

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-21152

<p>In the Matter of</p> <p>JOSE LUIS CASERO SANCHEZ,</p> <p>Respondent.</p>
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**THE DIVISION OF ENFORCEMENT’S MOTION FOR ENTRY OF
AN ORDER OF DEFAULT AND THE IMPOSITION OF REMEDIAL
SANCTIONS AGAINST RESPONDENT JOSE LUIS CASERO SANCHEZ**

Pursuant to Rule 155(a) of the Securities and Exchange Commission’s Rules of Practice and the Commission’s Order to Show Cause dated April 17, 2024, the Division of Enforcement (the “Division”) respectfully moves for default and sanctions in the form of an order barring Respondent Jose Luis Casero Sanchez (“Sanchez”) from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, and from participating in any offering of a penny stock pursuant to Section 15(b)(6)(A)(iii) of the Securities Exchange Act of 1934 (“Exchange Act”) and Section 203(f) of the Investment Advisor’s Act of 1940.

As set forth in the accompanying brief, default is appropriate in this follow-on proceeding, after a Final Judgment in the action brought by the Commission against Sanchez in the United States District Court for the Southern District of New York for insider trading. After Sanchez defaulted in the federal action, on April 6, 2022, the District Court made specific factual findings that Sanchez was liable for violating Sections 10(b) and 14(e) and of the Exchange Act and Rules

10b-5 and 14e-3 thereunder, and Section 17(a) of the Securities Act of 1933 and permanently enjoined Sanchez from future violations thereof. *SEC v. Sanchez*, Case No. 21-cv-8085, 2022 WL 1036792 (S.D.N.Y. Apr. 6, 2022) (*See also* Dkt. Nos. 60-61). The Division made specific allegations in the Order Instituting Proceedings (“OIP”) that mirror the allegations in the federal action for which Sanchez was found liable. Although Sanchez is aware of this proceeding, he has failed to appear, including after the Commission ordered him to show cause as to why a default should not be entered against him. Under Rule 155(a), the allegations in the OIP may be deemed true where, as here, a party has failed to defend himself. Thus, the only substantive issue for the Commission concerns what sanctions are appropriate against Sanchez. As shown in the accompanying brief, a full bar is in the public interest, and the Commission should order all available remedial sanctions.

May 28, 2024

Respectfully submitted,



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**THE DIVISION OF ENFORCEMENT’S BRIEF IN SUPPORT OF ITS MOTION
FOR ENTRY OF AN ORDER OF DEFAULT AND THE IMPOSITION OF
REMEDIAL SANCTIONS AGAINST RESPONDENT JOSE LUIS CASERO SANCHEZ**

Pursuant to Rule 155(a) of the Securities and Exchange Commission’s Rules of Practice and the Commission’s Order to Show Cause dated April 17, 2024, the Division of Enforcement (the “Division”) respectfully submits this brief in support of its motion for default and sanctions against Respondent Jose Luis Casero Sanchez (“Sanchez”). The Commission filed a complaint against Sanchez in the United States District Court for the Southern District of New York, Case No. 21-cv-8085. After Sanchez defaulted in the federal action, on April 6, 2022, the District Court expressly found Sanchez liable for insider trading and entered a final judgment against Sanchez, which, among other things, made specific factual findings and permanently enjoined Sanchez from future violations of Sections 10(b) and 14(e) and of the Securities Exchange Act of 1934 (“Exchange Act”) and Rules 10b-5 and 14e-3 thereunder, and Section 17(a) of the Securities Act of 1933 (“Securities Act”). *SEC v. Sanchez*, Case No. 21-cv-8085, 2022 WL 1036792 (S.D.N.Y. Apr. 6, 2022) (*See also* Dkt. Nos. 60-61). In this follow-on proceeding, the Division made specific allegations in the Order Instituting Proceedings (“OIP”) that Sanchez engaged in insider trading

relating to 45 deals that mirror the findings in the federal action. Although Sanchez is aware of this proceeding, he has failed to appear, including after the Commission ordered him to show cause as to why a default should not be entered against him. Under Rule 155(a), default may be granted based on the allegations in the OIP, which may be deemed true where, as here, a party has failed to defend himself. Thus, the only substantive issue for the Commission concerns what sanctions are appropriate against Sanchez. As detailed below, the facts here demonstrate that the Commission should order all available remedial sanctions pursuant to Section 15(b)(6)(A)(iii) of the Exchange Act and Section 203(f) of the Investment Advisor’s Act of 1940 (“Advisor’s Act”).

