

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

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-20540**

**In the Matter of**

**Aeon Global Health Corp.,**

**Respondent.**

**DIVISION OF ENFORCEMENT'S REPLY TO AEON'S  
OPPOSITION TO MOTION FOR SUMMARY DISPOSITION**

Aeon's Opposition to the Division's Motion for Summary Disposition is based on the incorrect contention that an order issued in a different administrative proceeding relieved Aeon of the obligation to file periodic reports. The order in that separate proceeding required Aeon to retain an independent consultant to issue a report on Aeon's internal controls over financial reporting. Significantly, the order also enjoined Aeon from committing future violations of Section 13(a); future violations that became the basis for this proceeding. The fact that Aeon fails to take responsibility for its Section 13(a) violations while two proceedings concerning those violations are pending shows that Aeon should not be allowed to maintain its registration with the Commission.

**ARGUMENT**

In its opening brief, the Division pointed out that Aeon has failed to file nine periodic reports (two Form 10-Ks and seven Form 10-Qs) thus far. The Division also pointed out why Aeon's conduct warrants revocation under the *Gateway* factors. In the March 2, 2022 Scheduling Order issued in this proceeding, the Commission stated:

An opposition to a motion for summary disposition should precisely specify in the brief the basis for that opposition, identify with particularity the material factual issues in dispute, and address relevant Commission precedent.

*Id.* at 1 - 2. Aeon did not comply with these instructions. Aeon’s Opposition did not address the *Gateway* factors at all or identify any disputed and material factual issues concerning its delinquency.

Instead, Aeon makes the patently absurd claim that the Commission excused Aeon from filing periodic reports by way of a September 25, 2020 order issued in AP Filing No. 3-20073 (the “Consent Order”) (attached to Respondent’s Opposition as Exhibit 4). Aeon agreed to the entry of the Consent Order to settle claims that it violated Section 13(a) by failing to implement effective internal controls over financial reporting (“ICFR”) over a four-year period. *See Opp.* at Ex. 4. For purposes of enforcement, a consent judgment is to be interpreted as a contract.<sup>1</sup> It is fundamental that an unambiguous contract is to be accorded its plain meaning.<sup>2</sup>

There is nothing ambiguous about the Consent Order. The first few pages set forth basic background on Aeon, a history of the proceedings, a history of Aeon’s ICFR deficiencies, and Aeon’s securities law violations. *Opp.* at Ex. 4, p. 1-2. The next section is entitled “Undertakings,” and lists various duties Aeon promised to perform to remediate its ICFR deficiencies. *Id.* at 3-5. In the final section, the Commission orders Aeon to, among other things, “cease and desist from committing or causing any violations and any future violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and Rules 13a-13 and 13a-

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<sup>1</sup> *Harley-Davidson, Inc. v. Morris*, 19 F.3d 142, 148 (3d Cir. 1994); *Marshak v. Bridge*, 902 F.2d 1565 (4th Cir. 1990); *United States v. Potishman*, 230 F.2d 271, 279 (5th Cir. 1956); *Ferrell v. Pierce*, 743 F.2d 454, 461 (7th Cir.1984); *Thatcher v. Kohl's Dep't Stores, Inc.*, 397 F.3d 1370, 1373–74 (Fed. Cir. 2005).

<sup>2</sup> *Plain Meaning*, 11 Williston on Contracts § 32:3 (4th ed.).

15(a) thereunder.” *Id.* at 5-6. One of Section 13(a)’s requirements – and, indeed, a cornerstone of the Exchange Act – is the filing of periodic reports.<sup>3</sup> Interpreting the Consent Order, which enjoins Aeon from violating its reporting obligations, as excusing Aeon from complying with its reporting obligations, is diametrically opposite to the Consent Order’s plain meaning.

