

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-21414

<p>In the Matter of</p> <p>ADVANTEGO CORPORATION, Respondent.</p>
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THE DIVISION OF ENFORCEMENT’S
MOTION FOR SUMMARY DISPOSITION
AND SUPPORTING MEMORANDUM

The Division of Enforcement (“Division”), pursuant to Commission Rules of Practice 154 and 250, moves for an order of summary disposition that the registration of each class of securities of Respondent Advantageo Corporation (“Respondent”) be revoked. There is no genuine issue concerning any material fact, making an evidentiary hearing unnecessary. Pursuant to Exchange Act Section 12(j) and the Commission’s precedent applying the *Gateway* factors, the protection of investors requires the revocation of the registration of Respondent’s securities.

SUPPORTING MEMORANDUM

I. FACTUAL BACKGROUND AND PROCEDURAL HISTORY

Respondent (Ticker ADGO) (CIK No. 869531) is a Colorado corporation with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). Respondent is delinquent in its periodic filings with the Commission, having not filed any

periodic reports since it filed a Form 10-Q for the period ended June 30, 2020.¹ Respondent's common stock is traded on the Expert Market on OTC Link, which does not permit unsolicited securities quotations. *See* Declaration of Sandhya Harris at Ex. 2. In its Answer, Respondent did not deny that it is delinquent, but argued that the revocation of its registration was not necessary for the protection of investors because its securities are only traded on OTC Link's Expert Market. *See* Answer ¶¶2-4.

II. APPLICABLE STANDARDS

A. Rule of Practice 250

Rule of Practice 250(b) provides that the Commission may grant a motion for summary disposition if there is no genuine issue with regard to any material fact and the party making the motion is entitled to summary disposition as a matter of law. *See* 17 C.F.R. § 201.250(b).

B. The *Gateway* Factors

Section 12(j) of the Exchange Act empowers the Commission, where "necessary and appropriate for the protection of investors," to either suspend (for a period not exceeding twelve months) or permanently revoke a security's registration "if the Commission finds, on the record after notice and opportunity for hearing, that the issuer of such security has failed to comply with any provision of this title or the rules and regulations thereunder." *See* 15 U.S.C. § 78l.

In making its determination, the Commission considers, among other things: (1) the seriousness of the issuer's violations; (2) the isolated or recurrent nature of the

¹ At the time the OIP issued on May 11, 2023, Respondent's last report covered the period ended March 31, 2020. After the OIP issued, Respondent filed a quarterly report for the period ended June 30, 2020, but has filed no other reports.

violations; (3) the degree of culpability involved; (4) the extent of the issuer's efforts to remedy its past violations and ensure future compliance; and (5) the credibility of the issuer's assurances, if any, against future violations. *Gateway International Holdings, Inc.*, Exchange Act Rel. No. 53907, 2006 SEC LEXIS 1288, at *19-20 (May 31, 2006). Where there is a recurrent failure to file periodic reports, "only a strongly compelling showing with respect to the other factors would be sufficient to avoid revocation." *Smartag International, Inc.*, Exchange Act Rel. No. 96755, 2023 WL 1066737, at *3 (Jan. 26, 2023) (quoting *Accredited Bus. Consolidators*, Exchange Act Rel. No. 75840, 2015 WL 5172970, at *3 (Sept. 4, 2015)).

III. ARGUMENT

There is no genuine issue of material fact that a violation has occurred. The only issue is whether revocation is appropriate. Because the facts relevant to the *Gateway* factors are not disputed, no evidentiary hearing is necessary for a remedy determination. Under Commission precedent, the appropriate remedy is revocation.

A. Respondent's Violations Are Serious And Recurrent

As for the first *Gateway* factor, all violations of Section 13(a)'s reporting requirements are serious because timely and accurate reporting is statutorily required, and the reporting requirements are one of the Commission's primary tools for protecting the integrity of the securities marketplace. As the Commission has stated:

Failure to file periodic reports violates a central provision of the Exchange Act. The purpose of the periodic filing requirements is to supply investors with current and accurate financial information about an issuer so that they may make sound decisions. Those requirements are "the primary tool[s] which Congress has fashioned for the protection of investors from negligent, careless, and deliberate misrepresentations in the sale of stock and securities." Proceedings initiated under Exchange Act Section 12(j) are an important remedy to address the problem of publicly traded companies that are delinquent in the filing of their Exchange Act reports, and thereby

deprive investors of accurate, complete, and timely information upon which to make informed investment decisions.

