

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

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-21529**

**In the Matter of**

**RONALD SHANE FLYNN,**

**Respondent.**

**DIVISION OF ENFORCEMENT'S  
MOTION FOR LEAVE TO USE  
ALTERNATIVE MEANS OF SERVICE AS  
TO RESPONDENT RONALD SHANE  
FLYNN**

Pursuant to SEC Rule of Practice 141(a)(2)(iv)(D), the Division of Enforcement (“Division”) respectfully requests leave to use alternative means to serve Respondent Ronald Shane Flynn. Respondent is a citizen of the United States, and his last known address was in the United Arab Emirates. The Division proposes to effect service of the Amended Order Instituting Public Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934 (the “Order”) on Flynn by e-mail at an e-mail address known to be used by him. This method comports with Rule 141(a)(2)(iv)(D), which provides for service by “any other means not prohibited by international agreement, as the Commission or hearing officer orders,” and with Constitutional notions of due process.

**I. Background**

The Commission instituted these proceedings on July 14, 2023. On January 30, 2024, the Commission granted the Division of Enforcement’s motion for to amend the Order Instituting Proceedings. These proceedings follow litigation against Flynn in the U.S. District Court for the

District of New Jersey, which entered an order for default judgment against Flynn, among others, on June 22, 2023. *Securities and Exchange Commission v. Vuuzle Media Corp., et. al.*, Civil Action Number 2:21-cv-01226 (DNJ) (the “Vuuzle Action”), Dkt. No. 156.

The court in the Vuuzle Action held that the SEC adequately alleged that Flynn and others defrauded investors by falsely presenting Vuuzle Media Corp. and Vuuzle Media Corp. Ltd. (together “Vuuzle”) as a successful technology venture when in fact it was “simply a front for a boiler room” with the sole purpose of obtaining investor funds. Dkt. 155 at 9. The court further held that the SEC adequately alleged that Flynn acted as an unregistered broker-dealer. *Id.* at 15-16. The SEC alleged that Flynn staffed the boiler room with employees who were trained to aggressively and falsely solicit investor funds via telephone and email. *Id.* at 11. He further “promoted the merits of a Vuuzle investment, facilitated and negotiated the transactions, supervised and controlled a securities sales force, handled customer funds, drafted offering documents, and was paid in commissions,” but was not and has never registered with the SEC as a broker-dealer or a person associated with a broker-dealer. *Id.* at 15. Flynn then used investor funds for his personal and business interests. *Id.* at 2. Based on these allegations, the court held that Flynn violated the anti-fraud provisions of the securities laws and acted as an unregistered broker-dealer in violation of Section 15(a)(1) of the Exchange Act. *Id.* at 15.

The Court entered an Order and Judgment on June 22, 2023, imposing conduct-based injunctions and permanently enjoining Respondent from future violations of Sections 5 and 17(a) of the Securities Act of 1933, Sections 10(b) and 15(a) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder. Dkt. No. 156.

In litigating the Vuuzle Action, SEC twice moved for leave to effect alternative service on Flynn, who was last known to reside in the United Arab Emirates. The court granted the first

motion for alternative service to Flynn’s email address “ [REDACTED] ” on May 3, 2021. Dkt. No. 33. On March 24, 2022, the SEC again moved the court for alternative service with respect to serving an amended complaint against Flynn using the same email address. Dkt. No. 106. The court granted the second motion for alternative service on April 8, 2022. Dkt. No. 118. However, when the SEC attempted to serve its amended complaint at the address, Flynn deactivated that e-mail address in an attempt to further delay proceedings. Dkt. Nos. 144-2 ¶ 6-9, 155 at 7 n. 4. Nevertheless, in its order granting the SEC’s motion for default judgment, the Court held that the SEC had adequately served its amended complaint on Flynn by sending it to a different e-mail address, [REDACTED], that the SEC showed Flynn had used to communicate with investors as recently as June 2022. Dkt. No. 155 at 7 n. 4.

## **II. Prior Attempts to Serve Respondent**

As described in the Division’s September 28, 2023 Status Report Concerning Service of the Order Instituting Proceedings, and in subsequent Status Reports, on or about July 18, 2023, the Office of the Secretary mailed by USPS two copies of the OIP to Flynn at an address located in Dubai, United Arab Emirates. Commission records indicated that the Dubai address was, at one time, Flynn's home address. That same day, the Office of the Secretary also emailed a copy of the OIP to the [REDACTED] e-mail address described above. As described in subsequent Status Reports, filings in this proceeding have been mailed to the Dubai address and Flynn's e-mail address. While the Division has received no indication that the email address is inactive, the documents mailed to the Dubai address have either been returned to the Division as undeliverable or appear to be in the process of being returned.

## **III. Relief Requested and Argument**

In light of the Division’s unsuccessful attempts to serve Respondent via standard means,

the Division respectfully requests leave to effect service of the Amended OIP by alternative means. Specifically, the Division requests that the Court approve service on the Respondent by e-mail at the e-mail address [REDACTED]. This method comports both with Rule 141(a)(2)(iv)(D), which provides for service on a foreign person by “any other means not prohibited by international agreement, as the Commission or hearing officer orders,” and with Constitutional notions of due process. *See Rio Properties, Inc. v. Rio Int’l Interlink*, 284 F.3d 1007, 1016 (9<sup>th</sup> Cir. 2002) (“Even if facially permitted by [Fed. R. Civ. P.] Rule 4(f)(3), a method of service of process must also comport with constitutional notions of due process.”).