BACKGROUND

A. The Commission Filed A Civil Action Against Sanchez And Obtained An Asset Freeze

On September 29, 2021, the Commission filed a civil action against Sanchez for insider trading in violation of Sections 10(b) and 14(e) of the Exchange Act and Rules 10b-5 and 14e-13 thereunder, and Section 17(a) of the Securities Act. *SEC v. Sanchez*, Case No. 21-cv-8085 (S.D.N.Y.) (Dkt. No. 9 (“Compl.”)). As discussed more fully below, the Complaint alleged that Sanchez was in possession of material, nonpublic information that he misappropriated from his broker-dealer and investment advisor employer and acted with scienter when he engaged in insider trading from September 2020 to May 2021 relating to 45 deals for a profit of over \$470,000. (Compl. ¶¶ 2, 37-41, 19, 30, 35, 95, 99, 101.) The Commission sought a temporary restraining order (“TRO”) to freeze Sanchez’s assets and the funds in accounts he used to further the insider trading. *SEC v. Sanchez*, Case No. 21-cv-8085 (S.D.N.Y.) (Dkt. No. 6). On September 30, 2021, the District Court granted the TRO, finding sufficient evidence to support the relief requested. *Id.* (Dkt. No. 20). Sanchez also was ordered to show cause as to why the temporary relief should not

be permanent. *Id.* After Sanchez failed to respond to the TRO, on October 14, 2021, the District Court issued an order granting permanent relief. *Id.* (Dkt. No. 28).

B. Sanchez Defaulted, And The Court Found Him Liable For Insider Trading

Following Sanchez’s failure to respond to the order to show cause following the successful TRO motion, Sanchez also failed to respond to the Complaint. The Commission then moved for a default judgment, which included the submission of evidence concerning his trading records. *See, e.g., id.* (Dkt. Nos. 48-50). On April 6, 2022, the District Court granted the Commission’s motion and made specific findings of fact based on the allegations in the Complaint and evidence presented “that Sanchez engaged in repeated acts of insider trading by abusing his position as a compliance analyst at a ‘prominent United States-based investment bank.’” *SEC v. Sanchez*, Case No. 21-cv-8085, 2022 WL 1036792, at *1 (S.D.N.Y. Apr. 6, 2022) (citing Compl. ¶¶ 1, 100-110). Specifically, the District Court found “that Sanchez obtained material nonpublic information from the investment bank’s confidential database regarding 45 publicly-traded entities, which included details about pending or potential mergers, acquisitions, and equity offerings.” *Id.* at *2 (citing Compl. ¶¶ 2, 37-41, 101). As the District Court found, Sanchez then purchased securities of those 45 entities before the announcement of the corporate event and then sold such securities to obtain illegal profits after the corporate event was announced. *Id.* The District Court also found that Sanchez acted with the requisite scienter because as a compliance analyst, he knew that the information he obtained was material and nonpublic, and such conduct also was a breach of the duties of trust and confidence that he owed to his employer and its clients. *Id.* (citing Compl. ¶¶ 19, 30, 35, 95, 99). In granting the Final Judgment, the Court further found: “Given that Sanchez unlawfully traded on multiple recurring occasions, abused his position of trust as a compliance analyst, has demonstrated a high degree of scienter and has failed to appear to defend against the charges or otherwise explain his conduct, the Court views the maximum civil penalty as

