

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

ADMINISTRATIVE PROCEEDING  
File No. 3-21467

---

In the Matter of  
  
LEE COHEN  
  
Respondent.

---

**THE DIVISION OF ENFORCEMENT’S MOTION AND SUPPORTING**  
**MEMORANDUM OF LAW FOR ENTRY OF DEFAULT AND**  
**IMPOSITION OF REMEDIAL SANCTIONS**

**I.     Introduction**

The Division of Enforcement (the “Division”), pursuant to Rules 155(a) and 220(f) of the SEC Rules of Practice, 17 C.F.R. §§ 201.155(a) and 201.220(f), and the Commission’s Order to Show Cause dated December 20, 2023, hereby moves for Entry of Default and Imposition of Remedial Sanctions against Respondent Lee Cohen (“Cohen”).

For the reasons set forth below, the Division respectfully requests that the Commission enter: (i) an Order of Default against Cohen; and (ii) an Order barring Cohen from associating with any broker, dealer, investment adviser, municipal securities dealer, municipal adviser, transfer agent, or nationally recognized statistical rating organization.

**II.    Procedural History**

The Commission issued an Order Instituting Proceedings (“OIP”) against Cohen on May 23, 2023, pursuant to Section 15(b) of the Securities and Exchange Act of 1934 (“Exchange Act”). *See* Exch. Act Release No. 97594, May 25, 2023. In summary, the OIP alleges that Cohen, who

never held any licenses in the financial services industry and was never registered as or associated with a registered broker-dealer or any other entity registered with the Commission, operated a boiler room in The Philippines from at least June 2017 through February 2018. In particular, Cohen engaged in a scheme with others to defraud investors and potential investors in the securities of HD View 360, Inc. (“HD View”), a penny stock company that traded on the over-the-counter markets, by manipulating the price and trading volume of HD View shares.

Further, the OIP alleges that on August 1, 2022, Cohen pled guilty to a charge of conspiracy to commit securities fraud in violation of 15 U.S.C. §§ 78j(b) and 78ff, in the United States District Court for the Eastern District of New York, in *United States of America v. Lee Cohen*, 1:22-cr-00209-KAM (E.D.N.Y) (the “Criminal Action”). On May 15, 2023, the Court in the Criminal Action entered a judgment against him. As more fully described below, the Commission also brought a civil action against Cohen.

On December 20, 2023, the Commission issued an Order to Show Cause Regarding Service. *See* Exch. Act Release No. 99213, December 20, 2023. That Order noted that Cohen had been served with the OIP but had not filed an Answer, and ordered Cohen to show cause, by January 3, 2024, why he should not be found in default and have the proceeding determined against him due to his failure to file an Answer or otherwise defend the proceeding. That deadline passed without an answer, responsive pleading, or any other response or effort to defend this proceeding from Cohen. The Commission ordered the Division to file the instant Motion by January 31, 2024.

### **III. Memorandum of Law**

#### **A. Cohen's Criminal Case**

On March 9, 2022, the criminal authorities filed a complaint and supporting affidavit requesting an arrest warrant against Cohen. *See* Complaint and Affidavit in Support of Application for an Arrest Warrant dated Mar. 9, 2022, *United States of America v. Lee Cohen*, 22-MJ-266 (E.D.N.Y) [Copy attached hereto as Exhibit 1].<sup>1</sup> On May 9, 2022, the United States Attorney for the Eastern District of New York filed a superseding Information charging Cohen with conspiracy to commit securities fraud in violation of Exchange Act Section 10(b) and Rule 10b-5 on account of his participation in an international scheme to manipulate trading in HD View. *See* Information, *United States of America v. Lee Cohen*, 1:22-cr-00209 (E.D.N.Y) [Exhibit 2.] Cohen pleaded guilty to all charges, and he gave his allocution on August 1, 2022. Cohen confirmed, among other things, that he understood the charge of conspiracy to commit securities fraud, that he desired to plead guilty, and that he was under no undue influence. *See* Tr. of Criminal Case for Pleading [copy attached as Exhibit 3]. On May 16, 2023, Cohen was sentenced to seventeen months imprisonment with credit for time served since his arrest on March 16, 2022. *See* Judgment in a Criminal Case [Exhibit 4 hereto]. Cohen was subsequently deported from the United States.

