

UNITED STATES OF AMERICA
BEFORE THE
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-21214

IN THE MATTER OF

JOSHUA ABRAHAMS, CPA,

RESPONDENT.

**RESPONDENT JOSHUA
ABRAHAMS'S REPLY IN
SUPPORT OF HIS MOTION FOR
AN ORDER DISMISSING OR
STAYING THE PROCEEDINGS**

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The Staff's opposition (the "Opposition") to Mr. Abrahams's motion to dismiss this proceeding under Rule 250(a) of the Commission's Rules of Practice (17 C.F.R. § 201.250) (the "Motion") dismisses *the* most recent case addressing many of the issues Mr. Abrahams raises and instead relies on outdated SEC practice before case law evolved. Although the Staff hopes it will be ignored, the Fifth Circuit has already held in *Jarkesy v. SEC*, 34 F.4th 446 (5th Cir. 2022) (per curiam), that administrative proceedings similar to the one here violate the Seventh Amendment to the U.S. Constitution and rely on an unconstitutional delegation of power without an intelligible principle. In fact, in denying the SEC's petition for rehearing in *Jarkesy*, the 5th Circuit appears to have considered and rejected many of the same arguments put forward by the Staff here, which closely mirror points made by the dissenting 5th Circuit judges who favored granting *en banc* review. See *Jarkesy v. SEC*, 51 F.4th 644 (5th Cir. 2022). Beyond these constitutional infirmities, this proceeding also violates Mr. Abrahams's due process rights by stripping him of the protections he would be entitled to in a court of law. The Commission should dismiss this matter to prevent Mr. Abrahams from suffering further unconstitutional injury. In the alternative, the Commission should stay the matter while Mr. Abrahams pursues relief in federal court. A stay would be particularly appropriate here in light of the fact that the deadline for the government to petition the Supreme Court for writ of *certiorari* in *Jarkesy* is January 19, 2023.¹

I. *Jarkesy* is Sound Law and the Most Recent Case Applicable to the Issues Here

¹ Mr. Abrahams understands the U.S. Solicitor General, on behalf of the SEC, has requested additional time to determine whether to petition for *certiorari* in *Jarkesy*. Mr. Abrahams should not be prejudiced by further delay from the SEC in determining whether to contest the case it currently claims is "incorrect."

The Staff devotes a large portion of the Opposition to arguing that the Fifth Circuit’s decision in *Jarkesy* should be ignored because it is “incorrect” and “inapplicable to these proceedings.” First, regardless of the Staff’s arguments regarding the correctness of *Jarkesy*’s holdings—similar arguments of which were rejected by the Fifth Circuit in denying the SEC’s petition for rehearing—*Jarkesy* remains good law.² Indeed, *Jarkesy* is the most recent appellate case dealing with many of the issues Mr. Abrahams raises in the Motion and therefore provides sound guidance into how the Commission should approach Mr. Abrahams’s claims. Second, the Staff is also incorrect that *Jarkesy* is “inapplicable” because it was decided in the Fifth Circuit. Regardless of where Mr. Abrahams resides or where he could seek further relief from Article III courts, *Jarkesy* still constitutes *at least* persuasive authority for federal courts and for the Commission, and is therefore applicable to these proceedings.³ Surely it is not the Staff’s or the Commission’s view that *Jarkesy* would be applicable if Mr. Abrahams chooses to reside within the 5th Circuit at some point during the pendency of these proceedings but would otherwise be inapplicable if Mr. Abrahams chooses to reside elsewhere, particularly in light of the fact that the Commission grants its Administrative Law Judges (“ALJs”) total discretion to determine the place for the hearing to occur. 17 C.F.R. § 200.30-10(a)(1).

² Compare SEC’s Pet. for Reh’g En Banc (“Rehearing Petition”), *Jarkesy v. SEC*, No. 20-61007 (5th Cir. July 1, 2022) (arguing *Jarkesy*’s majority opinion on the Seventh Amendment and its application to administrative proceedings conflicts with *Atlas Roofing, Co. v. Occupational Safety & Health Review Comm’n*, 430 U.S. 442 (1977) and *Granfinanciera, S.A. v. Nordberg*, 492 U.S. 33 (1989)) with Opposition at 4-5 (same).