Gateway, 2006 SEC LEXIS 1288, at *26 (quoting *SEC v. Beisinger Indus. Corp.*, 552 F.2d 15, 18 (1st Cir. 1977)). Respondent's delinquencies have left investors without any information about Respondent's operations or finances for almost four years. *See Harris Dec.* at Ex. 5.

Respondent's reporting violations were especially serious because they appear to coincide with significant changes in the company's business. *See ChinaBiotics, Inc.*, Exchange Act Rel. 70800, 2013 SEC LEXIS 3451, at *37 (Nov. 4, 2013) (delinquencies were especially serious where the periods coincided with significant changes to financial results, changes to its business model, turnover in management, and major financial investments); *Citizens Capital Corp.*, Exchange Act Rel. No. 67313, 2012 WL 2499350, at *3 (Jun. 29, 2012) (reporting violations were especially significant when they "occurred during a period when the [c]ompany admittedly engaged in various and significant changes in its business"). Respondent's most recent report reveals that its sales have declined from \$21,066 during the three-month period ending June 30, 2019 to \$0 for the same period in in 2020. Respondent's cash has declined from \$137,348 for the period ending June 30, 2019 to \$0 for the period ending June 30, 2020. *See* Respondent's Form 10-Q for the Period Ended June 30, 2020.² In short, it appears that Respondent has ceased business operations, which is information that would be highly significant to investors.

Respondent's violations are also recurrent and continuous violations under the second *Gateway* factor. At the time the OIP issued, three Forms 10-K and eight Forms 10-

² https://www.sec.gov/Archives/edgar/data/869531/000149315223035704/form10-q.htm#a_001

Q were delinquent. Additional delinquencies have continued to accrue such that four Forms 10-K and eleven Forms 10-Q are now outstanding. Shorter delinquencies for fewer reports have been held to be continuous and recurrent. *See, e.g., Triton Emission Sols. Inc.*, Exchange Act Rel. No. 94255, 2022 WL 488504, at *3 (Feb. 15, 2022) (failure to file for “more than a year”); *Ironclad Encryption Corp.*, Exchange Act Rel. No. 9426, 2022 WL 488507, at *3 (Feb. 15, 2022) (same). *See also iBIZ Technology Corp.*, Initial Decision Exchange Act Rel. No. 312 at 1, 2006 WL 1675913 (Jun. 16, 2006), *aff’d* July 11, 2006 (one Form 10-K and two Forms 10-Q); *Freedom Golf Corp.*, Initial Decision Exchange Act Rel. No. 227, 2003 SEC LEXIS 1178, at *5 (May 15, 2003) (one Form 10-K and one Form 10-Q), *aff’d June 10, 2003*; *WSF Corp.*, Initial Decision Exchange Act Rel. No. 204, 2002 WL 917293, at *14 (May 8, 2002) (one Form 10-K and three Forms 10-Q), *aff’d May 24, 2002*.

B. Respondent Has Not Rebutted The Presumption Of Revocation With A Compelling Showing On The Remaining *Gateway* Factors, All Of Which Confirm That Revocation Is Required

Because Respondent’s violations are serious and recurrent, they give rise to the presumption that revocation is required to protect investors unless Respondent can make a compelling showing on the remaining *Gateway* factors. On this record, Respondent cannot do so; the remaining factors weigh in favor of revocation.

i. Respondent’s Disregard For Its Reporting Obligations Evidences A High Degree Of Culpability

Evidence that a violation was “inadvertent or accidental” establishes a low level of culpability. *China-Biotics, Inc.*, 2013 SEC LEXIS 3451, at *37. Evidence that an issuer knew of its reporting obligations but failed to comply with them establishes “a high degree of culpability.” *Id.* (issuer had a “high degree of culpability” where it “did not file a single

periodic report for more than a year and a half”). *See also LegacyXChange, Inc.*, Exchange Act Rel. No. 96401, 2022 WL 17345980, at *5 (Nov. 29, 2022) (“Legacy committed these violations with a high degree of culpability [where] Legacy demonstrated that it was aware of its periodic and other filing obligations . . . [y]et, despite such awareness, Legacy has repeatedly failed to file periodic reports” for more than four years); *Gateway*, 2006 SEC LEXIS 1288, at *21 (issuer “evidenced a high degree of culpability,” because it “knew of its reporting obligations, yet failed to file”).

