

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-21790

In the Matter of

**ERIC CHRISTOPHER
CANNON,**

Respondent.

**DIVISION OF ENFORCEMENT'S MOTION
FOR SUMMARY DISPOSITION AGAINST
RESPONDENT ERIC CHRISTOPHER
CANNON AND MEMORANDUM OF LAW
IN SUPPORT THEREOF**

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Pursuant to Rule 250(b) of the Securities and Exchange Commission’s (“SEC” or “Commission”) Rules of Practice, the Division of Enforcement (“Division”) respectfully moves for summary disposition against Respondent Eric Christopher Cannon (“Cannon”). This is a follow-on 75-day proceeding arising from a civil injunction imposed by the United States District Court for the Central District of California against Cannon, after it entered summary judgment on behalf of the SEC and after full briefing on remedies.¹ Cannon has been enjoined from the unregistered offer and sale of securities in violation of Section 5 of the Securities Act of 1933 (“Securities Act”) and from acting as an unregistered broker in violation of Section 15(a) of the Securities Exchange Act of 1934 (“Exchange Act”), making the sole issue in this proceeding the appropriate sanctions against him under Section 15(b) of the Exchange Act. Based on the evidentiary record developed in the District Court action, and the District Court’s finding that a permanent injunction against Cannon was appropriate due to the risk of his future violations of the securities laws, the Commission should grant this motion for summary disposition and impose an order: (1) barring Cannon from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; and (2) barring Cannon from participating in the offering of any penny stock.

I. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

A. District Court Proceedings

On April 7, 2015 the SEC filed a Complaint against Cannon in the United States District Court for the Central District of California, in the civil action entitled *Securities and Exchange*

¹ *Eric Christopher Cannon*, Exchange Act Rel. No. 99858 (March 27, 2024).

Commission v. Pacific West Capital Group, Inc., et al., No. 2:15-CV-02563-DDP-ASx, alleging that Cannon violated Section 5(a) and (c) of the Securities Act, 15 U.S.C. § 77e(a) and 77e(c), and Section 15(a)(1) of the Exchange Act, 15 U.S.C. § 78o(a)(1). Declaration of Donald W. Searles in Support of Division’s Motion for Summary Disposition (“Searles Decl.”), ¶ 2, Ex. 1.² The Commission’s complaint alleged that from September 2010 to April 2015, Cannon sold unregistered securities, in the form of fractionalized interests in universal life insurance policies, or “life settlements,” offered by Pacific West Capital Group, Inc. (“Pacific West” or “PWCG”) and issued by the PWCG Trust, and that he acted as a broker by effecting transactions in securities for the accounts of others, soliciting investors, providing investors with disclosure documents, participating in taking investors’ orders, and receiving transaction-based compensation from the sales of life settlement securities to investors in the form of an 8% commission, without registering independently as a broker or being affiliated with any registered broker.

On April 21, 2023, the District Court granted, in part, the SEC’s motion for summary judgment and held that Cannon violated the securities registration requirements under Section 5(a) and (c) of the Securities Act and the broker-dealer registration requirements under Section 15(a) of the Exchange Act. Searles Decl., ¶ 30, Ex. 29, reported at *SEC v. Barry*, 670 F. Supp 3d 976 (2023). In that order, the Court discussed the nature of Pacific West’s sale of fractionalized interests in life insurance policies, which it advertised would pay “between 100% and 175% total fixed return on each investment” and its representations that it had carefully selected policies that

² Under Rule of Practice 323, notice may be taken in this proceeding of “any material fact which might be judicially noticed by a district court of the United States....” 17 C.F.R. § 201.323. The Commission therefore may take judicial notice of its own public official records, and of the docket reports, pleadings, court orders, and other filings of the parties in the civil action. Accordingly, the Division respectfully requests judicial notice be taken of the exhibits attached to the Searles Declaration, all of which are taken from the district court’s docket.

would mature in 4 to 7 years. An important component of Pacific West's life settlement arrangements was its "three-tier premium reserve" which Pacific West's CEO, Andrew B. Calhoun ("Calhoun") claimed was "unique in the industry" with sufficient reserves to fund payment premiums for 6 to 9 years, longer than the estimated 4 to 7-year period for a policy to mature.³

On July 12, 2023, having considered the parties' additional briefing and oral arguments regarding remedies, the District Court entered an order permanently enjoining Cannon from future violations of Section 5 of the Securities Act and Section 15(a) of the Exchange Act, and ordering that he pay disgorgement in the amount of \$219,333.33 and a \$15,000 civil penalty. Searles Decl., ¶ 34, Ex. 334 (Dkt. No. 555); reported at *SEC v. Barry*, No. 2:15-cv-02563 DDP (MAAx), 2023 U.S. Dist. LEXIS 120200 (C.D. Cal. July 12, 2023). On August 10, 2023, the District Court entered a final judgment against Cannon imposing those remedies. Dkt. No. 558. Thereafter, on December 12, 2023, the District Court entered an amended final judgment against Cannon to