³ The Staff takes issue that *Jarkesy* was decided in the Fifth Circuit and therefore may not be binding on certain federal courts, but the Staff then proceeds to cite in support of its own positions authorities from federal courts outside Mr. Abrahams’s state of residence.

II. This Proceeding Violates Mr. Abrahams's Seventh Amendment Right to a Jury Trial

The Seventh Amendment preserves defendants' right to a jury trial for claims arising at common law, including the claims asserted here, which the Order Instituting Proceedings ("OIP") frames as negligence-based. The SEC's institution of this proceeding therefore violates Mr. Abrahams's Seventh Amendment rights.

As noted in the Motion, Congress may only assign actions to administrative proceedings when the proceeding centers on "public rights." *Jarkesy*, 34 F.4th at 453 (citing *Atlas Roofing*, 430 U.S. at 450). "Public rights" arise "when Congress passes a statute under its constitutional authority that creates a right so closely integrated with a comprehensive regulatory scheme that the right is appropriate for agency resolution." *Id.* (citing *Granfinanciera*, 492 U.S. at 54). The analysis therefore turns to: (1) whether the action's claims arise or are analogous to common law claims under the Seventh Amendment; and, if so (2) whether "the Supreme Court's public-right cases nonetheless permit Congress to assign it to agency adjudication without a jury trial." *Id.*

The SEC's administrative proceeding against Mr. Abrahams, brought pursuant to Section 4C of the Exchange Act ("Section 4C") and SEC Rule 102(e), involves two steps: (1) a determination of whether the respondent engaged in "improper professional conduct" and (2) the possible imposition of discipline. According to the OIP, the first step of the proceedings, determining whether the respondent engaged in "improper professional conduct" is incontrovertibly a negligence-based action and is therefore analogous to common law claims. *See also* 15 U.S.C. § 78d-3(a)-(b). Although the Staff tries to dismiss it, the OIP against Mr. Abrahams itself notes that the action here turns on a finding of negligent conduct from Mr.

Abrahams.⁴ Whether or not Mr. Abrahams agrees that a negligence standard applies here, the Staff has grounded its claims in negligence. In response, the Staff implies that because Section 4C and Rule 102(e) do not require a finding of harm, and that the legal tort of negligence does, neither Section 4C nor Rule 102(e) is actually negligence-based. This argument fails in multiple respects. First, both Section 4C and Rule 102(e) explicitly refer to “negligence.” *See* 15 U.S.C. § 78d-3(a)-(b) (“‘improper professional conduct’ means . . . negligent conduct in the form of . . .”). Second, the Staff provides no support that for a claim to be “analogous” or “arising” from common law it must exactly match the elements of the common law claim. “Analogous” is not the same as “exact”; if it were, the inquiry into whether a claim arose under “common law” would be limited to simply matching the claim’s elements against existing common law claims. Indeed, the SEC raised the same argument for fraud claims in its petition for rehearing in *Jarkesy*, but the Fifth Circuit refused to rehear the matter. *Compare* Rehearing Petition at 10-11 with *Jarkesy*, 51 F.4th 644.

Third, the Staff’s argument naturally ignores both the SEC’s and courts’ findings that Section 4C and Rule 102(e) permit penalties to be imposed for the defined forms of negligent conduct (and of course for certain types of intentional conduct not raised in the OIP here). *See, e.g.* OIP at 12, *Marrie*, 374 F.3d at 1203. The Staff’s reliance on a case with no relation to the federal securities law at issue here, *Dawson v. Contractors Transp. Corp.*, 467 F.2d 727, 732 (D.C. Cir. 1972), does not change this. Other circuits have rejected *Dawson* and noted that looking to the “nature of the issue to be tried” (there, contribution), the claim was based on legal

⁴ The Staff claims that Mr. Abrahams “focuses” on this language from the OIP in his Motion while ignoring that Mr. Abrahams cites to case law specifically noting that 102(e)’s “improper professional conduct” may be based on negligent conduct. *See Marrie v. SEC*, 374 F.3d 1196, 1203 (D.D.C. 2004) (finding that 102(e) “identifies two types of negligent conduct that would warrant sanctions”).

rights because it relied on allegations of negligence. *See, e.g. In re N-500L Cases*, 691 F.2d 15, 20-21 (1st Cir. 1982); *see also Palmer v. United States*, 652 F.2d 893, 895-96 (9th Cir. 1981) (finding that contribution claim was based on negligence and was therefore analogous to common law claims) (overruled on other grounds). The same is true here. Through the OIP, the Staff contends that Section 4C and SEC Rule 102(e) turn on a finding of improper professional conduct through negligent conduct, and, therefore, claims brought pursuant to those provisions present the type of claim to arise under common law. As such, the Seventh Amendment applies here.