Respondent has been a reporting company since 2001 and has made over 100 reports and other filings with the Commission. After Respondent filed its Answer to the OIP, which pointed out Respondent’s filing delinquencies, Respondent allowed four additional reports to become delinquent. Respondent’s filing failures were not inadvertent or accidental; Respondent knew of its reporting obligations, but simply failed to satisfy them.

ii. Respondent Has Not Remedied Its Past Violations Or Adopted Concrete Measures To Ensure Future Compliance

Respondent has not made a compelling showing that it has remedied the violations that led to the filing of the OIP. Although Respondent filed one of the eight delinquent Forms 10-Q at issue in the OIP, it did not file any of the seven others that were delinquent when the OIP was issued. Nor did it file any of the three Forms 10-K outstanding at the time of the OIP. Other than the single Form 10-Q filed after the OIP issued, Respondent has not made any efforts to cure its delinquencies and the number of missing periodic reports continues to grow.

To make a compelling showing on future compliance, Respondent must demonstrate that it has implemented concrete and effective measures to address the cause

of its filing failures. *Phlo Corp.*, Exchange Act Rel. No. 55562, 2007 WL 966943, at *16 (Mar. 30, 2007). Respondent has not explained in its Answer or elsewhere the cause of its filing failures, nor has it provided evidence of any remedial measures to prevent future failures.

iii. Respondent Has Made No Assurances Against Future Violations

The likelihood that Respondent will commit future violations can be inferred from its past violations, including its consistent failure to meet prescribed periodic filing due dates under Section 13(a). *See KPMG Peat Marwick LLP*, Exchange Act Rel. No. Rel. No. 44050, 2001 SEC LEXIS 422, at *21-22 (Mar. 8, 2001) (risk of future violation “need not be very great to warrant issuing a cease-and-desist order” and “in the ordinary case and absent evidence to the contrary, a finding of past violation raises a sufficient risk of future violation”).

Respondent was over three years delinquent at the time these proceedings were instituted, has only cured one of the delinquent reports that lead to the issuance of the OIP, and has allowed its delinquencies to grow during the pendency of this proceeding. *See Harris Dec. at Ex. 5*. On this record, Respondent has not, and could not, provide credible assurances against future violations.

C. Revocation Is Required For Investor Protection

The protection of investors is concerned with more than a particular registrant’s existing investors. It also takes into account a registrant’s prospective investors and all investors who participate in the markets regulated by the Commission. *Absolute Potential, Inc. (f/k/a Absolute Waste Services, Inc.)*, Exchange Act Rel. No. 71866, 2014 SEC LEXIS 1193, at *7, 32 (Apr. 4, 2014) (investor protection also takes into account “the broader

systemic harm” that follows from registrants who fail to comply with reporting requirements and both “current and prospective” investors). *See also Accredited Bus. Consolidators*, 2015 WL 5172970, at *2 (protection of investors includes prospective investors). The Commission has repeatedly held that revocation is required even where an issuer with substantial delinquencies becomes current because the deterrence effect of a revocation order is necessary to protect the filing program as a whole. *See, e.g., Accredited Bus. Consolidators Corp.*, 2015 WL 5172970 at n.18 (“Deterrence is meaningful only if a lengthy delinquency, in the absence of strongly compelling circumstances regarding the other Gateway factors, results in revocation.”).