³ On June 15, 2018, a final judgment was entered against Calhoun, pursuant to his consent on a neither admit nor deny basis, which permanently enjoined him from committing future violations of Sections 10(b) and 15(a) of the Exchange Act and Rule 10b-5 thereunder, and Sections 5 and 17(a) of the Securities Act, and ordering him to pay \$3,745,416 in disgorgement, prejudgment interest of \$409,045.99 and a civil penalty of \$320,000. Searles Decl., ¶ 18, Ex. 17 (Dkt. No. 165). In a follow-on administrative proceeding, Calhoun was barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization. *Andrew B. Calhoun IV*, Exchange Act Rel. No. 83605 (July 9, 2018). Calhoun's son, Andrew B. Calhoun, Jr. ("Calhoun Jr.") who worked as a sales agent for Pacific West, was also a named defendant in the SEC's complaint. On June 26, 2018, a final judgment was entered against him, permanently enjoining him from committing future violations of Section 5 of the Securities Act and Section 15(a) of the Exchange, and ordering him to pay \$104,800 in disgorgement, prejudgment interest of \$11,445.49, and a \$7500 civil penalty. Searles Decl., ¶ 21, Ex. 20, Dkt. No. 168). In a follow-on administrative proceeding, Calhoun Jr. was barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization. *Andrew B. Calhoun Jr.*, Exchange Act Rel. No. 83606 (July 9, 2018).

correct an error in the final judgment regarding the amount of disgorgement. Searles Decl., ¶ 35, Ex. 34 (Dkt. No. 600).

B. The Follow-on Administrative Proceeding

On October 31, 2023, the Commission issued an Order Instituting Proceedings (“OIP”) against Cannon pursuant to Section 15(b) of the Exchange Act. The OIP alleged that Cannon, from at least September 2010 through April 2015, was a sales agent with Pacific West, where he engaged in the sale of unregistered securities consisting of fractionalized interests in universal life insurance policies offered by Pacific West and the PWCG Trust, acted as a broker for that securities offering without being registered as a broker or associated with a registered broker, and that a federal district court had enjoined him from future violations of Section 5 of the Securities Act and Section 15(a) of the Exchange Act.⁴ The OIP instituted proceedings to determine whether the allegations were true and whether any remedial action is appropriate in the public interest.

On January 1, 2024, Cannon filed an answer to the OIP and, on January 19, 2024, moved to dismiss or stay the proceedings pending his appeal from the district court’s judgment to the United States Court of Appeals for the Ninth Circuit. In both his answer and motion, Cannon asserted that the OIP contained various errors and did not acknowledge that the operative final judgment is the amended final judgment entered against Cannon on December 13, 2023. On January 24, 2024, the Division filed an opposition to Cannon’s motion. On January 26, 2024, the Commission ordered the parties to submit briefs addressing those issues.⁵ Thereafter, the

⁴ *Eric Christopher Cannon*, Exchange Act Rel. No. 98827 (Oct. 31, 2023).

⁵ *Eric Christopher Cannon*, Exchange Act Rel. No. 99424 (Jan. 26, 2024).

Division filed an unopposed motion to amend the OIP, which the Commission granted on March 27, 2024.⁶ In that Order, the Commission also denied Cannon's motion to dismiss or stay the proceeding pending his appeal of the district court's judgment. *Id.*

On April 16, 2024, Cannon filed an answer to the amended OIP. In his answer, Cannon admitted that he was a sales agent with Pacific West and engaged in the sale of fractionalized interests in universal life insurance policies offered by Pacific West and the PWCG Trust.

Answer, ¶ 1.⁷

II. ARGUMENT

The Commission should grant the Division's motion for summary disposition because there is no genuine issue of material fact that Cannon meets the requirements for the Commission to sanction him, and an associational and penny stock bar is in the public interest.

A. Standard for Summary Disposition.

SEC Rule of Practice 250(b) provides that after a respondent's answer has been filed and documents have been made available to the respondent for inspection and copying, a party may

⁶ *Eric Christopher Cannon*, Exchange Act Rel. No. 99858 (Mar. 27, 2024).

