d 15, 18 (1st Cir. 1977).

“Section 13(a) of the Exchange Act and the rules promulgated thereunder require issuers of securities registered pursuant to Section 12 of the Exchange Act to file periodic and other reports with the Commission. Exchange Act Rule 13a-1 requires issuers to submit annual reports, and Exchange Act Rule 13a-13 requires issuers to submit quarterly reports. No showing of scienter is necessary to establish a violation of Section 13(a) or the rules thereunder.”

Telestone Technologies Corp., Initial Decision Rel. No. 1078, 2016 SEC LEXIS 4185, at *4 (November 9, 2016); *accord Gateway*, 2006 SEC LEXIS 1288, at *18, 22 n.28; *Stansbury Holdings Corp.*, Initial Decision Rel. No. 232, 2003 SEC LEXIS 1639, at *15 (July 14, 2003); *WSF Corp.*, Initial Decision Rel. No. 204, 2002 SEC LEXIS 1242, at *14 (May 8, 2002).

And summary disposition is appropriate when, as here, the undisputed facts prove that SMRN has failed to comply with Section 13(a). *See AIC International, Inc.*, 2006 SEC LEXIS 2996 (summary disposition granted in Section 12(j) action); *Bilogic, Inc.*, 2006 SEC LEXIS 2596, at *12 (same); *Investco, Inc.*, Initial Decision Rel. No. 312, 2003 SEC LEXIS 2792, at *7 (November 24, 2003); *Nano World Projects Corp.*, Initial Decision Rel. No. 228, 2003 SEC LEXIS 1968, at *3 (May 20, 2003) (summary disposition in Exchange Act Section 12(j) action granted where certifications on filings and respondent's admission established failure to file annual or quarterly reports).

It is undisputed that SMRN has failed to file eight periodic reports for the period ended December 31, 2018 to September 30, 2020. Harris Decl. Ex. 8. SMRN has admitted this fact. *See Harris Decl.*, Ex. 5, p. 3; Answer, Yow Aff., Ex B (May 4, 2020 Letter) (“The company would need to file four (4) 10Q’s and one (1) 10K to bring the company current...”)². Accordingly, the Division is entitled to summary disposition on its claim that SMRN violated Exchange Act Section 13(a) and Rules 13a-1 and 13a-13.

C. Revocation is the Appropriate Sanction for SMRN’s Serial Violations of Exchange Act Section 13(a) and Rules 13a-1 and 13a-13 Thereunder

Exchange Act Section 12(j) provides that the Commission may revoke or suspend the Exchange Act Section 12 registration of an issuer’s securities where it is “necessary or

² As of January 29, 2021, SMRN would need to file six 10Q’s and two 10K’s in order to bring the company current.

appropriate for the protection of investors.” The Commission’s determination of which sanction is appropriate “turns on the effect on the investing public, including both current and prospective investors, of the issuer’s violations, on the one hand, and the Section 12(j) sanctions on the other hand.” *Gateway*, 2006 SEC LEXIS 1288, at *19-20. In making this determination, the Commission will consider, among other things: (1) the seriousness of the issuer’s violations; (2) the isolated or recurrent nature of the violations; (3) the degree of culpability involved; (4) the extent of the issuer’s efforts to remedy its past violations and ensure future compliance; and (5) the credibility of the issuer’s assurances, if any, against future violations. *Id.*; *see also Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979) (setting forth the public interest factors that informed the Commission’s *Gateway* decision). Although no one factor is controlling, *Stansbury*, 2003 SEC LEXIS 1639, at *14-15 and *WSF Corp.*, 2002 SEC LEXIS 1242, at *5, *18, the Commission has repeatedly reaffirmed that “‘recurrent failure to file periodic reports’ is ‘so serious that only a strongly compelling showing with respect to the other factors we consider would justify a lesser sanction than revocation.’” *Absolute Potential, Inc. (f/k/a Absolute Waste Services, Inc.)*, Exchange Act Rel. No. 71866, 2014 SEC LEXIS 1193, at *24 (April 4, 2014) (“*Absolute*”) (*quoting Impax Laboratories, Inc.*, Securities Exchange Act of 1934 Rel. No. 57864, 2008 SEC LEXIS 1197, at *27 (May 23, 2008)).

Applying the undisputed facts to these factors, Commission precedent establishes that revocation of SMRN’s registration is the proper sanction necessary to protect investors.

