

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

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-21333**

<p><b>In the Matter of</b></p> <p><b>GUSTAVO A. GUZMAN,</b></p> <p><b>Respondent.</b></p>
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**DIVISION OF ENFORCEMENT'S**  
**STATUS REPORT REGARDING**  
**THIS PROCEEDING**

The Division of Enforcement provides this status report pursuant to the Commission's August 14, 2023 Order Directing Submission of Status Report and Service Certificate. On March 6, 2023, the Commission instituted public administrative proceedings as to Respondent Gustavo Guzman. On March 16, 2023, pursuant to Rule 141(a)(3) of the Rules of Practice, Guzman was personally served with the Order Instituting Proceedings ("OIP") by a Deputy U.S. Marshal at the Mecklenburg County Detention Center, where he is being held in custody of the United States government. On March 17, 2023, we provided a courtesy copy of the OIP to Guzman's criminal defense attorney ("Counsel") and highlighted that Guzman's answer was due on April 5, 2023 and that the parties were supposed to hold a prehearing conference by March 30, 2023. We informed Counsel that we needed to know whether he would be representing Guzman for purposes of the Commission's proceedings or whether we should be attempting to arrange for a telephonic conference directly with Guzman through the Mecklenburg County Detention Center. Counsel responded that he was away and unavailable until after March 30 and any discussion, including about his representation, would have to occur after that.

In light of Counsel's unavailability, on March 30, 2023, we filed a Motion for Extension of Time for Prehearing Conference and Answer, which the Commission granted, extending the time to hold a prehearing conference to May 1, 2023 and the time for Guzman to file an answer to May 8, 2023. We provided the Motion for Extension of Time, as well as the Service List and Litigated Party Letter, which were inadvertently omitted from the original personal service of the OIP, to a process server to serve Guzman. On March 29, 2023, we emailed Counsel requesting to set up a time to discuss the proceeding and scheduled a time to speak on April 7, 2023. On April 6, Counsel emailed us that a conflict had arisen and that we needed to reschedule our call. After multiple attempts to reschedule, and providing Counsel with the Commission's Order Granting the Motion for Extension of Time, we finally spoke to Counsel on April 17, 2023. On that call, Counsel stated that he planned to move to stay the proceeding until after resolution of Guzman's criminal matter, which he predicted would be completed over the summer, and we scheduled a prehearing conference for April 27, 2023. After the call, we provided Counsel with courtesy copies of all filings in this matter to date and asked him to confirm that he represented Guzman and could accept service of documents going forward. On April 18, 2023, the Service List, Litigated Party Letter, and the Division's Motion for Extension of Time were personally served upon Guzman.

On April 26, 2023, Counsel emailed us stating that circumstances prevented him from discussing the matter with Guzman and that he was unavailable for our April 27 conference, but would be working on the Guzman matter again the following week. On April 27 and May 3 we made additional attempts by email to reschedule the prehearing conference with Counsel. In the May 3 email, we proposed jointly requesting that the Commission set a new deadline for a status

report in 120 days and to push Guzman's May 8 deadline to answer 120 days as well. Counsel never responded to either email.

After Guzman's failure to answer the OIP and our inability to engage with Counsel, we determined the most efficient course of action was to file a Motion for Default Judgment, which we determined could be further supported in part by Guzman's admissions of facts in connection with his anticipated plea agreement. On July 28, 2023, Guzman pleaded guilty to criminal violations in connection with the same facts upon which the Commission's civil action against him was based.

We submit simultaneously with this status report the Division's Motion for Default Judgment, Sanctions and Other Relief.

Dated: August 28, 2023

Respectfully submitted,

*s/Jeffrey A. Shank*

Jeffrey A. Shank

Division of Enforcement

Securities and Exchange Commission

Chicago Regional Office

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**CERTIFICATE OF SERVICE**

In accordance with the Commission's Rules of Practice, I hereby certify that I have caused a copy of the Division of Enforcement's Status Report Regarding This Proceeding, to be personally served upon:

Gustavo A. Guzman  
Mecklenburg County Detention Center  
801 E. 4th Street  
Charlotte, NC 28202

Dated: August 28, 2023

*s/ Jeffrey A. Shank*  
Jeffrey A. Shank