⁷ In his answer, Cannon asserted nine affirmative defenses: (1) that the OIP fails to state a claim upon which relief can be granted; (2) the OIP fails to state facts sufficient to allege his violation of the Exchange Act or any rule thereunder; (3) that the administrative proceeding is barred by the applicable statute of limitations of 28 U.S.C. § 2462; (4) that the administrative proceeding is barred by the doctrine of waiver; (5) that the administrative proceeding violates the Due Process clause of the U.S. Constitution; (6) that the administrative proceeding violates Articles I and II of the U.S. Constitution; (7) that the administrative proceeding violates the Seventh Amendment to the U.S. Constitution; (8) that the administrative proceeding is arbitrary, capricious and selective prosecution; and (9) that the Commission's claims against him are barred because he acted in good faith, exercised reasonable care, and acted in reasonable reliance on others.

move for summary disposition of any or all allegations of the OIP.⁸ 17 C.F.R. § 201.250(b).

A motion for summary disposition may be granted 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. *Id.* “The Commission has repeatedly upheld the use of summary disposition in cases such as this, where the respondent has been enjoined or convicted and the sole determination concerns the appropriate sanction.” *Jeffrey S. Gibson*, Exchange Act Rel. No. 57266, 2008 SEC LEXIS 236 (Feb. 4, 2008), *petition for review denied*, *Gibson v. SEC*, 561 F.3d 548 (6th Cir. 2009).

B. The Exchange Act expressly provides for sanctions in this case.

The Exchange Act expressly authorizes the Commission to sanction persons, like Cannon, who are enjoined from acting as an unregistered broker. Exchange Act Section 15(b)(6)(A) provides, in part, that “the Commission, by order, shall censure, place limitations on the activities or functions of [any person who is associated, or at the time of the alleged misconduct was associated with a broker-dealer] 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 . . . if the Commission finds . . . [that such a sanction] is in the public interest” and that such person “is enjoined from any action, conduct or practice specified in subparagraph (C) of paragraph 4,” which includes any conduct or practice in connection with activities as a broker or in connection with the purchase or sale of any security (15 U.S.C. §§ 78o(b)(6)(A) (iii), 78o(b)(4)(C)); *see Bartko v. SEC*, 845 F.3d 1217, 1220-21 (D.C. Cir. 2017)

⁸ On January 2, 2024, counsel for the Division sent a letter to Cannon’s counsel informing him that the Division had complied with Rule of Practice 230, which describes the obligations surrounding inspection and copying of documents in an OIP.

(“Under Dodd-Frank, then, the Commission is now able to bar a securities market participant from the six listed classes—broker-dealers, investment advisers, municipal securities dealers, transfers agents, municipal advisors and NRSROs—based on misconduct in only one class.”); *Michael D. Richmond*, Initial Decisions, SEC Rel. No. 224, 2003 SEC LEXIS 3308, at *5 (Feb. 25, 2003) (holding Section 15(b)(6)(A)(iii) provides “authority to bar any person who is associated with a broker or dealer if the Commission finds the bar is in the public interest and the associated person is enjoined from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security.”).

C. The District Court enjoined Cannon from conduct in connection with acting as a broker and in connection with the purchase or sale of securities.

Here, there can be no material dispute that the allegations set forth in Section II of the amended OIP are true. Based on the summary judgment record before it, as well as the parties’ additional briefing and oral argument on remedies, the District Court permanently enjoined Cannon from “engaging in or continuing any conduct or practice with any activities as broker]” and “in connection with purchase or sale of any security” within the meaning of Sections 15(b)(4)(C) and 15(b)(6)(A)(iii) of the Exchange Act. *See, e.g., Tzemach David Netzer Korem*, Exchange Act Rel. No. 70044, 2013 SEC LEXIS 2155, at *32 (July 26, 2013) (“It is well established that we are authorized to sanction an associated person of an unregistered broker-dealer or investment adviser in a follow-on administrative proceeding.”); *Vladislav Steven Zubkis*, Exchange Act Rel. No. 52876, 2005 SEC LEXIS 3125, at *9 & n.16 (Dec. 2, 2005) (unregistered associated person of an unregistered broker-dealer barred from association with a broker or dealer).

As such, the Division's motion for summary disposition should be granted, leaving only the question of whether sanctions are in the public interest. *Lodavina Grosnickle*, Initial Decisions Rel. No. 441, 2011 SEC LEXIS 3969 (Nov. 10, 2011).⁹

D. An industry bar against Cannon is in the public interest.

In determining appropriate sanctions, the Commission is guided by the public interest factors identified in *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979), *aff'd on other grounds*, 450 U.S. 91 (1981). *See* 15 U.S.C. § 78o(b)(6). The *Steadman* factors include: (1) the egregiousness of the respondent's actions; (2) the isolated or recurrent nature of the infraction; (3) the degree of scienter involved; (4) the sincerity of the respondent's assurances against future violations; (5) the respondent's recognition of the wrongful nature of his conduct; and (6) the likelihood of future violations. *Id.* at 1140. Additionally, the Commission considers the age of the violation, the degree of harm to investors and the marketplace resulting from the violation, and the deterrent effect of administrative sanctions. *Joseph J. Fox*, Initial Decisions Rel. No. 1004, 2016 SEC LEXIS 1515, at *11 (Apr. 25, 2016); *Marshall E. Melton*, 56 S.E.C. 695, 698 (2003). The *Steadman* factors are flexible and no one factor is dispositive. *See Gary M. Kornman*, Exchange Act Rel. No. 59503, 2009 SEC LEXIS 367, at *22 (Feb. 13, 2009). The Commission must "review each case on its own facts to make findings regarding the respondent's fitness to participate in the industry in the barred capacities," and the decision