#### **B. The Commission's Civil Action against Cohen's**

On May 2, 2023, the Commission filed a civil enforcement action against Cohen in the U.S. District Court for the Eastern District of New York, alleging violations of Section 17(a) of the Securities Act, and Sections 9(a)(1), 9(a)(2), 10(b), and 15(a) of the Exchange Act and Rule 10b-5, and seeking a permanent injunction, disgorgement with prejudgment interest, and a penny stock bar. *SEC v. Lee Cohen*, 1:23-cv-03309-AMD-TAM (E.D.N.Y.). Like the criminal case, the

---

<sup>1</sup> Cohen was also charged with an unrelated money laundering crime.

civil action alleges that Cohen, using his boiler room in Manila, participated in a scheme to manipulate trading in HD View stock. Cohen has defaulted in the civil case, and the Commission is currently scheduled to move for default judgment in that proceeding by March 15, 2024.

**C. Facts Admitted as True By Virtue of Cohen's Guilty Plea**

Based on Cohen's default, the allegations of the OIP "may be deemed to be true." 17 C.F.R. 201.155(a). Moreover, Cohen's guilty plea in the parallel criminal action binds him to the facts he admitted. *See Gary L. McDuff*, Exch. Act Rel. No. 74803, at 5 & n.18, 2015 WL 1873119, at n. 18 (Apr. 23, 2015); *Don Warner Reinhard*, Exch. Act Rel. No. 63720, at 11-12, 2011 WL 121451, at 7 (Jan. 14, 2011) (respondent who pleaded guilty "cannot now dispute the accuracy of the findings set out in the Factual basis for Plea Agreement); *Gary M. Kornman*, Exch. Act Rel. No. 59403, at 12, 2009 WL 367635, at 8 (Feb. 13, 2009) (criminal conviction based on guilty plea precludes litigation of issues in Commission proceedings), *aff'd*, 592 F.3d 173 (D.C. Cir. 2010).

The OIP and the facts admitted pursuant to the plea agreement establish the following:

1. Cohen, age 52, is a citizen of the United Kingdom. *See* OIP, § II.
2. From at least June 2017 through February 2018, he resided in and operated a self-described boiler room from Manila, The Philippines. *See* OIP, § II.A.
3. Cohen has never held any licenses in the financial services industry and has never been registered as or associated with a registered broker-dealer or any other entity registered with the Commission. *See* OIP, § II.A.
4. Cohen pled guilty to a count of conspiracy to commit securities fraud in a criminal information, dated May 9, 2022, which superseded a complaint and affidavit in support of an application for an arrest warrant filed under seal on March 9, 2022. *See* OIP, § II.B.
5. With regard to the count of conspiracy to commit securities fraud, the complaint and the superseding criminal information alleged, among other things, that Cohen engaged in a scheme with others to defraud investors and potential investors in the securities of HD View, a penny stock company that traded on the over-the-counter

markets, by, among other things, manipulating the price and trading volume of HD View shares. *See* OIP, §II.B.

6. The United States Attorney alleged that Cohen operated a call room in the Philippines – which he referred to as a “[b]oiler room” – to call individuals in the United States and recommend that they purchase HD View shares at particular prices. Cohen coordinated with another individual, who controlled the majority of HD View’s free-trading shares at the time to sell HD View shares at the same prices that Cohen recommended that investors pay to purchase the shares. Cohen received a portion of the proceeds from the sale of HD View shares. *See* OIP, §II.B.
7. Between July 2017 and February 2018, within the Eastern District of New York and elsewhere, Cohen, together with others, did knowingly and willfully conspire to use and employ one or more manipulative and deceptive devices and contrivances, contrary to Rule 10b-5 of the Rules and Regulations of the United States Securities and Exchange Commission, Title 17, Code of Federal Regulations, Section 240.10b-5, by: (a) employing one or more devices, schemes and artifices to defraud; (b) making one or more untrue statements of material fact and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaging in one or more acts, practices and courses of business which would and did operate as a fraud and deceit upon one or more investors and potential investors in HD View, in connection with the purchase and sale of investments in HD View, directly and indirectly, by use of means and instrumentalities of interstate commerce and the mails, contrary to Title 15, United States Code, Sections 78j(b) and 78ff. *See* Exhibit 2, ¶ 2.
8. In furtherance of the conspiracy, one of Cohen’s co-conspirators sold HD View shares into the market in August and September 2017, and remitted approximately \$5,300 to Cohen as payment for his participation in the conspiracy. *See* Exhibit 3, ¶ 3.
9. On May 15, 2023, a judgment in the criminal case was entered against Cohen. He was sentenced to a prison term of seventeen months and ordered to make restitution in the amount of \$1.2 million. *See* Exhibit 4.