appropriate.” *Id.* at *3. The Court also accepted the evidence contained in the declarations accompanying the motion concerning the amount of Sanchez’s unlawful profits and found Sanchez liable for disgorgement of \$471,725.65, prejudgment interest in the amount of \$14,330.89, and a civil penalty of \$1,415,176.95, which consisted of three times the unlawful profits, for a total of \$1,901,233.49. *Id.* The District Court also granted the Commission’s request to use the frozen assets to satisfy the Final Judgment. *Id.* Finally, the District Court issued an injunction barring Sanchez from future violations of Sections 10(b) and 14(e) of the Exchange Act and Rules 10b-5 and 14e-3 thereunder, and Section 17(a) of the Securities Act. *Id.* at *1.

C. The Commission Issued An OIP To Which Sanchez Has Not Responded

On September 23, 2022, the Commission issued an OIP, pursuant to Section 15(b) of the Exchange Act and Section 203(f) of the Advisor’s Act. *In re Jose Luis Casero Sanchez*, Exchange Act Release No. 95906, 2022 WL 4445492 (Sept. 23, 2022). The OIP contains detailed factual allegations. It alleges that after an investigation, the Commission charged Sanchez on September 29, 2021 with insider trading and filed a Complaint against him that same day in the U.S. District Court for the Southern District of New York and obtained a temporary restraining order to freeze his assets, including certain accounts he used to conduct the scheme. *Id.* at *1. The OIP further alleges that after Sanchez failed to appear and respond to the Complaint, a default judgment was entered against him permanently enjoining him from future violations of Section 17(a) of the Securities Act, Sections 10(b) and 14(e) of the Exchange Act, and Rules 10b-5 and 14e-3 thereunder. *Id.* The OIP alleges that Sanchez, a former employee in the Control Rooms of the Warsaw, Poland office of Goldman Sachs & Co., which has been registered with the Commission as a broker-dealer since January 1936 and an investment adviser since May 1981, engaged in 45 acts of insider trading from September 2020 to May 2021. *Id.* at

*1-2. The OIP states that Sanchez had access to, and was entrusted with, material, nonpublic information about transactions in which Goldman Sachs was involved, as well as emails containing material, nonpublic information about potential transactions involving Goldman Sachs. *Id.* at *2. The OIP further states that documentary evidence, including access logs, shows that Sanchez accessed or possessed material, nonpublic information relating to each of the 45 deals as to which he traded profitably based on material, nonpublic information he misappropriated from Goldman Sachs. The OIP further states that Sanchez used four U.S.-based brokerage accounts held in the names of his parents, but which Sanchez controlled, to place his illegal trades. Sanchez alternated his trading among these four accounts to avoid detection and generated profits of approximately \$471,725 in connection with his scheme. The OIP further states that Sanchez has not acknowledged any wrongdoing in the District Court proceeding, and Sanchez has not offered any assurances against future violations of the securities laws. *Id.* The allegations in the OIP mirror those in the federal complaint and the findings made by the District Court in the federal action. *Compare In re Jose Luis Casero Sanchez*, Exchange Act Release No. 95906, 2022 WL 4445492 (Sept. 23, 2022) with *SEC v. Sanchez*, Case No. 21-cv-8085, 2022 WL 1036792, at *1 (S.D.N.Y. Apr. 6, 2022).

Because the Division did not have a valid current address for Sanchez, it was not able to serve him personally, but on November 15, 2023, the Division served Sanchez electronically with the OIP. *In re Jose Luis Casero Sanchez*, Exchange Act Release No. 99442, 2024 WL 360866, at *1 (Jan. 29, 2024). On January 29, 2024, the Commission deemed that the electronic service on Sanchez was effective. *Id.*

On April 17, 2024, the Commission issued an Order to Show Cause, which ordered Sanchez to file any response no later than May 1, 2024. *In re Jose Luis Casero Sanchez*, Exchange

Act Release No. 99976, 2024 WL 1722380 (Apr. 17, 2024). The Commission also ordered the Division to file any motion for a default judgment against Sanchez by May 29, 2024. *Id.* To date, and consistent with Sanchez's communication with the Division, Sanchez has not filed an answer or other response to the OIP or to the Order to Show Cause. Because Sanchez has defaulted, the facts set forth in the OIP may be taken as true for purposes of determining an appropriate remedy. *See* SEC Rule of Practice 155. Therefore, the Division now seeks a default judgment against Sanchez and an order granting all available remedial sanctions.