⁹ To the extent Cannon asserts that the amended OIP fails to state a claim upon which relief can be granted, or fails to state facts sufficient to allege his violation of the Exchange Act, he may not use these proceedings to collaterally attack the district court's findings of fact or conclusions of law. *James S. Tafliaferri*, Securities Act Rel. No. 10308, 2017 SEC LEXIS 481, at *10 (Feb. 15, 2017); *Peter Emrich*, Initial Decisions Rel. No. 446, 2011 U.S. Dist. LEXIS 4593, at *15 (Dec. 30, 2011); *John W. Lawton*, Initial Decisions Rel. No. 3513, 2012 SEC LEXIS 3855, at *15 (Dec. 13, 2012); *Gary S. Kornman*, Exchange Act Rel. No. 59403, 2009 SEC LEXIS 367 (Feb. 13, 2009).

“should be grounded in specific findings regarding the protective interests to be served by barring the respondent and the risk of future misconduct.” *Ross Mandell*, Exchange Act Rel. No. 71668, 2014 SEC LEXIS 849, at *8 (Mar. 7, 2014) (internal quotation marks omitted), *vacated in part on other grounds*, Exchange Act Rel. No. 77935, 2016 SEC LEXIS 1886 (May 26, 2016).

1. The District Court’s Findings

In deciding to issue an injunction against Cannon, the District Court judge applied the factors set forth in Ninth Circuit case law, which are substantially the same as the *Steadman* factors. *See SEC v. Barry*, 2023 U.S. Dist. LEXIS 120200, at *13 (applying factors identified in *SEC v. Murphy*, 50 F.4th 832, 841-42 (9th Cir. 2022)).¹⁰ Even if Cannon were not precluded from relitigating the District Court’s findings (*but see, supra*, fn. 9, *supra*), there is no genuine issue that the District Court was correct in finding Cannon was reasonably likely to commit violations of the securities laws in the future.

a. Scienter

The District Court noted that although the SEC did not bring fraud claims against Cannon, or his fellow co-defendant-brokers Brenda Barry and Caleb Moody (collectively, “Defendants”), “they were, in many cases, the sales agents who provided the allegedly misleading information to investors.” *Id.*, at *8. By way of one example, the District Court found that Cannon had told investors that PWCG had “accumulated millions of dollars in the secondary and tertiary reserves,” and because PWCG Trust had yet to dip into those reserves, Cannon did not “anticipate” investors would be subject to premium calls. The District Court

¹⁰ The factors identified in *Murphy* are: (1) the degree of scienter; (2) the isolated or recurrent nature of the infraction; (3) defendant’s recognition of the wrongful nature of his conduct; (4) the likelihood, because of defendant’s occupation, that future violations might occur; and (5) the sincerity of defendant’s assurances against future violations. 50 F.4th at 841-42.

found that when Cannon made those statements, premium reserves for some of the policies in PWCG Trust's portfolio had in fact run out. *Id.*, at *8. In addressing Defendants' claim that they relied on information from Calhoun, who lied to or misled Defendants, the District Court found that "it is unclear how reasonable it was for Defendants to parrot, without verifying, these statements to investors" but that, "Calhoun's reassurances mitigate, at least somewhat, Defendants' culpability for misleading investors." *Id.*

In assessing the degree of Defendants' scienter in connection with the SEC's request for injunctive relief, the District Court noted that, although not an element of the registration violations for which the Defendants had been found liable, the degree of their scienter regarding their failure to register does bear on the likelihood of their future violations. *Id.* at *13. Whether Defendants understood Pacific West's fractionalized interests in life settlements were securities, the District Court again noted Defendants' reliance on Calhoun's statements that PWCG's business was in compliance with the securities laws, and that the issue of whether PWCG's investment contracts were securities was close enough that Defendants could have reasonably believed Calhoun and his attorneys.¹¹ The District Court ultimately concluded, "[d]efendants level of scienter regarding their failure to register weighs somewhat against a finding that future violations are reasonably likely." *Id.* at *14.

b. Isolated or recurrent nature of the violation.