1. SMRN’s violations of Section 13(a) are serious and egregious

The undisputed record shows that the violative conduct of SMRN is serious and egregious because it has failed to file eight consecutive periodic reports, including two Forms 10-K and six Forms 10-Q. Harris Decl. Exs. 5, 8. During the entirety of SMRN’s violations—

about two years—investors have lacked current and accurate financial information about the company which is needed to make sound decisions. The Commission has repeatedly held that a company’s failure to file periodic filings constitutes a serious and egregious violation of Section 13(a). *See Impax Laboratories, Inc.*, Securities Exchange Act of 1934 Rel. No. 57864, 2008 SEC LEXIS 1197, at *24; *Energy Edge Technology Corp. et al.*, Securities Exchange Act of 1934 Rel. No. 120, 2017 SEC Lexis 3397. Given the central importance of the reporting requirements imposed by Section 13(a) and the rules thereunder, delinquencies of far less duration have resulted in revocation. *See, e.g., WSF Corp.*, 2002 SEC LEXIS 1242, at *14 (one Form 10-K and three Forms 10-Q); *Freedom Golf Corp.*, Initial Decision Release No. 227, 2003 SEC LEXIS 1178, at *5 (May 15, 2003) (one Form 10-K and one Form 10-Q); *iBIZ Technology Corp.*, Initial Decision Rel. No. 312 at 1 (June 16, 2006) (one Form 10-K and two Forms 10-Q).

SMRN’s self-serving claim that it will file all of its missing reports and comply with the reporting requirements in the future is unavailing. Answer, Yow Aff. ¶ 2.f. Even if SMRN managed to file all of its delinquent reports, the Commission has rejected efforts by registrants to avoid revocation by making filings during a Commission administrative proceeding. The Commission in upholding revocation of the securities registration of an issuer that made some of its delinquent filings during the proceeding, held:

Dismissal [in this case] would reward those issuers who fail to file required periodic reports when due over an extended period of time, become the subject of Exchange Act Section 12(j) revocation proceedings, and then, on the eve of hearings before the law judge or, in this case, oral argument on appeal, make last-minute filings in an effort to bring themselves current with their reporting obligations, while prolonging indefinitely the period during which public investors would be without accurate, complete, and timely reports (that comply with the requirements of the Exchange Act and its rules and regulations) to make informed investment decisions.

Nature’s Sunshine Products, Inc., Securities Exchange Act of 1934 Rel. No. 59268, 2009 SEC LEXIS 81, at *34 (January 21, 2009).

Energy Edge Technologies Corp. et al., Initial Decisions Rel. No. 1201, 2017 SEC LEXIS 3397, illustrates how seriously the Commission takes the periodic reporting requirements. The respondent, New York Sub Co., missed six periodic filings. The Commission revoked its registration finding, among other things, that its “complete failure to file a periodic report is presumably more serious than untimely filing, and the seriousness of an untimely filing presumably increases in proportion to its lateness.” *Id.* at 6.

SMRN has yet to file *any* of its delinquent reports. Harris Decl. Ex. 8. “While the effort to file all outstanding reports may not be sufficient to avoid revocation, it is surely an effort that is necessary in order to avoid that result.” *Advanced Life Sciences Holdings, Inc.*, Initial Decision Rel. No. 1065, 2016, 2016 SEC LEXIS 3852 at *23 n.7 (internal citations omitted) (October 12, 2016).

2. SMRN’s Violations of Section 13(a) have been recurrent and continuous

SMRN’s violations have not been unique and singular, but numerous, continuous, and ongoing—two years have passed since its last periodic filing. Harris Decl. Ex. 8. Moreover, SMRN only once filed a Form 12b-25³ seeking an extension of time to file for only one of its eight missing reports. Harris Decl. Exs. 4, 8. *See Investco, Inc.*, 2003 SEC LEXIS 2792, at *6 (delinquent issuer’s actions were found to be egregious and recurrent when there was no

³ Although this was not alleged in the OIP, the Court may consider it in determining an appropriate sanction. The Commission has applied the same principle in other contexts. *Robert Bruce Lohmann*, 80 SEC Docket 1790, 2003 SEC LEXIS 1521, at *17 n.20 (June 26, 2003) (ALJ may properly consider lies told to staff during investigation in assessing sanctions, though they were not charged in the OIP); *Stephen Stout*, 73 SEC Docket 1441, 2000 SEC LEXIS 2119, at *57 & n.64. (October 4, 2000) (respondent’s subsequent conduct in creation of arbitration scheme, which was not charged in OIP, found to be relevant in determining whether bar was appropriate); *Joseph P. Barbato*, Securities Exchange Act of 1934 Rel. No. 41034, 1999 SEC LEXIS 276, at *49-50 (February 10, 1999) (respondent’s conduct in contacting former customers identified as Division witnesses found to be indicative of respondent’s potential for committing future violations). *See also S.E.C. v. Falstaff Brewing Corp.*, 629 F.2d 62, 78 (D.C. Cir. 1980) (ALJ may consider the failure of certain executives to file reports under 16(a) and decide that it indicates a likelihood of future misconduct.)

