

**UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION**

**ADMINISTRATIVE PROCEEDING
File No. 3-20336**

**In the Matter of
Jin Wan Hong International Holdings Ltd,
Respondent.**

**DIVISION OF ENFORCEMENT'S OPPOSITION TO MOTION OF
JIN WAN HONG INTERNATIONAL HOLDINGS LTD TO DISMISS**

On May 25, 2021, the Securities and Exchange Commission (“Commission”) issued an Order Instituting Administrative Proceedings and Notice of Hearing Pursuant To Section 12(j) of the Securities Exchange Act of 1934 (“OIP”), seeking to revoke the registration of Respondent Jin Wan Hong International Holdings Ltd (“JWHI”) and issued a trading suspension. On Friday, June 4, 2021, JWHI filed a Motion to Dismiss and Affidavit of Shufeng Lu. Out of an abundance of caution, the Division of Enforcement (“Division”) submits the following Opposition to JWHI’s Motion to Dismiss pursuant to Rule 150(b) of the Commission’s Rules of Practice, requesting that the Commission deny JWHI’s motion.

1. The Commission’s Rules of Practice Do Not Permit a Respondent To File a Motion to Dismiss

JWHI’s Motion to Dismiss should be denied on procedural grounds because such a motion is not permitted by Rule 250 of the Commission’s Rules of Practice. Rule 250 governs dispositive motions and lays out four permissible types: 1) Motion for a ruling on the pleadings; 2) Motion for summary disposition in 30- and 75-day proceedings; 3) Motion for summary disposition in 120-day proceedings; and 4) Motion for a ruling as a matter of law following

completion of case in chief. There is no provision for a respondent to file a motion to dismiss. Here, after service of the OIP, JWHI was required to file an answer or a motion for a more definite statement under Rule 220 of the Commission’s Rules of Practice; JWHI did neither. JWHI’s motion should be denied.

2. JWHI’s Form 8-K Filings Do Not Satisfy Its Reporting Obligations

If the Commission were to address JWHI’s Motion to Dismiss on the merits — which it should not, since this type of filing is not permitted under the Commission’s rules, which do not establish a standard of review for such a motion — then the motion should also be denied on the merits. A review of JWHI’s filings on Edgar reveals that the last periodic filing by JWHI was an annual report on Form 10-K for the period ended May 31, 2019 – more than two years ago.

In paragraph 4 of JWHI’s Motion to dismiss, JWHI states that it changed its fiscal year end from May 31 to June 30. Accordingly, JWHI’s next quarterly report on Form 10-Q would have been for the period ended September 30, 2019, and would have been due by Friday, November 15, 2019. (*See* first page of General Instructions of Form 10-Q at paragraph A.1.b attached as Exhibit 1 to accompanying Declaration of Gina Joyce (“Joyce Dec.”)). According to paragraph 6 of JWHI’s motion, COVID-19 was identified in China during December 2019. JWHI provides no explanation concerning its failure to file a quarterly report on Form 10-Q during November 2019. In paragraph 6, JWHI states that it was temporarily closed during February and March 2020, and provides no reasonable explanation for failing to file quarterly reports on Form 10-Q during 2020 and for failing to file its 2020 annual report.

JWHI argues that including financial information in an 8-K should have been sufficient to satisfy its obligation to provide quarterly reports and its 2020 annual report. JWHI does not appear to understand that quarterly reports and annual reports require more than financial

information. In addition to financial information, Form 10-Q requires issuers to provide:

- 1) Management's Discussion and Analysis of Financial Condition and Results of Operation;
- 2) Quantitative and Qualitative Disclosures about Market Risk; 3) Controls and Procedures;
- 4) information about Legal Proceedings; 5) Risk Factors; 6) Unregistered Sales of Equity Securities and Use of Proceeds; and more. (See blank Form 10-Q attached as Exhibit 2 to Joyce Dec.). Form 10-K requires even more information than a 10-Q. (See blank Form 10-K attached as Exhibit 3 to Joyce Dec.). In addition, issuers are required to file officer certifications that the financial information presented in its annual report is fair and accurate pursuant to Section 302 of the Sarbanes-Oxley Act. JWHI's 8-Ks do not offer the information required in a Form 10-Q or 10-K, and do not provide officer certifications. JWHI's 8-Ks are completely insufficient to fulfill JWHI's reporting obligations.