As to the second *Steadman/Murphy* factor, the recurrent nature of the misconduct, the District Court found that Defendants, including Cannon, had been involved in the scheme for

¹¹ Neither Calhoun nor Cannon asserted an affirmative advice of counsel defense in the underlying District Court litigation. Searles Decl., ¶¶ 12 and 13, Exs. 11 and 12 (Dkt. Nos. 62 and 64).

“several years,” and that “the recurrent nature of their violations weighed somewhat in favor of a finding that future violations are reasonable likely.” *Id.* at *14.

c. Recognition of the wrongful nature of the conduct.

In assessing the third *Steadman/Murphy* factor, the District Court considered the Defendants’ recognition of the wrongful nature of their misrepresentations to investors. As the District Court stated:

Relevant to the question of the likelihood that they will violate the securities laws in the future are Defendants’ reactions after Calhoun informed Defendants in 2014 that primary reserves on some policies had run out, and after Defendants learned of the allegations underlying the SEC’s claim in 2015. In particular, Cannon discounted the importance of these misrepresentations, claiming that many investors told him they were not concerned with PWCG’s track records and that the reliability of Calhoun’s seven-year lifespan estimates “doesn’t affect the investor.”

Id. at * 15. The District Court found that Cannon’s statements “evidence[], at a minimum, a lack of sufficient attention ...to the securities laws.” *Id.* at *16 (quoting *Olins*, 762 F. Supp. 2d 1193, 1196 (N.D. Cal. 2011) (analyzing the totality of defendant’s conduct which evidenced “a willingness to further his goals at the expense of total candor...”). As to Cannon, therefore, the District Court found the third factor “weighs somewhat in favor of a finding he is reasonably likely to violate the securities laws in the future.” *Id.*

d. Cannon’s occupation

The District Court noted that Cannon represented that he wishes to remain in the services industry as an investment adviser, whereas his codefendant-brokers, Barry and Moody, represented that they did not plan to re-enter the securities industry. *Id.*

e. Cannon’s assurances against future violations.

The District Court noted that each of the Defendants included in their declarations the same statement: “I believe it is important to uphold the federal securities laws and will continue to do so in my future career.” The District Court observed that even “sincere assurances of an intent to refrain from aiding and abetting future violations are insufficient, without more, to militate against an injunction.” *Id.* at *17 (quoting *SEC v. Fehn*, 97 F.3d 1276, 1296 (9th Cir. 1996)). As such, the District Court found this factor weighs neither for nor against granting an injunction.

Based on assessment of all these factors, the District Court concluded that, as to Cannon alone, the totality of circumstances warranted the imposition of an injunction.

2. The public interest warrants sanctions.

The Commission should likewise conclude that the totality of the circumstances demonstrate Cannon’s current lack of competence to work in the securities industry and his likelihood of future violations of the securities laws and therefore an associational and penny stock bar against Cannon is in the public interest. Whether to impose remedial sanctions under Section 15(b)(6) of the Exchange Act involves a determination of whether Cannon lacks “current competence” or poses a “degree of risk ... to public investors and the securities markets.” *Larry C. Grossman*, Securities Act Rel. No. 10227, 2016 SEC LEXIS 3768, at *34 & n. 95 (Sept. 30, 2016). Here, although the District Court found that the level of Cannon’s scienter regarding his failure to register as a broker weighs somewhat against a finding that future violations are

somewhat likely, Cannon’s conduct was plainly willful.¹² He personally solicited investments in Pacific West securities, he oversaw transactions, and earned over \$650,000 in commissions for selling Pacific West’s fraudulent offerings. And while the District Court noted that Cannon had not been charged with fraud, as a sales agent, he provided misleading information to investors and discounted the importance of those misrepresentations after he learned in 2014 that PWCG’s primary reserves had run out on some policies, and after he learned of the allegations underlying the SEC’s claims in 2015. *SEC v. Barry*, 2023 U.S. Dist. LEXIS 120200, at *15. Clearly, Cannon’s “willingness to further his goals at the expense of total candor” indicate a lack of competence to work in the securities, and the concomitant risk of future violations, especially given Cannon’s stated desire to work in the securities industry as an investment advisor, which, under the Investment Advisers Act of 1940, would impose on Cannon an affirmative duty of utmost good faith and full and fair disclosure of all material facts to his clients. *See, e.g., SEC v. Westport Capital Markets, Inc.*, 408 F. Supp. 3d 93, 99 (D. Conn. 2019). Similarly, the fact that Cannon is not presently employed in the securities industry, or the age of his misconduct, do not render remedial relief inappropriate. *John A. Carley*, Securities Act Rel. No. 888, 2008 SEC LEXIS 222, at *60, n. 119 (Jan. 31, 2008); *Joseph Contorinis*, Initial Decisions Rel. No. 503, 2013 SEC LEXIS 2463 (Aug. 22, 2013) (imposing remedial relief based on eight-year-old conduct).