ARGUMENT

The Commission should enter a default against Sanchez because he failed to answer the OIP and did not respond to the Commission's Order to Show Cause. In addition, the Commission should grant the Division's request to enter a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization bar, and from participating in any offering of a penny stock because all three statutory elements are satisfied: Sanchez was associated with a broker-dealer and investment adviser at the time of the misconduct, the Court permanently enjoined him from all future violations of Sections 10(b) and 14(e) of the Exchange Act and Rules 10b-5 and 14e-3 thereunder and Section 17(a) of the Securities Act, and the requested bars are in the public interest.

I. THE COMMISSION SHOULD ENTER A DEFAULT JUDGMENT

The Commission should enter a default judgment against Sanchez for failing to file a timely response to the OIP. A party to a proceeding "may be deemed to be in default and the Commission or hearing officer may determine the proceeding against that party upon consideration of the record, including the order instituting proceedings, the allegations of which may be deemed to be

true, if that party fails . . . [t]o answer, to respond to a dispositive motion within the time provided, or otherwise to defend the proceeding.” Commission Rule of Practice 155(a); *see, e.g., In re Barzilay*, Exchange Act Release No. 46536, 2002 WL 31116124, at *1 (Sept. 24, 2002) (granting default judgment and imposing sanctions due to respondent’s failure to file a timely response to OIP). Here, the OIP contains detailed allegations of the unlawful conduct, Sanchez failed to respond to the OIP, and a default judgment is appropriate.

The Division effected service of the OIP in this matter on Sanchez on November 15, 2023. Ex. 1 (Certificate of Service). On January 29, 2024, the Commission confirmed that Sanchez could be served via email and deemed service effective. *In re Jose Luis Casero Sanchez*, Exchange Act Release No. 99442, 2024 WL 360866 (Jan. 29, 2024). Sanchez failed to answer or otherwise defend the proceeding, as required by Rules 155(a) and 220(f).

The Commission then issued an Order to Show Cause as to why a default should not be entered against Sanchez for his failure to respond. Sanchez did not file an answer or any other response. As the Commission recognized in the Order to Show Cause, the failure to timely oppose is itself a basis for a default judgment. Rules of Practice 155(a)(2), 180(c), 17 C.F.R. §§ 201.155(a)(2), 201.180(c). *See, e.g., Barzilay*, 2002 WL 31116124, at *1 (granting default); *see also In re McBarron Capital LLC*, Exchange Act Release No. 81789, 2017 WL 4350655, at *3-5 (Sep. 29, 2017) (finding respondent lacked good cause to reopen after respondent defaulted).

II. ALL AVAILABLE REMEDIAL SANCTIONS ARE APPROPRIATE

The Commission should grant the Division’s request to bar Sanchez from associating with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, and from participating in any offering of a penny stock pursuant to Section 15(b)(6)(A)(iii) of the Exchange Act and Section

203(f) of the Advisor’s Act. Section 15(b)(6)(A)(iii) provides that the Commission may impose this associational bar against any person who has been enjoined from future violations of the securities laws in connection with the purchase or sale of any security. 15 U.S.C. § 78o(b)(6)(A)(iii). Similarly, Section 203(f) of the Advisers Act provides for an identical associational bar (but not a penny stock bar) for such an injunction. 15 U.S.C. § 80b-3(f). To impose a bar under either provision, the Commission must find that a bar is in the public interest. 15 U.S.C. §§ 78o(b)(6)(A); 15 U.S.C. § 80b-3(f).