The Staff's other arguments fare no better. The Staff claims that the only "right" at issue is to practice before the Commission, and the Staff further implies that it is this right that determines the nature of the proceeding and whether the claim arose at common law. Not so. As noted in *In re N-500L Cases*, determining whether a claim warrants a jury requires looking not to the character of the overall action but "to the nature of the issue to be tried." 691 F.2d at 19-20 (citation omitted); *see also Jarkey*, 34 F.4th at 453-54 (looking to nature of underlying claim and determining it was fraud-based and therefore arose at common law). The Commission contends through the allegations in the OIP that the issue to be tried here is whether Mr. Abrahams acted negligently in his work as the lead engagement partner. It is only *after* that is determined that the SEC may affect Mr. Abrahams's right to practice before it. The claims at issue arise from negligence, are analogous to those available at common law, and therefore require a jury.

The Staff's remaining arguments on this issue, which flow from its above misguided argument on the right to practice before the Commission, do not change the fundamental nature of the claim asserted against Mr. Abrahams. First, the Staff claims that "public rights" exist

where a statute is closely intertwined with a federal regulatory program. Opposition at 6. The Staff only cites part of the standard: public rights exist where a statute is *so* closely intertwined with a federal regulatory standard *that the right is appropriate for agency resolution*. See *Granfinanciera*, 492 U.S. at 54. It is not enough that the statute is integrated with a federal regulatory group. In fact, the Staff completely ignores the entire second part of the test to determine whether a statute implicates public rights and which goes to the heart of its argument: determining whether a claim that arose or is analogous to common law claims nonetheless may be assigned to agency adjudication. See *Jarkesy*, 34 F.4th at 453. The Staff makes no mention in its Opposition of the multiple factors analyzed in the Motion regarding whether the SEC’s suit is in fact appropriate for agency resolution, namely whether assigning a jury would “dismantle the statutory scheme,” “impede swift resolution” of the SEC’s prosecutions, or is uniquely suited for agency adjudication. *Jarkesy*, 34 F.4th at 455; Motion at 4-7. The Staff cannot skip this crucial step and rely instead on general claims that because Section 4C and Rule 102(e) affect those who can practice before the Commission, they *must* be appropriate for agency resolution.

Second, the Staff argues that the “right to practice” before the Commission did not exist before the 1930s, and therefore did not exist in the common law. This argument misses the point. As noted above, as the SEC contends in the OIP, the issue to be tried against Mr. Abrahams is negligence, not the right to practice before the Commission. Because negligence existed in the common law, Mr. Abrahams retains his right to a jury. Third, the Staff argues that Rule 102(e) has a broader goal of protecting the Commission’s own processes and implies that this means the instant suit is not about negligence. But even if Section 4C and Rule 102(e) have a broader goal than pursuing negligence, this does not change that the issue to be tried *here*, as

contended by the SEC under the OIP, is negligence. Indeed, if the government could simply pick a “goal” for its rules or claims and use that to avoid jury trials, there would be no need for federal courts at all.

The penalties the SEC may impose on Mr. Abrahams go beyond mere equitable relief. As noted in the Motion, the SEC’s ability to revoke Mr. Abrahams’s ability to appear or practice before the Commission affects his property rights to engage in a chosen profession. *See* 15 U.S.C. § 78d-3(a). As discussed below, the collateral impacts of the Commission’s administrative proceeding go well beyond simply an ability to practice before the Commission, and, in any event, such a severe penalty functions as more than equitable relief. *See, e.g., SEC v. Bartek*, 484 F. App’x 949, 956-57 (5th Cir. 2012) (per curiam) (finding officer-director bar is penalty, not equitable relief, for purposes of 28 U.S.C. § 2462). Indeed, appellate courts have held that a license to practice one’s calling or profession is a protected property right. *See Stidham v. Peace Officer Standards & Training*, 265 F.3d 1144, 1149-53 (10th Cir. 2001). Further, the Ninth Circuit has repeatedly deemed a professional’s license as a protected property interest. *See, e.g., Sabow v. United States.*, 93 F.3d 1445, 1456 (9th Cir. 1996) (holding that a physician has a constitutionally protected property interest in his or her medical license); *Gallo v. U.S. Dist. Ct. for the Dist. of Ariz.*, 349 F.3d 1169, 1179 (9th Cir. 2003) (“We have recognized in a number of contexts that an individual has a legitimate property interest in his or her professional license...Our case law holds that a professional license, once conferred, constitutes an entitlement subject to constitutional protection.”). When an individual’s property interest is thus threatened, he is “entitled to a trial by jury” as is “his Seventh Amendment right.” *Hourihan v. Lafferty*, 58 F. Supp. 2d 10, 12-13 (N.D.N.Y. 1999) (holding that alleged wrongful taking of property by government agents did not deny property owner Seventh Amendment right