¹² *See David F. Bandimere*, Initial Decisions Rel. No. 507, 2013 SEC LEXIS 3142, at *121 (Oct. 8, 2013) (“The Commission has consistently held that it is not necessary to find that the respondent ‘was aware of the rule violated or that he acted with a culpable state of mind’ to find a willful violation.”) (quoting *Joseph S. Asmundsen*, Exchange Act Rel. No. 69406 (Apr. 18, 2013), 106 SEC Docket 67744, 66757); *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (willfully, as used in Section 15(b)(4)(D) of the Exchange Act, means no more than that the person charged with the duty knows what he is doing, not that he knows he is breaking the law).

In short, given the importance of the securities and broker-dealer registration provisions, Cannon’s years-long failure to abide by those registration requirements, the harm caused to investors,¹³ his continued inability to recognize the wrongful nature of his conduct,¹⁴ and his “lack of attention” to the securities laws, sanctions against Cannon are clearly warranted. *SEC v. Benger*, 697 F. Supp. 2d 932, 944 (N.D. Ill. 2010) (“Section 15(a)’s registration requirement is ‘of the utmost importance in effecting the purposes of the Act’ because it enables the SEC ‘to exercise discipline over those who may engage in the securities business and it establishes necessary standards with respect to training, experience, and records.’”) (citations omitted); *see also Joseph J. Fox*, 2016 SEC LEXIS 1515, at *16 (“‘Securities professionals are required to be knowledgeable about, and to comply with, the regulatory requirements to which they are subject’ and failure to meet this standard constitutes an ‘extreme departure from the standard of ordinary care... and establishes recklessness.’”) (quoting *Abraham and Sons Capital, Inc.*, 55 S.E.C. 252, 268-69 (2001)). In addition, imposing sanctions against Cannon will serve the Commission’s interest in deterring others from engaging in similar misconduct. *Sean P. Finn and M. Dwyer, LCC*, Initial Decisions Rel. No. 1306 (Feb. 18, 2020).¹⁵

¹³ In rejecting Defendants’ characterization of the facts, the District Court found that investors are not “likely to be made whole” by distributions from the Pacific West receivership. 2023 U.S. Dist. LEXIS 120200, at *3.

¹⁴ In his answer, Cannon asserts, for his ninth affirmative defense, that he acted in good faith, exercised reasonable care, and acted in reasonable reliance on others.

¹⁵ To the extent Cannon asserts that the five-years statute limitations set forth in 28 U.S.C. § 2462 bars the Commission from ordering sanctions, his argument should be rejected. *Larry C. Grossman*, Securities Act Rel. No. 10227, 2016 SEC LEXIS 3768, at *32 (Sept. 30, 2016) (“[w]hen we impose equitable remedies to serve the public interest – by protecting the public from future harm – we are not seeking to impose a ‘suffering’, which is how the Supreme Court described the category of punishments covered by Section 2462’s predecessor statute.”).

III. CONCLUSION

For the foregoing reasons, the Division respectfully requests that the Commission grant this Motion for Summary Disposition and enter an order under Section 15(b)(6)(A) (i) and (iii) of the Exchange Act: (1) barring Cannon from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; and (2) barring Cannon from participating in the offering of any penny stock.

Dated: April 26, 2024

Digitally signed
by DONALD
SEARLES
Date: 2024.04.26
11:36:10 -07'00'

Donald W. Searles

In the Matter of Eric Christopher Cannon
Administrative Proceeding File No. 3-21790
SERVICE LIST

Pursuant to Commission Rule of Practice 151 (17 C.F.R. §201.151), I certify that the attached:

MOTION FOR SUMMARY DISPOSITION AGAINST RESPONDENT ERIC CHRISTOPHER CANNON AND MEMORANDUM OF LAW IN SUPPORT THEREOF

was served on April 26, 2024, upon the following parties as follows:

Vanessa Countryman, Secretary
Securities and Exchange Commission
100 F. Street, N.E., Mail Stop 1090
Washington, DC 20549-1090

(By eFAP)

Nicolas Morgan, Esq.
ICAN Law
453 S. Spring St., Ste 400
Los Angeles, CA 90013
nicolas.morgan@icanlaw.org
Counsel for Eric Christopher Cannon

(By U.S Postal Service)

Dated: April 26, 2024

DONALD Digitally signed by
SEARLES DONALD SEARLES
Date: 2024.04.26
11:40:18 -07'00'

Donald W. Searles

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-21790

In the Matter of

ERIC CHRISTOPHER CANNON,

Respondent.

