

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 93307 / October 13, 2021**

**ADMINISTRATIVE**  
**PROCEEDING File No. 3-20622**

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In the Matter of )  
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 )  
 IBRAHIM ALMAGARBY, )  
 )  
 Respondent. )  
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 )

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**RESPONDENT IBRAHIM ALMAGARBY'S**  
**ANSWER AND AFFIRMATIVE DEFENSES**

COMES NOW Respondent, Ibrahim Almagarby, by and through his undersigned counsel, and hereby answers the Order Instituting Public Administrative and Cease-and-Desist Proceedings Pursuant to Sections 15(b) of the Securities Exchange Act of 1934 (the "Order") as follows:

**INTRODUCTION**

The instant action is steeped in irony, given that the Securities and Exchange Commission ("Commission") brought an injunctive action against Mr. Almagarby pursuant to Section 15(a)(1) of the Securities Exchange Act of 1934 ("Exchange Act") for failing to register Microcap Equity Group, LLC, a company he founded in his early 20s, as a broker-dealer, but now seeks to bar Mr. Almagarby from doing the very thing he failed to do.

Given the fact that Mr. Almagarby's registration violation – which did not involve fraud or sales practices - was determined by the United States Court for the Eleventh Circuit

(“Eleventh Circuit”) be neither egregious nor intentional, i.e., made with scienter, there is absolutely no reason to bar him from the securities industry. Registering with a broker dealer would, of course, require that that he pass the requisite examinations, pass all appropriate background checks, and be approved by the Financial Industry Regulatory Authority, Inc. (“FINRA”) and state regulators.

**A. RESPONDENT**

1. Mr. Almagarby admits the allegations contained in paragraph 1 of the OIP.

**B. ENTRY OF THE INJUNCTION**

2. Mr. Almagarby admits the allegations contained in paragraph 2 of the OIP.

However, Mr. Almagarby appealed the decision, and that appeal ultimately culminated in the Eleventh Circuit’s Opinion in *SEC v. Almagarby, et al.*, 2024 WL 618 WL 618517 (11<sup>th</sup> Cir. Feb. 14, 2024). The Eleventh Circuit, however, reversed the district court with respect to the imposition of the penny stock bar. The Eleventh Circuit found that nothing in the record established that Mr. Almagarby’s conduct was egregious or intentional. Indeed, the Eleventh Circuit found that Mr. Almagarby “consulted numerous attorneys and appeared to at least try to follow the law.” *Id.* at 26. Moreover, the Eleventh Circuit held that Mr. Almagarby’s violations were closer to “minor, technical violations,” than those involving “intentional, knowing conduct.” *Id.* at 32.

3. Mr. Almagarby admits the allegations contained in paragraph 3 of the OIP.

**AFFIRMATIVE DEFENSES**

In addition, the following affirmative defenses nullify any potential liability.

**First Affirmative Defense**

The Commission cannot establish, as the Eleventh Circuit has already determined, that Mr. Almagaby's conduct was egregious.

**Second Affirmative Defense**

The Commission cannot establish, as the Eleventh Circuit has already determined, that Mr. Almagaby's conduct did not involve intentional conduct or scienter.

**Third Affirmative Defense**

Mr. Almagaby established, as the Eleventh Circuit found, that his assertions against future violations were bona fide and credible.

**Fourth Affirmative Defense**

Mr. Almagaby established, as the Eleventh Circuit found, that his recognition of the wrongful nature of his conduct was candid.

**Fifth Affirmative Defense**

Mr. Almagaby's conduct, as the Eleventh Circuit found, did not involve false statements, misrepresentations, or omissions.

**CONCLUSION**

For the reasons set forth above, Respondent Almagaby respectfully requests that the Division of Enforcement's request for remedial actions, including an association suspension or bar, be denied.

Dated: May 13, 2024

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

Undersigned Counsel for the Respondent hereby certifies that he has served a copy of the foregoing document by e-mail and Federal Express – Overnight Mail to the following:

Robert K. Gordon  
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Atlanta Regional Office  
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And has filed it using eFAP System (Electronically Filings in Administrative Proceedings).

This 13<sup>th</sup> day of May, 2024.

/s/James D. Sallah  
James D. Sallah