evidence that any extensions to make the filings were sought); *see also Calais Resources, Inc.*, 2012 SEC LEXIS 2023 at *16-17 (noting failures to file Forms 12b-25 as supporting revocation order). Despite seeking an extension, SMRN never filed its report. Harris Decl. Ex. 8.

3. SMRN's degree of culpability supports revocation

SMRN's knowledge of its reporting requirements evidences a high degree of culpability also supporting revocation. In *Gateway*, the Commission held that the delinquent issuer "evidenced a high degree of culpability," because it "knew of its reporting obligations, yet failed to file" twenty periodic reports and only filed two Forms 12b-25. *Gateway*, 2006 SEC LEXIS 1288, at *21.

Similarly, the undisputed facts evidence that SMRN knew of its reporting obligations but has continually failed to comply. For example, SMRN understood the need to file a Form 12b-25 to obtain an extension of time for filing its periodic reports. Harris Decl. Ex. 10. SMRN (through Mr. Yow) emailed Corporation Finance after it received its delinquency notice. Harris Decl. Ex. 5. Mr. Yow also admitted that he was aware of SMRN's delinquencies and its need to prepare and file financial reports. *See Answer, Yow Aff.* ¶ 2.e. Moreover, despite SMRN's assurances that it would make its required filings, it has not; and, before this action was filed, the company had not updated the Commission or investors about when it anticipated making its filings or why its filings were delinquent.

SMRN's assertion that its string of delinquencies is the fault of its former financial advisor is not an excuse. The Commission has repeatedly held that third-party conduct does not excuse a company's failure to comply with its periodic filing obligations. *Eagletech Communications, Inc.*, Exchange Act Rel. No. 54095, 2006 SEC LEXIS 1534 at *6 (July 5, 2006) (third-party criminal activity); *Cobalis Corporation*, Exchange Act Rel. No. 64813, 2011

SEC LEXIS 2313 at *20 (July 6, 2011) (actions of shareholder in forcing involuntary bankruptcy proceeding and forcing issuance of stock did not excuse Exchange Act violations). Thus, the undisputed facts establish that SMRN's culpability supports a sanction of revocation.

4. SMRN has made inadequate efforts to remedy its past violations and ensure future compliance

SMRN has made inadequate efforts to remedy its past violations. Indeed, SMRN has made only unfulfilled promises which underscores the need for revocation. For example, in SMRN's Form 12b-25 it promised that it would file its Form 10-K for the period ended December 31, 2018, by February 19, 2020. Harris Decl. Ex. 10. SMRN broke that promise. Harris Decl. Exs. 8 and 9. Since then, SMRN has failed to seven additional periodic reports. *Id.* SMRN has yet to show that it can meet its obligations as an Exchange Act Section 12 registrant, a factor which also supports revocation.

SMRN has also failed to achieve compliance through use of the Commission's exemptions created to deal with the COVID-19 pandemic. The Commission considered the COVID-19 pandemic's impact on registrants' ability to make timely filings; yet, SMRN has taken no steps to avail itself of these exemptions. On March 4, 2020, the Commission issued an order granting filing exemptions to registrants who were unable to meet filing deadlines due to circumstances related to COVID-19. *Order Under Section 36 Of The Securities Exchange Act Of 1934 Granting Exemptions From Specified Provisions Of The Exchange Act And Certain Rules Thereunder*, Securities Exchange Act of 1934 Rel. No. 88318. The March 4, 2020 order was extended through July 1, 2020. *Order Under Section 36 Of The Securities Exchange Act Of 1934 Granting Exemptions From Specified Provisions Of The Exchange Act And Certain Rules Thereunder*, Securities Exchange Act of 1934 Rel. No. 88465. In granting this relief, the Commission reminded public companies relying on the exemptions of the need to "continue to

evaluate their obligations to make materially accurate and complete disclosures in accordance with the federal securities laws.” *Id.*

To avail itself of the March 4, 2020 relief, SMRN needed to (1) furnish to the Commission a Form 8-K by the later of March 16 or the original filing deadline of the report stating that it was relying on the March 4, 2020 Order, (2) give a description of why the report could not be filed on a timely basis, and (3) provide an estimated date by which the report was expected to be filed. *Id.* SMRN did not file a Form 8-K stating that it was relying on the exemption as to the filings that continued to come due during 2020. Harris Decl. Ex. 8. The Commission’s exemptions ended on July 1, 2020. By then, companies were expected to have learned to navigate the new environment and to have resumed filing timely reports.