Here, Respondent argues that revocation is unwarranted because its securities trade on the Expert Market, where brokers can only quote prices for Respondent’s securities upon specific request, and because there were only \$72,256 worth of trades in Respondent’s securities between May 16, 2022 and May 16, 2023. *See Answer at ¶3*. The Commission has rejected a similar argument. *Calmare Therapeutics Inc.*, Exchange Act Rel. No. 97911, *6 (July 14, 2023). In *Calmare Therapeutics*, Calmare’s securities were moved to OTC Link’s Expert Market when the Commission issued a trading suspension. Calmare argued that revocation was unnecessary to protect investors because unsolicited securities quotations are not permitted on the Expert Market and because brokers would likely be reluctant to quote its securities if requested due to the trading suspension. The Commission was unpersuaded. “[A]lthough brokers may choose not to quote Calmare because of the trading suspension, investors may still trade Calmare’s stock. Investors’ ability to trade the company’s stock without current information about the company poses

a threat. As a result, revocation is necessary and appropriate for the protection of investors regardless of the trading suspension.” *Id.*

IV. CONCLUSION

By registering under Section 12(g), Respondent made a commitment to file mandatory periodic reports. Respondent has continually shown that it is incapable of honoring those commitments. Revocation is required to protect investors through an actively enforced reporting program and to protect investors from trading Respondent’s securities without current information. For the reasons set forth above, the Division requests that this Motion for Summary Disposition be granted and that the registration of Respondent’s securities be revoked.

Dated: June 28, 2024

Respectfully submitted,

/s/ Samantha M. Williams

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COUNSEL FOR
DIVISION OF ENFORCEMENT

CERTIFICATE OF SERVICE

I hereby certify that I caused true copies of the Division of Enforcement's Motion for Summary Disposition, and Exhibits thereto, to be served on the following on June 28, 2024, in the manner indicated below:

BY EMAIL SERVICE

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Counsel for Respondent

/s/ Samantha M. Williams _____
Samantha M. Williams

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-21414

<p>In the Matter of</p> <p>ADVANTEGO CORPORATION,</p> <p>Respondent.</p>

DECLARATION OF SANDHYA C. HARRIS IN SUPPORT OF
DIVISION OF ENFORCEMENT’S MOTION FOR SUMMARY DISPOSITION

SANDHYA C. HARRIS, pursuant to 28 U.S.C. § 1746, declares:

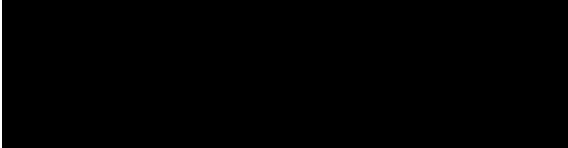
1. I am a Senior Counsel with the Division of Enforcement (“Division”) of the Securities and Exchange Commission (“Commission”) and co-counsel for the Division in the above-captioned administrative proceeding. I submit this Declaration in support of the Division’s Motion for Summary Disposition (“Motion”).
2. Attached hereto as Exhibit 1 is a true copy of a printout from the Colorado Secretary of State website showing ADVANTEGO’s corporate status as of June 7, 2024.
3. Attached hereto as Exhibit 2 is a true copy of a printout from www.otcmarkets.com showing the trading status of ADVANTEGO’s ’s common stock (Symbol: ADGO) as of June 11, 2024.
4. Attached hereto as Exhibit 3 is a true copy of a delinquency letter (including tracking information) from the Division of Corporation Finance to ADVANTEGO, dated February 13, 2023.
5. Attached hereto as Exhibit 4 is a true copy of a download from the Commission’s internal EDGAR site showing all EDGAR filings made by ADVANTEGO

through June 7, 2024. This download has also been designed to capture all Forms 3, 4 or 5 and all Schedules 13D and 13G and amendments thereto, if any, which may have been filed relating to ADVANTEGO. This download contains a complete record of all of the foregoing filings.

6. Attached hereto as Exhibit 5 is a true copy of a chart I prepared concerning ADVANTEGO'S periodic filings from the period ended December 31, 2018 to present. The chart includes a list of filings that remain outstanding as of June 30, 2024. The first column lists the type of filing. The second column gives the fiscal period end to which the filing relates. The third column gives the due date for the filing. The fourth column gives the date on which the filing was actually filed. The fifth column gives the number of days by which the filing was late. The sixth column gives either the date on which a Form 12b-25 Notification of Late Filing was filed for the periodic report or indicates that the filing was not made.

I declare under penalty of perjury that the foregoing is true and correct.

Executed: June 28, 2024.


Sandhya C. Harris