As noted above, the District Court found Sanchez liable for violating Sections 10(b) and 14(e) of the Exchange Act and Section 17(a) of the Securities Act by engaging in insider trading. Sanchez was associated with a dually registered broker-dealer and investment advisor at the time. The Court then permanently enjoined Sanchez from future violations of these provisions. *SEC v. Sanchez*, Case No. 21-cv-8085, 2022 WL 1036792, at *1 (S.D.N.Y. Apr. 6, 2022).

“It is well established that the Commission does not permit a respondent to relitigate issues that were addressed in a previous civil proceeding against the respondent....” *In re Peter J. Eichler, Jr.*, Initial Dec. Rel. No. 1032, 2016 WL 4035559, at *2 (July 8, 2016) (collecting cases). Thus, Sanchez cannot challenge the District Court’s findings and its imposition of an injunction.

Just as the District Court recognized in enjoining Sanchez, a full bar is in the public interest. In determining whether “industry and penny stock bars . . . are in the public interest,” the Commission,

consider[s], among other things, the egregiousness of the respondent’s actions, the isolated or recurrent nature of the infraction, the degree of scienter involved, the sincerity of the respondent’s assurances against future violations, the respondent’s recognition of the wrongful nature of his conduct, and the likelihood that the respondent’s occupation will present opportunities for future violations.

In re David R. Wulf, Exchange Act Release No. 77411, at 5-6, 2016 WL 1085661 (Mar. 21, 2016), *vacated in part by* Exchange Act Release No. 86309, 2019 WL 2903943 (July 5, 2019) (vacating as to bars relating only to conduct prior to July 22, 2010). Here, these factors weigh in favor of a complete industry ban.

Sanchez's actions were egregious. He repeatedly accessed and used material nonpublic information of his employer, in breach of his duty, concerning 45 entities and reaped over \$470,000 in proceeds from his illegal insider trading. Such conduct also shows that this was not an isolated or one-time lapse in judgment. As set forth in the OIP and as the District Court expressly found, Sanchez placed multiple trades to capitalize on insider information relating to 45 different entities.

Further, as the District Court found, Sanchez knowingly and willfully engaged in insider trading. He was a securities industry professional who knew insider trading was against the law yet repeatedly accessed confidential information and traded on it. Sanchez has provided no assurances that he will not violate the law again. He did not appear in the federal action or this proceeding and has not acknowledged the wrongful nature of his conduct at any time. He also refused to provide a physical address for service. His actions demonstrate unwillingness to accept responsibility for his wrongdoing. *See e.g. SEC v. Coplan*, Case No. 13-cv-62127, 2014 WL 695393, *8 (S.D. Fla. Feb. 24, 2014) (noting failure to appear meant defendant "neither recognized the wrongful nature of her alleged conduct nor provided any assurances against future violations").

Although the mere existence of a past violation is itself insufficient basis to impose a bar, as the Supreme Court has recognized, prior conduct can be indicative of the propensity to harm the public by engaging in future insider trading. *In re Tzemach David Netzer Korem*, Exchange Act Release No. 70044, 2013 WL 3864511 at *6 & n.50 (July 26, 2013) (*quoting Aaron v. SEC*, 446 U.S. 680, 701 (1980)). Sanchez's repeated instances of insider trading raise an inference that

he will engage in such conduct again, and he has offered no evidence to rebut that inference.

Finally, although the Division is not aware if Sanchez is currently employed in the securities industry, the District Court issued an injunction even though it lacked knowledge of whether Sanchez was currently employed in the securities industry. Thus, it is still appropriate to enjoin Sanchez from holding such employment.

For these reasons, imposing the requested bar is in the public interest and appropriate under Section 15(b)(6)(A) of the Exchange Act and Section 203(f) of the Advisor's Act.

CONCLUSION

For the reasons discussed above, the Division asks the Commission to enter a default and sanctions against Sanchez by barring him from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization and from participating in any offering of a penny stock.

May 28, 2024

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of May, 2024, I caused a true and correct copy of the foregoing to be served upon the respondent by email at [REDACTED]

[REDACTED]

Kara F. Sweet