

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File Nos. 3-20239, 3-20242

In the Matter of

**MICHAEL SEAN MURPHY and
JOCELYN MURPHY,**

Respondents.

**DIVISION OF ENFORCEMENT'S NOTICE
OF RESPONDENTS' APPELLANT
ACTIVITY AND REQUEST TO GRANT
DIVISION'S MOTION FOR SUMMARY
DISPOSITION**

The Division of Enforcement ("Division") submits this notice to update the Commission regarding Respondents Michael Sean Murphy's and Jocelyn Murphy's ("Respondents") efforts to appeal the final judgment in the Commission's district court enforcement action against the Respondents since the Division's last update to the Commission in this Administrative Proceeding. and request the Commission grant the Division's Motion for Summary Disposition ("Motion"). In support of this request, the Division states as follows:

1. On February 12, 2021, the U.S. District Court for the Southern District of California entered a final judgment against the Respondents for violations of the federal securities laws, including Sections 15(a)(1) and 10(b) and Rule 10b-5 thereunder of the Securities and Exchange Act ("Exchange Act"). The court enjoined Respondents from further Exchange Act violations and imposed a civil penalty in the amount of \$419,040.40 on Sean Michael Murphy and \$1,761,920 on Jocelyn Murphy.
2. On March 5, 2021, the Division filed an Order Instituting Proceedings ("OIP") pursuant to Section 15(b) of the Securities Exchange Act of 1934 and the court's final judgment ordering injunctive relief.
3. On July 16, 2021, the Division filed a Motion for Summary Disposition against both Respondents.

4. On October 27, 2021, Respondents filed their opposition asserting procedural defects in the Division's Motion because Respondents had not received the Division's Rule 230 production of documents and substantive arguments contesting the factual basis for entry of summary disposition.

5. On November 9, 2021, the Division filed its reply brief in support of its Motion for Summary Disposition.

6. On January 5, 2022, the Commission, concluding that the Division had completed its Rule 230 production, ordered Respondents to submit any additional briefs of no more than 2,500 words by February 2, 2022. The Commission further ordered the Division to respond with a brief no more than 2,500 words by February 16, 2022.

7. On January 12, 2022, the parties informed the Commission that due to the volume of documents and technical problems associated with Respondent-provided hard drives, the Division would make its Rule 230 production on or about January 19, 2022.

8. On January 13, 2022, due to the delay in the Division's Rule 230 production, the Commission granted a joint motion from the parties allowing Respondents until March 2, 2022 to file additional briefs in accordance with the Commission's January 5, 2022 Order, with the Division authorized to respond by March 16, 2022.

9. By January 28, 2022, the Division completed its Rule 230 production to Respondents.

10. Respondents did not file any additional briefing on or before March 2, 2022, and have made no filing since that date.

11. Concurrently with this Administrative Proceeding, Respondents sought appellate relief from the District Court's order granting the Commission's request for summary judgment and the Court's ruling on the Commission's request for remedies. On October 4, 2022, the U.S. Court of Appeals for the Ninth Circuit affirmed the District Court's grant of summary judgment

and its findings on remedies. *See SEC v. Murphy, et al.*, 50 F.4th 832 (9th Cir. 2022). On October 30, 2023, the Supreme Court of the United States denied Respondents' request for writ of certiorari, thus ending Respondent's appellate litigation. (Ex. 1.)

12. Respondents' appellate rights are extinguished. Moreover, Respondents failed to comply with the Commission's January 19, 2022 Order and file additional papers supporting their opposition to the Division's Motion. As such, the Motion is fully briefed and ripe for consideration.

WHEREFORE, The Division respectfully requests the Commission grant summary disposition against Respondents for the reasons asserted in the Division's briefing on the Motion.

Dated: January 17, 2025

Respectfully submitted,

/s/ James E. Smith
James E. Smith

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CERTIFICATE OF SERVICE

I certify that on March 9, 2022, I served a true and correct copy of the foregoing document on Respondents by email to the following counsel of record for Respondents Michael Murphy and Jocelyn Murphy:

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