3. Service Upon JWHI Was Proper

JWHI asks the Commission to dismiss the OIP for improper service. First, as a factual matter, JWHI was properly served via its registered agent, which is a permissible method of service under Rule 141(a)(2)(ii). Although JWHI claims that it did not receive the delinquency letter sent by the Division of Corporate Finance and submitted the Affidavit of Shufeng Lu in support of that argument, serving the delinquency letter is not a required part of the service of the OIP (*see* Rule 141). Nonetheless, the Commission staff made reasonable efforts to deliver the delinquency letter to JWHI. Paragraph 2 of the Affidavit of Shufeng Lu states that JWHI is located at Room 1101, Block E, Guang Hua Yuan, 2031 Bin He Nan Road, FuTian District, Shenzhen City, China – the same address to which the delinquency letter was sent. (See January 21, 2021 Delinquency letter, attached as Exh. 4 to Joyce Dec.). If JWHI was still at that address, it should have received the delinquency letter, but JWHI claims that it did not.

On January 15, 2021 (6 days before the delinquency letter was sent), JWHI sent a new address to the Nevada Secretary of State. (See page 2 of Exh. 5 to Joyce Dec.). The address provided to the Nevada Secretary of State is Area A, 5FL, Building B, Qifeng Digital Tech Park, Number 26 Baili Road, Longgang District, Shenzhen City, Guangdong Province, China, 51081-0. The address provided to the Nevada Secretary of State is not the same as the address provided to the Commission in JWHI's most recent filing with the Commission.

While the delinquency letter was sent to the most recent address shown on JWHI's most recent filing with the Commission, Rule 141(a)(2)(ii) of the Commission's Rules of Practice permits service on a corporation or entity by delivering a copy of an Order Instituting Administrative Proceedings to an agent authorized by appointment or law to receive such service. In this instance, the OIP was sent to JWHI's agent for service of process in Nevada, as JWHI freely admits in paragraph 10 of the Motion. The fact that the CEO of JWHI may not have personally become aware of the OIP until sometime later does not render this service invalid. The Respondent in this case is JWHI, not Shufeng Lu.

Additionally, as a legal matter, even if there was a defect in the service of the OIP (there is not) improper service is not a grounds for dismissal. Where it is determined that service is improper, the Division has to attempt other methods of service. *See* BDO China Dahua CPA Co. et al., Securities Exchange Act 1934 Rel. No. 3627 (February 6, 2015) (Commission denied issuer's motion for summary disposition noting that dismissal is not an available remedy for improper service under the Commission's Rules of Practice.).

4. Alleged Inaccuracies in the Trading Suspension Order or the OIP are not a basis for dismissal.

JWHI also asks the Commission to dismiss because of alleged inaccuracies. It is unclear whether JWHI is referring to the Order of Trading Suspension or the OIP. JWHI provides no authority for a motion to dismiss the Suspension or the OIP.

While JWHI, or any person adversely affected by a trading suspension pursuant to Section 12(k)(1)(A) may file a petition under Commission Rule 550 to contest the suspension, filing a motion to dismiss is not the same thing as filing a petition under Rule 550. In addition to this procedural defect, a petition to lift a trading suspension must set forth “with particularity the facts upon which the petitioner relies” and “the reasons why the petitioner believes that the suspension of trading should not continue.” 17 C.F.R. 201.550(a). JWHI’s motion to dismiss does not do so. The alleged inaccuracies in the statement that JWHI “failed to maintain a valid address on file with the Commission,” is not a reason to lift a suspension that protects future investors from an issuer that is not filing periodic reports.

Alleged inaccuracies in the statement that JWHI “failed to maintain a valid address on file with the Commission,” is also not a reason to dismiss the OIP. The OIP alleges, in paragraph II.B.2 of the OIP, that JWHI “failed to heed a delinquency letter sent to it by the Division of Corporation Finance requesting compliance with its periodic filing obligations or, through its failure to maintain a valid address on file with the Commission as required by Commission rules, did not receive such letter.” (emphasis added). The OIP provides JWHI with notice of the Division’s allegations. The point of a hearing is to provide a Respondent the opportunity to contest these allegations, and JWHI points to no authority for its proposition that the OIP should be dismissed simply because JWHI disputes an allegation in it. For the reasons set forth above and in the Joyce Declaration, the Division stands by this allegation.

5. The Division does not oppose the request for an extension of time

Although JWHI does not provide any reason for its request for additional time to answer the OIP, as a courtesy, the Division will not oppose this request for a 30 day extension.

CONCLUSION

For the reasons set forth above, the Division requests that the Commission deny JWHI's Motion to Dismiss.

Dated: June 8, 2021

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Division of Enforcement's Opposition To Jin Wan Hong International Holdings Ltd's Motion to Dismiss was served on June 8, 2021 in the manner indicated below:

By Email:

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/s/ Gina Joyce
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