**DECLARATION OF DONALD W.
SEARLES IN SUPPORT OF
DIVISION OF ENFORCEMENT'S
MOTION FOR SUMMARY
DISPOSITION AGAINST
RESPONDENT ERIC
CHRISTOPHER CANNON**

I, DONALD W. SEARLES, pursuant to 28 U.S.C. § 1746, declare:

1. I am an attorney at law admitted to practice law in the State of California and before the United States District Court for the Central District of California. I am employed as an attorney in the Los Angeles Regional Office of the U.S. Securities and Exchange Commission (“SEC”) and am counsel for the Division of Enforcement (“Division”) in this case. I have personal knowledge or knowledge based upon my review of the file of the facts set forth in this Declaration and, if called and sworn as a witness, could and would competently testify thereto.

2. A true and correct copy of the Plaintiff SEC’s Complaint in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563, in the Central District of California at docket number 1 is attached hereto as Exhibit 1.

3. A true and correct copy of Exhibit 24 to Todd Brilliant’s Declaration in support of Motion for Preliminary Injunction in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563-FMO-FFM, in the Central District of California at docket number 7-32 is attached hereto as Exhibit 2.

4. A true and correct copy of Exhibit 43 to Todd Brilliant’s Declaration in support of Motion for Preliminary Injunction in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563-FMO-FFM, in the Central District of California at docket number 7-59 is attached hereto as Exhibit 3.

5. A true and correct copy of Exhibit 50 to Todd Brilliant’s Declaration in support of Motion for Preliminary Injunction in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563-FMO-FFM, in the Central District of California at docket number 7-66 is attached hereto as Exhibit 4.

6. A true and correct copy of Exhibit 83 to Todd Brilliant's Declaration in support of Motion for Preliminary Injunction in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563-FMO-FFM, in the Central District of California at docket number 7-99 is attached hereto as Exhibit 5.

7. A true and correct copy of Exhibit 86 to Todd Brilliant's Declaration in support of Motion for Preliminary Injunction in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563-FMO-FFM, in the Central District of California at docket number 7-102 is attached hereto as Exhibit 6.

8. A true and correct copy of Andrew B Calhoun IV's Declaration in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563-FMO-FFM, in the Central District of California at docket number 28-2 is attached hereto as Exhibit 7.

9. A true and correct copy of Chelsea Olson's Declaration in Opposition to Plaintiff's Motion for Preliminary Injunction in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563-FMO-FFM, in the Central District of California at docket number 28-3 is attached hereto as Exhibit 8.

10. A true and correct copy of Eric Christopher Cannon's Declaration in Opposition to Plaintiff's Motion for Preliminary Injunction in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563-FMO-FFM, in the Central District of California at docket number 28-6 is attached hereto as Exhibit 9.

11. A true and correct copy of Brenda Barry's Declaration in Opposition to Plaintiff's Motion for Preliminary Injunction in the civil action *Securities and Exchange Commission v.*

Pacific West Capital Group, Inc., et al., No. 2:15-CV-02563-FMO-FFM, in the Central District of California at docket number 28-8 is attached hereto as Exhibit 10.

12. A true and correct copy of the Answer by Pacific West and Andrew B. Calhoun IV in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563-FMO-FFM, in the Central District of California at docket number 62 is attached hereto as Exhibit 11.

13. A true and correct copy of the Answer by Eric Christopher Cannon and Century Point, LLC in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563-FMO-FFM, in the Central District of California at docket number 64 is attached hereto as Exhibit 12.

14. A true and correct copy of Tab 3 of the parties' Joint Evidentiary Appendix in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563-FMO-FFM, in the Central District of California at docket number 106-4 is attached hereto as Exhibit 13.

15. A true and correct copy of Tab 4 of the parties' Joint Evidentiary Appendix in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563-FMO-FFM, in the Central District of California at docket number 106-5 is attached hereto as Exhibit 14.

16. A true and correct copy of Tab 63 of the parties' Joint Evidentiary Appendix in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563-FMO-FFM, in the Central District of California at docket number 106-65 is attached hereto as Exhibit 15.

17. A true and correct copy of Tab 71 of the parties' Joint Evidentiary Appendix in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563-FMO-FFM, in the Central District of California at docket number 106-73 is attached hereto as Exhibit 16.

18. A true and correct copy of the Final Judgment as to Defendant Andrew B Calhoun IV in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563-FMO-FFM, in the Central District of California at docket number 165 is attached hereto as Exhibit 17.

19. A true and correct copy of the Final Judgment as to Defendant Pacific West Capital Group, Inc., in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563-FMO-FFM, in the Central District of California at docket number 166 is attached hereto as Exhibit 18.

20. A true and correct copy of the Consent of Defendant Andrew B Calhoun Jr. in the parallel civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563-FMO-FFM, in the Central District of California at docket number 167 is attached hereto as Exhibit 19.

