

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

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-20874**

**In the Matter of**

**RICHARD G. DUNCAN,**

**Respondent.**

**DIVISION OF ENFORCEMENT’S MOTION TO DISMISS**

**I. INTRODUCTION**

The Division of Enforcement (“Division”) respectfully requests that the Commission dismiss the administrative proceeding against Richard Duncan (“Duncan”) instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”) and Section 203(f) the Investment Advisers Act of 1940 (“Advisers Act”) based on the entry of an injunction against him because of Duncan’s apparent inability to participate meaningfully in this administrative proceeding.

**II. RESPONDENT**

Duncan, age 75, resides in Worcester, Massachusetts. From April 2017 until April 2019, Duncan was an investment advisory representative of Ausdal Financial Partners, Inc., an investment adviser and broker-dealer dually registered with the Commission. From 1975 until April 2017, Duncan was associated with several other investment advisers and broker-dealers registered with the Commission.

### III. FACTUAL AND PROCEDURAL BACKGROUND

On August 12, 2019, the Commission filed a complaint against Duncan in U.S. District Court for the District of Massachusetts for defrauding two advisory clients by persuading them to invest over \$300,000 in an apparent scam originating in Turkey. *SEC v. Duncan*, Civil Action Number 3:19-cv-11735 (D. Mass.). After a bench trial in March and April 2021, the court found Duncan liable for violating Sections 206(1) and 206(2) of the Advisers Act. On March 30, 2022, a final judgment was entered against Duncan, permanently enjoining him from future violations of Sections 206(1) and 206(2) of the Advisers Act, ordering disgorgement of \$104,080, plus prejudgment interest of \$14,716, and imposing a civil penalty of \$414,366. On June 2, 2022, the Commission instituted litigated follow-on administrative proceedings against Duncan.

In December 2022, in the process of attempting to locate and serve Duncan with the Order Instituting Proceedings, the staff learned that Mr. Duncan now resides at a healthcare facility in Worcester, Massachusetts, and has since February 2022. Promptly thereafter, the Commission filed a status report describing its efforts to serve Duncan and raising the possibility of seeking authority to dismiss the follow-on administrative proceeding against him.

Dismissal of the proceedings against Duncan is appropriate in light of Duncan's medical issues, which, if appropriate, the Division can more fully address in a sealed filing, and the fact that he is not represented by counsel nor has a third party been appointed or tasked to act in his stead. Consequently, Duncan appears unable to participate meaningfully in this administrative proceeding, and it should be dismissed.

#### IV. CONCLUSION

For the reasons set forth above, the Division respectfully requests that the Commission dismiss the administrative proceeding against Duncan.

March 2, 2023

Respectfully submitted,

/s/ Susan Cooke Anderson

Susan Cooke Anderson

Trial Counsel

Division of Enforcement

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Certificate of Compliance with Rule 154(c)

I hereby certify that the foregoing brief is fewer than fifteen (15) pages and that the Division has, therefore, complied with Rule 154(c) of the Commission Rules of Practice.

/s/ Susan Cooke Anderson  
*Counsel for the Division of Enforcement*

Certificate of Service

Pursuant to Commission Rule of Practice 150, I certify that on March 2, 2023, I filed this document using the eFAP system, and I emailed copies to Respondent Duncan's email address, Rd01106@gmail.com.

/s/ Susan Cooke Anderson  
*Counsel for the Division of Enforcement*