If the Consent Order is ambiguous (and it is not), then the secondary rules of contract interpretation apply. Two of those rules are that a contract will be interpreted to avoid an absurd result and that contracts affecting the public interest will be interpreted so as to promote the general welfare.<sup>4</sup> The purpose of periodic reports is to protect investors. The Consent Order helps ensure that Section 13(a)’s protective function is fulfilled by requiring Aeon to obtain a report on concrete measures that would improve the accuracy of its reports. Interpreting the Consent Order as allowing Aeon to deprive investors of *any* reports is an absurd result, particularly when the very purpose of the Consent Order is to require Aeon to improve its reports. Aeon’s absurd interpretation also fails to promote the public interest, which is furthered by periodic reports, not their absence.

While Aeon failed to address the *Gateway* factors in its Opposition, its attempt to attribute its filing failures to the Consent Order is adverse evidence against it on at least one *Gateway* factor – the likelihood of future violations. Evidence that an issuer has failed to comply with Commission guidance specifically directed at the issuer is strong evidence that the issuer

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<sup>3</sup> *America’s Sports Voice, Inc.*, Exchange Act Release No. 55511, 2007 WL 858747, at \*4 n.17 (Mar. 22, 2007) (“[R]eporting requirements are the primary tools which Congress has fashioned for the protection of investors from negligent, careless, and deliberate misrepresentations in the sale of stock and securities.”) (Mar. 22, 2007).

<sup>4</sup> *An Interpretation that makes a Writing Lawful, Effective, and Reasonable*, 11 Williston on Contracts § 32:11 (4th ed.); *Interpretation of Contracts Affecting the Public Interest in Favor of the Public*, 11 Williston on Contracts § 32:18 (4th ed.)

lacks “commitment to Exchange Act reporting.” *China-Biotics, Inc.*, Exchange Act Release 70800, 2013 WL 11270156 (Nov. 4, 2013). Similarly, an issuer’s failure “to recognize the importance of providing [required] information to its investors undermines the credibility of its assurances of future compliance with its reporting obligations,” *Am. Stellar Energy, Inc. (n/k/a Tara Gold)*, Exchange Act Release No. 64897, 2011 WL 2783483, at \*5 (July 18, 2011), as does an issuer’s failure to “accept[] responsibility for its failure to meet its reporting obligations.” *Gateway Int’l Holdings, Inc.*, Exchange Act Release No. 53907, 2006 WL 1506286, at \*5 (May 31, 2006).

Here, Section 13(a) imposes on every issuer the obligation to make periodic filings; no order is required. Because of Aeon’s ICFR deficiencies, the Commission took the additional step of ordering Aeon to comply with Section 13(a) in the Consent Order. Aeon not only failed to comply with that order, it now fails to take responsibility for its filing failures by using the Consent Order itself as an excuse not to comply. Aeon’s litigation position shows that it does not take its reporting obligations seriously and its reporting failures are likely to continue. The Commission has deemed revocation necessary to protect investors on similar facts. *See, e.g., China-Biotics, Inc.*, 2013 WL 11270156 (revoking registration based, in part, on issuer’s failure to comply with SEC staff directives to amend deficient periodic filings); *Calais Res., Inc.*, Exchange Act Release No. 67312, 2012 WL 2499349, at \*6 (June 29, 2012) (revoking registration based, in part, on issuer’s decision to file its annual reports in a form that Corporation Finance had twice rejected); *Tara Gold*, 2011 WL 2783483, at \*5 (revoking registration based, in part, on issuer’s claim that investors were not harmed by delinquent annual reports).

## CONCLUSION

For the reasons set forth above, and in its opening brief, a sanction of revocation is necessary and appropriate for the protection of investors. Accordingly, the Division of Enforcement requests that the Motion for Summary Disposition be granted and that the Commission revoke the registrations of each class of Aeon's Exchange Act Section 12 registered securities.

Dated: April 6, 2022

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I caused true copies of the Division of Enforcement's Reply to Aeon's Opposition to Motion for Summary Disposition to be served on the following on April 6, 2022 in the manner indicated below:

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