#### **D. Entry of Default is Appropriate**

Rule 220(f) of the Commission’s Rules of Practice provides that if a “respondent fails to file an answer . . . within the time provided, such person may be deemed in default pursuant to Rule 155(a).” 17 C.F.R. § 201.220(f). Likewise, under Rule 155(a) of the Commission's Rules of Practice, a party who fails to file a timely answer “may be deemed to be in default” and the Commission “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. . . .” 17 C.F.R. § 201.155(a). Here, Cohen has not filed an answer and has not responded to the order to show cause. Therefore, the proceeding should be determined against him based on the record. *Lawrence Deshetler*, Advisers Act Rel. No. 5411, at 3, 2019 WL 6221492, at 2 (Nov. 21, 2019) ("Because DeShetler has failed to answer or respond to the Division's motion or to the show cause order, we find it appropriate to deem him in default and to deem the allegations of the OIP to be true.").

#### **E. Section 15(b)(6) Relief Is Appropriate**

The facts established by Cohen’s default and his guilty plea show that the Division is entitled to the relief it seeks under Exchange Act Section 15(b)(6)(A), which provides in relevant part:

With respect to any person . . . at the time of the alleged misconduct, who was associated or was seeking to become associated with a broker ... the Commission, by order, shall censure, place limitations on the activities or functions of such person, or suspend for a period not exceeding 12 months, or bar any such person from being associated with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, or from participating in an offering of penny stock, if the Commission finds, on the record after notice and opportunity for a hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person-

\* \* \* \*

(ii) has been convicted of any offense specified in [Exchange Act Section 15(b)(4)(B)] within 10 years of the commencement of the proceedings under this paragraph ....

In other words, the Commission is authorized to censure and bar from association with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent or nationally recognized statistical rating organization or from participating in an offering of penny

stock, any person who, at the time of the alleged misconduct, was associated with a broker or dealer and was convicted of any offense specified in Section 15(b)(4)(B) within ten years of the commencement of the proceedings if such sanction is in the public interest. The predicate offenses in Section 15(b)(4)(B) include, among other things, any crime that involves the purchase or sale of any security, or conspiracy to commit any such offense, that arises out of the conduct of a broker dealer, or that involves the larceny, theft, embezzlement, fraudulent conversion, or misappropriation of funds or securities. Here, the Commission should impose an associational bar against Cohen.

First, the facts established in the OIP and the Criminal Action show that Cohen was acting as an unregistered broker. Persons who “participat[e] in securities transactions at key points in the chain of distribution” are engaged in the business of effecting securities transactions for purposes of Section 3(a)(4). *See Mass. Fin. Servs., Inc. v. Secs. Investor Prot. Corp.*, 411 F. Supp. 411, 415 (D. Mass), *aff’d*, 545 F.2d 754 (1st Cir. 1976). If a person violates Section 15(a)(1) by acting as an unregistered broker-dealer, they are also “associated with” a broker-dealer for purposes of jurisdiction under Section 15(b)(6). *See Allen Perres*, Exch. Act Rel. No. 79858 at 4 (Jan. 23, 2017) (Comm. Op.) (order “finding that Perres acted as an unregistered broker also establishes that he was associated with a broker for purposes of Exchange Act Section 15(b)(6)”); *see also Saul Daniel Suster*, Exch. Act Rel. No. 90401 (Nov. 12, 2020) (Comm. Op.) (*citing Perres* for the same proposition).