to jury trial); *see also Ross v. Bernhard*, 396 U.S. 531, 533 (1970) (“The Seventh Amendment...entitled the parties to a jury trial in actions for damages to a person or property”).

Multiple sources have noted the severe effects of similar bars. *See Sessions v. Dimaya*, 138 S. Ct. 1204, 1229 (2018) (Gorsuch, J., concurring) (noting “extravagant” nature of penalties such as stripping licenses and livelihoods); *Bartek*, 484 F. App’x at 956-57 (finding officer-director bar is penalty for purposes of 28 U.S.C. § 2462); *In the Matter of John J. Aesoph, CPA*, Exchange Act Release No. 78490, 2016 WL 4176930, at *21 (Aug. 5, 2016) (Piwowar, dissenting) (noting punitive effect of 102(e) bar). The Commission gives short shrift to the punitive nature of such bars, noting that the D.C. Circuit stated that Rule 102(e) bars for attorneys do not affect the overall ability to practice law. Opposition at 8. This is not true for accountants. Many state professional and/or accounting regulations require an accountant to disclose any Rule 102(e) finding against him, which may result in further discipline from the state board, including suspension or revocation. *See, e.g., Cal. Bus. & Prof. Code § 5100(l)* (stating that board may censure accountant because of discipline from PCAOB or SEC); 21 N.C. Admin. Code 8N.0204 (prohibiting CPAs from acting in a manner that would cause them to be disciplined by federal agencies, including SEC, and noting that finding of unethical conduct from competent authority is prima facie evidence of violation of the rule). The SEC’s potential Section 4C and Rule 102(e) penalties affect Mr. Abrahams’s property rights and therefore act as legal remedies that warrant access to a jury.

III. Mr. Abrahams’s Unconstitutional Delegation Analysis is Correct

The Staff’s opposition to Mr. Abrahams’s unconstitutional delegation argument is neatly summed up by one sentence in the Opposition: “[T]here is no district court option.” Opposition at 10. In other words, the Staff contends that an administrative proceeding is the exclusive forum for determinations of negligent “improper professional conduct.” The Staff is mistaken.

The crux of the Staff's argument is that Congress did not delegate authority because administrative hearings are the "exclusive forum for adjudicating" proceedings on whether an accountant may continue to practice before the Commission. The Staff cites no authority for this proposition. Indeed, the Staff misstates Section 4C's provisions, claiming that the language "before the Commission" in Section 4C means that Section 4C matters must be determined in administrative proceedings. Opposition at 10. But Section 4C uses the words "before the Commission" to refer to practicing before the Commission, not for the forum for adjudication. *See* 15 U.S. §78d-3(a). Section 4C is therefore silent on the choice of forum.

To be sure, when in 1935 the SEC promulgated Rule 102(e)'s predecessor, Rule 2(e), it did so without specific statutory authorization. However, even during those early years before Congress enacted Section 4C, the Commission refrained from imposing discipline on professionals absent a prior judicial determination of misconduct. "[T]he Commission has generally utilized Rule 2(e) proceedings against attorneys only where the attorney's conduct has already provided the basis for a judicial or administrative order finding a securities law violation in a non-Rule 2(e) proceeding." *Disciplinary Proceedings Involving Professionals Appearing or Practicing Before the Commission*, Securities Act Release No. 33-6783, 41 SEC Docket 388, 394-95; 1988 SEC LEXIS 1365, at *22 (July 7, 1988).