Rule 141(a)(2)(iv) tracks Federal Rule of Civil Procedure 4(f)(3). That rule specifies that service may be effected by any method reasonably calculated to give notice, including “by other means not prohibited by international agreement, as the court orders.” Fed. R. Civ. Proc. 4(f)(3)(iii). For foreign defendants, Rule 4(f)(3) was “adopted to provide flexibility and discretion to the federal courts in dealing with questions of alternative methods of service of process in foreign countries.” *In re Int’l Telemedia Assoc., Inc.*, 245 B.R. 713, 719 (N.D. Ga. 2000). The authorization of service under Rule 4(f)(3) is “neither a last resort nor extraordinary relief” and plaintiff “need not have attempted every permissible means of service of process before petitioning the court for alternative relief.” *Rio Properties*, 284 F. 3d at 1007.

Courts routinely permit service by e-mail under Rule 4(f)(3) in SEC enforcement actions. *See, e.g., SEC v. Vuuzle Media Corp., et al.*, No. 2:21-cv-1226, 2021 WL 173180947 (D.N.J. May 3, 2021); *SEC v. de Nicolas Gutierrez*, No. 17-cv-2086, 2020 WL 1307143, at \*2 (S.D. Cal. March 19, 2020). Service by e-mail is especially appropriate here under Rule 141(a)(2)(iv), which mirrors Rule 4(f)(3), pursuant to which a federal court approved the use of an e-mail used by Respondent for service by the SEC in the Vuuzle Action, and then found that service was sufficient for

purposes of a default judgment. As recently as June 2022, Respondent continued to communicate with investors using the email address [REDACTED]. (See the February 1, 2024 Declaration of Devon Staren, submitted herewith, at ¶ 3). And emails to this address from the Commission, both in the Vuuzle Action and during these proceedings, were transmitted successfully and with no indication that the messages were not received. (*Id.*).

Further, the Division has attempted to serve Respondent by mail at a physical location without success. The Division's efforts support the use of email to serve Respondent. *Vuuzle*, 2021 WL 1731947 at \*2 (explaining that while "there is no requirement that Plaintiff attempt service pursuant to [other Rule 4(f)] provisions . . . before seeking . . . to effect service by other means . . . it is helpful to plaintiff's case to show some measure of difficulty in effecting service by usual means"). More fundamentally, at this point the Division simply does not know where Respondent's physical location is, making his e-mail address the best possible means to ensure that he is apprised of the Amended OIP and other filings in this matter.

The Commission has recently authorized alternative service on similar facts. In *In the Matter of Hung Wai "Howard" Shern*, File No. 3-21220, December 26, 2023, the Commission authorized service on an email address for an elusive foreign respondent. As here, the respondent's email address had been regularly used for service by the Commission, without any indication that it was inactive. Accordingly, the Commission found that "service by e-mail under the circumstances . . . complies with due process." For this reason and the reasons set forth above, the Commission should rule similarly in this Proceeding.

#### **IV. Conclusion**

For the reasons set forth above, the Division of Enforcement respectfully requests that the

Court authorize alternative service of process of the Amended OIP and other papers upon Respondent by e-mail at the e-mail address [REDACTED].

Dated: February 1, 2024

Respectfully submitted,

/s/ Daniel J. Maher  
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Daniel J. Maher  
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*Counsel for Division of Enforcement*

**CERTIFICATE OF SERVICE**

I certify that on February 1, 2024, I caused a copy of the forgoing to be emailed to Flynn's email address at [REDACTED]

/s/ Daniel J. Maher  
Daniel J. Maher

**UNITED STATES OF AMERICA**  
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**In the Matter of**

**RONALD SHANE FLYNN,**

**Respondent.**

**DECLARATION OF DEVON STAREN IN  
SUPPORT OF THE DIVISION OF  
ENFORCEMENT’S MOTION FOR LEAVE  
TO USE ALTERNATIVE MEANS OF  
SERVICE AS TO RESPONDENT RONALD  
SHANE FLYNN**

I, Devon Leppink Staren, pursuant to 28 U.S.C. § 1746, do hereby declare as follows:

1. I am an attorney in the Division of Enforcement (the “Division”). I am currently a member in good standing of the Washington, D.C. Bar. I serve as co-counsel for the Division in the above-captioned Proceeding and in the related federal court litigation, *SEC v. Vuuzle Media Corp.*, No. 2:21-cv-01226 (D.N.J.) (the “Vuuzle Action”). I make this Declaration in support of the Division’s Motion for Leave to Use Alternative Means of Service as to Respondent Ronald Shane Flynn (“Flynn”).

2. The facts set forth herein are based upon my personal knowledge and information contained in the Division’s files.

3. As recently as June 2022, Flynn continued to communicate with investors using the email address [REDACTED]. And emails to this address from the Commission, both in the Vuuzle Action and during these proceedings, were transmitted successfully and with no indication that the messages were not received.



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

Executed on February 1, 2024

Respectfully submitted,

/s/ Devon Leppink Staren \_\_\_\_\_  
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