Second, Cohen has been convicted of a qualifying offense. Under the Exchange Act, the Commission may sanction Cohen for an offense that “involves” mail fraud, or “embezzlement, fraudulent conversion, or misappropriation of funds.” *See* Exchange Act Sections 15(b)(4)(B)(iv), 15(b)(6)(A)(ii). Here, Cohen’s conviction is for conspiracy to commit securities fraud, and his admitted participation in a scheme to manipulate trading in the stock

of HD View, establishes that Cohen acted as an unregistered broker.

Third, the imposition of an associational bar against Cohen is in the public interest. In considering whether sanctions are in the public interest, and, if so, what sanctions to impose, the Commission typically considers several factors, referred to as the *Steadman* factors. Specifically, the Commission considers the egregiousness of 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 the Matter of Eric Butler*, Exchange Act Release No. 65204, 2011 SEC LEXIS 3002, at \*13-14 & n.21 (Aug. 26, 2011) (citing *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979), *aff'd on other grounds*, 450 U.S. 91 (1981)). While the inquiry is a “flexible one, and no one factor is dispositive,” *Id.* at \*14 & n.22 (quoting *In the Matter of David Henry Disraeli*, Exchange Act Release No. 57027, 2007 SEC LEXIS 3015, at \*61 (Dec. 21, 2007), petition denied, *Disraeli v. SEC*, 334 F. App'x 334 (D.C. Cir. 2009)), in this proceeding, these factors support the imposition of sanctions.

Cohen's actions in operating a boiler room to facilitate the manipulation of trading in a penny stock in close coordination with his co-conspirators were undoubtedly egregious. His actions were not isolated as they ran for months throughout the scheme. They also, by their very nature, demonstrated a high level of scienter. Lastly, Cohen has demonstrated no remorse and has all but entirely ignored the Commission's proceedings against him. While it is unclear what occupation he will pursue in the future, the public should be protected from the risk that Cohen



would once again offer his services to persons seeking assistance to manipulate trading in penny stocks in the future.

The undisputed facts and analysis of the *Steadman* factors demonstrates that the public interest weighs heavily in favor of the remedial sanctions sought herein. Cohen's criminal conviction for securities fraud supports this conclusion. Additionally, the facts that gave rise to Cohen's conviction establish that censuring and permanently barring him from association with a broker, dealer, investment adviser, municipal securities dealer, municipal adviser, transfer agent, or nationally recognized statistical rating organization and from participating in an offering of penny stock is an appropriate remedy and is necessary for the protection of investors.

Finally, the Division timely commenced this action. The Division must commence a proceeding under Section 15(b)(6)(A)(ii) within "10 years" of the criminal conviction. *See Joseph Contorinis*, Exch. Act Release No. 72031, at 4-6, 2014 WL 1665995, at 3 (Apr. 25, 2014) (10-year limitations period governs Section 15(b)(6)(A)(ii) proceeding; limitations period runs from date of conviction, not underlying conduct). Here, Cohen was convicted in May 2023, and the OIP was issued that same month. Therefore, this matter was timely filed.

#### **IV. Conclusion**

For the foregoing reasons, the Division of Enforcement requests that the Commission: (i) enter an Order of Default against Cohen; and (ii) enter an Order barring Cohen from associating with any broker, dealer, investment adviser, municipal securities dealer, municipal adviser, transfer agent, or nationally recognized statistical rating organization.

Dated: January 31, 2024

Respectfully submitted,

/s/ Duane K. Thompson

Duane K. Thompson

Kevin Guerrero

U.S. Securities and Exchange Commission

100 F Street, NE

Washington, DC 20549

202/551-7159 (Thompson)

[thompsond@sec.gov](mailto:thompsond@sec.gov)

[guerrerok@sec.gov](mailto:guerrerok@sec.gov)

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the Division of Enforcement has engaged a qualified process server to deliver true and correct copies of the foregoing Motion, as well as the Commission's Order dated December 20, 2023, to Respondent Lee Cohen in the United Kingdom at the address where he is believed to reside and where he was previously duly served with the OIP. The Division will file a supplemental Certificate of Service once proof of service on Cohen is obtained.

/s/Duane K. Thompson  
Duane K. Thompson