On these facts, it is undisputed that SMRN has not learned to navigate the post-pandemic environment and has not filed, let alone resumed filing, timely reports. Harris Decl. Exs. 8 and 9.

5. SMRN’s assurances against future violations are not credible

SMRN’s history of delinquencies, unfulfilled promises, and changing excuses establish that any assurances it may offer against future violations are not credible. SMRN’s likelihood of future violations can be inferred from a single past violation, including the very violation that led to the enforcement action. *See KPMG Peat Marwick LLP*, Securities Exchange Act of 1934 Rel. No. 44050, 2001 SEC LEXIS 422, at *21-22 (March 8, 2001) (some risk of future violation “need not be very great to warrant issuing a cease-and-desist order and that in the ordinary case and absent evidence to the contrary, a finding of past violation raises a sufficient risk of future violation.”). Moreover, as discussed, even when SMRN has filed for an extension, it has later failed to comply. Harris Decl. Exs. 8 and 9.

SMRN has now failed to file eight consecutive periodic reports. *Id.* SMRN's excuses keep changing. In February 2019, SMRN's excuse for failing to file its 10-Q was that it "could not be completed without unreasonable effort or expense." Harris Decl. Ex. 10. SMRN now argues that the reasons for its failure to file are (1) because Mr. Yow, has been stuck in Malaysia since February 27, 2020 due to COVID-19, Answer, Yow Aff. ¶ 2.c., and (2) SMRN's financial adviser, despite being compensated, failed and refused to prepare and file such reports, Answer, Yow Aff. ¶ 2.d. Yet, in a May 4, 2020 letter to Corporation Finance, Mr. Yow did not claim that his inability to leave Malaysia impacted his ability to make his filings nor did Mr. Yow blame SMRN's delinquent filings on the company's financial adviser. Harris Decl. Ex. 5; Answer, Yow Aff. Ex. B. In that letter, Mr. Yow claimed "Financial constraints have arisen compounded by the current pandemic situation that even our long standing attorney who was filing the report,...is having a dispute with us over his current invoices in order to get his cooperation in providing the company records up to and including the information from the last filing, 10k, on January 14, 2019." *Id.* SMRN's constantly evolving excuses show that any assurances it makes against future violations lack credibility.

Moreover, Mr. Yow's inability to leave Malaysia starting around March, 2020, does not negate SMRN's failure to comply with its filing requirements during the year before. Nor does Mr. Yow's inability to leave Malaysia explain or excuse its continued delinquency.

SMRN's recent argument that it had to engage a new firm to prepare the company's reports, Answer, Yow Aff. ¶ 2.e., confirms SMRN's inability to comply with the Commission's regulatory requirements. Despite Mr. Yow's claim, SMRN has not filed a Form 8-K announcing the engagement of a new firm. Harris Decl. Ex. 8. SMRN also filed none of the required Notifications of Late Filing on Form 12b-25 for any of the delinquent reports. Harris Decl. Ex.

9. Prior to the institution of this proceeding, there is no evidence that SMRN took any formal steps to cure its delinquencies. Harris Decl. Ex. 8. SMRN's history as an Exchange Act registrant shows SMRN's promise to file SMRN's missing reports and to keep it current going forward lack credibility.

III. Conclusion

For the reasons set forth above, the Division requests that the Division's Motion for Summary Disposition be granted and that the Commission revoke the registrations of each class of SMRN's Exchange Act Section 12 registered securities.

Dated: January 29, 2021

Respectfully submitted,

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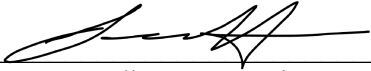
CERTIFICATE OF SERVICE

I hereby certify that I caused true copies of the Division of Enforcement's Motion for Summary Disposition as to Smartag International, Inc., Brief in Support, and Declarations of Sandhya C. Harris in Support thereof and accompanying Exhibits, to be served on the following on this 29th day of January, 2021, in the manner indicated below:

By Email

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Sandhya C. Harris