In 2002, Congress enacted Section 4C as part of the Sarbanes-Oxley Act of 2002, Pub.L. 107-204, 116 Stat. 745 (2002) (codified as 15 U.S.C. § 78d-3(a)(2)), and the Commission's practice of seeking a judicial determination of wrongdoing prior to imposing discipline on professionals was again emphasized in that context. "[T]he Commission generally should not institute Rule 102(e) proceedings against attorneys absent a judicial determination that the lawyer has violated the federal securities laws." *Implementation of Standards of Professional*

Conduct for Attorneys [under Section 307 of the Sarbanes–Oxley Act regarding issuers], 67 Fed. Reg. 71670, at *71672 (proposed Dec. 2, 2002). The same should be true for accountants.

By enacting Section 4C, Congress created a “liability or duty” under the Exchange Act. 15 U.S.C. § 78d-3(a). Specifically, Section 4C enables the Commission to impose discipline against a person found to have engaged in improper professional conduct. *Id.* But Congress had previously provided that the

district courts of the United States . . . shall have exclusive jurisdiction of violations of this chapter or the rules and regulations thereunder, and of all suits in equity and actions at law brought to enforce any liability or duty created by this chapter or the rules and regulations thereunder.

15 USC § 78aa.

In codifying in the Exchange Act the SEC’s ability to censure professionals for improper professional conduct (against a backdrop in which the SEC had historically only imposed such discipline after a judicial finding of misconduct), Congress improperly delegated legislative authority. Section 4C enabled the SEC to avail itself of the federal courts to “enforce a liability or duty created by” the Exchange Act while simultaneously not clearly precluding the SEC from continuing its practice of pursuing such remedies administratively. However, in providing the SEC with the ability to determine whether to bring a Section 4C claim in federal court or in an administrative proceeding, Congress failed to articulate an intelligible principle to guide the SEC’s forum selection. The power to decide which cases are brought for agency adjudication is a unique legislative power; by permitting the SEC to make such determinations, Congress has granted the SEC legislative power. *Jarkesy*, 34 F. 4th at 461; *see also Crowell v. Benson*, 285 U.S. 22, 50 (1932) (finding ability to determine whether cases are brought before administrative tribunals is “completely within congressional control”). When Congress grants legislative authority to another entity, it must do so with “an ‘intelligible principle’ by which the recipient

of the power can exercise it.” *Jarkesy*, 34 F. 4th at 461 (citation omitted). Congress did not do so here.

The Staff provides no intelligible principle that guides the SEC’s decision to bring Section 4C and Rule 102(e) proceedings administratively. As such, this proceeding is the result of an unconstitutional delegation of power and must be dismissed.

IV. This Proceeding Denies Mr. Abrahams Due Process

The impropriety of these proceedings, already unacceptable from the multiple constitutional violations noted above, is exacerbated by the due process concerns Mr. Abrahams raised in his Motion.

First, the SEC’s practice of relying on Commission staff attorneys to investigate and prosecute claims before the Commission itself raises significant due process concerns. The Staff does not contest that a fair trial is basic requirement of due process. *See, e.g. in re Murchison*, 349 U.S. 133, 136 (1955). Indeed, the Staff does not even deny that its reliance on Commission attorneys and adjudicators⁵ to both prosecute and adjudicate cases raises concerns about the fairness of these proceedings. Rather, it merely claims that the courts have previously allowed this arrangement and that Mr. Abrahams should therefore accept the current structure. But the courts’ previous acceptance of the SEC’s practice does not change the fundamental unfair nature

⁵ At present, the SEC has not assigned an ALJ to decide these proceedings. But fairness concerns are particularly prevalent if, rather than assigning an ALJ, the Commission opts to have the Office of General Counsel (“OGC”) or the Commission itself—which will also decide any appeals—adjudicate the matter. Indeed, the use of any of these groups raises additional constitutional concerns, including Appointments Clause and removal power violations.

of these proceedings.⁶ Mr. Abrahams should not be forced to litigate in a forum where his opposing party, adjudicator, and potential appellate adjudicator are all part of the same entity.