21. A true and correct copy of the Judgment as to Defendant Andrew B Calhoun Jr. in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563-FMO-FFM, in the Central District of California at docket number 168 is attached hereto as Exhibit 20.

22. A true and correct copy of the Receiver's Notice of Motion and Motion for Order Approving Receiver's Recommendations in the civil action *Securities and Exchange*

Commission v. Pacific West Capital Group, Inc., et al., No. 2:15-CV-02563-DDP-FFM in the Central District of California at docket number 375 is attached hereto as Exhibit 21.

23. A true and correct copy of Plaintiff SEC's Notice of Motion and Motion for Renewed Summary Judgment in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563- DDP-MAA, in the Central District of California at docket number 482 is attached hereto as Exhibit 22.

24. A true and correct copy of Plaintiff SEC's Memorandum of Points and Authorities in support of Renewed Motion for Summary Judgment in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563-DDP-MAA, in the Central District of California at docket number 482-1 is attached hereto as Exhibit 23.

25. A true and correct copy of Defendants' Opposition to SEC's Motion for Renewed Summary Judgment in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563- DDP-MAA, in the Central District of California at docket number 491 is attached hereto as Exhibit 24.

26. A true and correct copy of Brenda Barry's Declaration in support of Opposition to Plaintiff SEC's Motion in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563-DDP-MAA, in the Central District of California at docket number 491-2 is attached hereto as Exhibit 25.

27. A true and correct copy of Eric Christopher Cannon's Declaration in support of Opposition to Plaintiff SEC's Motion in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563-DDP-MAA, in the Central District of California at docket number 491-3 is attached hereto as Exhibit 26.

28. A true and correct copy Caleb Austin Moody's Declaration in support of Opposition to Plaintiff SEC's Motion in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563-DDP-MAA, in the Central District of California at docket number 491-4 is attached hereto as Exhibit 27.

29. A true and correct copy of Plaintiff SEC's Reply in support of Renewed Motion for Summary Judgment in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563-DDP-AS, in the Central District of California at docket number 493 is attached hereto as Exhibit 28.

30. A true and correct copy of the Order Partially Granting Plaintiff's Motion for Summary Judgment, Denying Defendants' Motion for Summary Judgment, and Granting Plaintiff's Motion to Exclude in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563-DDP-AS, in the Central District of California at docket number 546 is attached hereto as Exhibit 29.

31. A true and correct copy of Receiver's Twenty-First Interim Report, Response to Minute Order and Recommendations in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563-DDP-AS, in the Central District of California at docket number 550 is attached hereto as Exhibit 30.

32. A true and correct copy of Plaintiff SEC's Supplemental Brief Regarding Disgorgement and Other Remedies in the parallel civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563-DDP-AS, in the Central District of California at docket number 551 is attached hereto as Exhibit 31.

33. A true and correct copy of Defendants' Supplemental Brief in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-

02563-DDP-AS, in the Central District of California at docket number 552 is attached hereto as Exhibit 32.

34. A true and correct copy of the Order Regarding Remedies in the parallel civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563-DDP-AS, in the Central District of California at docket number 555 is attached hereto as Exhibit 33.

35. A true and correct copy of the Amended Judgment as to Defendants Eric Christopher Cannon and Century Point, LLC in the civil action *Securities and Exchange Commission v. Pacific West Capital Group, Inc., et al.*, No. 2:15-CV-02563-DDP-AS, in the Central District of California at docket number 600 is attached hereto as Exhibit 34.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on April 26, 2024, in Los Angeles, California.

DONALD Digitally signed by
DONALD SEARLES
SEARLES Date: 2024.04.26
11:01:04 -07'00'

Donald W. Searles

In the Matter of Eric Christopher Cannon
Administrative Proceeding File No. 3-21790
SERVICE LIST

Pursuant to Commission Rule of Practice 151 (17 C.F.R. §201.151), I certify that the attached:

**DECLARATION OF DONALD W. SEARLES IN SUPPORT OF DIVISION OF
ENFORCEMENT'S MOTION FOR SUMMARY DISPOSITION AGAINST
RESPONDENT ERIC CHRISTOPHER CANNON AND MEMORANDUM OF LAW IN
SUPPORT THEREOF**

was served on April 26, 2024, upon the following parties as follows:

Vanessa Countryman, Secretary
Securities and Exchange Commission
100 F. Street, N.E., Mail Stop 1090
Washington, DC 20549-1090

(By eFAP)

Nicolas Morgan, Esq.
ICAN Law
453 S. Spring St., Ste 400
Los Angeles, CA 90013
Nicolas.morgan@icanlaw.org
Counsel for Eric Christopher Cannon

(By U.S. Postal Service)

Dated: April 26, 2024

Donald W. Searles