Second, the Staff glosses over the significant due process concerns raised by Mr. Abrahams's limited ability to conduct discovery and defend himself in an administrative proceeding. The issue is not that the rules for the SEC's administrative proceeding do not mirror the federal rules of evidence or civil procedure, as the Staff implies. Rather, the issue is that the SEC's Rules of Practice are so limited that they effectively deny Mr. Abrahams due process. As noted in the Motion, Mr. Abrahams expects that the SEC will attempt to: (i) allow him three to five depositions, (ii) deny him access to other forms of discovery, including requests for production or interrogatories to the SEC, and (iii) limit his pursuit of documents to either subpoenas—which must be approved by the SEC—or the limited right to copy and inspect certain SEC documents. Further, Mr. Abrahams has limited to no recourse in trying to obtain any of this discovery, should it be denied. Against this backdrop is the SEC's own expansive investigative power, which it has exercised for years in conducting interviews and obtaining testimony from parties relevant to this proceeding.

Moreover, even if Mr. Abrahams is able to obtain relevant evidence, he must still argue for the use of this evidence before the SEC's chosen adjudicator, who maintains “virtually unfettered discretion regarding what evidence will be admitted, including what witnesses will be allowed and even whether those witnesses can be cross examined.” Drew Thornley & Justin Blount, *SEC In-House Tribunals: A Call for Reform*, 62 Vill. L. Rev. 261, 280 (2017). The SEC's ALJs are not bound by the rules of civil procedure, but can instead choose to allow in any

⁶ We have seen in recent years that previous SEC practice has been soundly rejected by the Courts. *See, e.g. Liu v. SEC*, 140 S. Ct. 1936 (2020). Simply because a practice has been previously accepted does not mean it should continue to be.

prejudicial material (including hearsay) it desires, or alternatively deny the admission of any material that Mr. Abrahams may require for his defense. The Opposition ignores all of these issues. Mr. Abrahams's ability to defend himself depends on his ability to gather and present information and evidence. The Commission's Rules of Practice severely limit this ability and therefore deny him due process.

Third, the above due-process violations are compounded by the administrative proceeding's review process, which offers no meaningful review of the Commission's (or the Commission's ALJ's) fact-finding. Any facts found by the ALJ—after Mr. Abrahams has been limited in his ability to obtain documents and after the ALJ has determined with unfettered discretion what evidence to allow—and adopted by the Commission are deemed “conclusive” so long as they are premised on “substantial evidence.” *Steadman v. SEC*, 450 U.S. 91, 96 n.12 (1981). The SEC dismisses this concern as about the standard of review, not the administrative proceeding itself. But that does not change that the structure of the administrative proceeding, which allows for due process violations that may result in facts accepted conclusively in any future appeals, fundamentally violates Mr. Abrahams's due process guarantees.

V. The SEC Should Stay This Proceeding

The Commission should stay this proceeding if the Motion is denied and Mr. Abrahams is forced to seek relief in federal court. The Supreme Court is facing and is likely to rule on cases directly relevant to Mr. Abrahams's arguments here and in any future federal court proceeding: (i) any issues from *Jarkesy* that the SEC seeks review from the Supreme Court on⁷ and (ii) whether Mr. Abrahams may seek relief in federal court for constitutional claims against

⁷ As the Staff noted in its Opposition, the time for the Commission to seek *certiorari* has not yet passed. However, it will pass on January 19, two weeks after the filing of this reply, or alternatively 29 days after January 19, should the SEC's request for an extension be granted.

the Commission's proceedings, as outlined in *Cochran v. SEC*, 20 F.4th 194, 198 (5th Cir. 2021) (en banc), *cert. granted*, 142 S. Ct. 2707 (2022). Mr. Abrahams should not be forced to suffer an unconstitutional proceeding here, only to be forced to relitigate the same issues if and when the Supreme Court rules on *Jarkesy* and/or *Cochran*. This not only would result in irreparable injury to Mr. Abrahams, but would be a waste of both Mr. Abrahams's and the Commission's time and resources. Accordingly, the Commission should stay this action.

VI. Conclusion

For at least the foregoing reasons, the Commission should dismiss this action in its entirety, or, in the alternative, stay the action to permit Mr. Abrahams the ability to seek an injunction in an Article III court.

Dated: January 5, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

In accordance with 17 C.F.R. §§ 201.150, 201.151, I certify that a copy of Respondent Joshua Abrahams's Reply in Support of His Motion for an Order Dismissing or Staying the Proceedings was served on the following on January 5, 2023, via the methods indicated below:

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