

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA**

**CASE NO.:**

**SECURITIES AND EXCHANGE COMMISSION,**

**Plaintiff,**

**v.**

**ALEXANDER KON,**

**Defendant.**

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**COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF**

Plaintiff Securities and Exchange Commission (the “Commission”), alleges as follows:

**I. INTRODUCTION**

1. This case involves violations of a Commission order issued in 2018 (“2018 Commission Order”) that, *inter alia*, suspended Alexander Kon for a period of twelve months starting on May 30, 2018 from “participating in any offering of a penny stock, including . . . inducing or attempting to induce the purchase or sale of any penny stock.” Notwithstanding the 2018 Commission Order, which alleged misconduct involving a penny stock, beginning on the very first day of his suspension and continuing throughout its term, Kon promoted various penny stocks on his own microcap promotional website as well as through other microcap stock promoters.

2. By virtue of the conduct alleged herein, Kon violated Section 15(b)(6)(B)(i) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78o(b)(6)(B)(i)].

**II. DEFENDANT**

3. **Kon**, age 42, resides in Overland Park, Kansas.

### **III. JURISDICTION AND VENUE**

4. The Court has jurisdiction over this action pursuant to Sections 21(d) and 27(a) of the Exchange Act, 15 U.S.C. §§ 78u(d) and 78aa(a).

5. Venue is proper in the Southern District of Florida because many of Kon's acts and transactions constituting violations of the Exchange Act occurred in the Southern District of Florida.

6. In connection with the conduct alleged in this Complaint, Kon, directly and indirectly, made use of the means or instrumentalities of interstate commerce, the means or instruments of transportation and communication in interstate commerce, and the mails.

### **IV. FACTS**

7. Kon has owned an email list and various websites through which he touts microcap stocks. His practice is to gather information about an issuer through public websites and from the issuer. Based on information he gathers, Kon writes up content to tout issuers, and then emails the touts and posts them on his websites. Oftentimes, Kon gets other promoters to help distribute the touts and shares with them any payment received.

8. An investigation by Commission staff showed that in early 2014, Kon issued internet touts concerning a microcap company that purported to operate within the medical marijuana industry. Kon disclosed in the touts that he received \$25,000 in compensation but did not disclose he was paid by the issuer. Instead, Kon stated that the compensation was paid by a "third party."

9. In 2016, the Commission instituted administrative and cease-and-desist proceedings against Kon.

10. On May 29, 2018, the Commission accepted Kon's offer of settlement and issued an Order finding that Kon willfully violated Section 17(b) of the Securities Act of 1933, 15 U.S.C.

§ 77q(b). The 2018 Commission Order required Kon to cease and desist from committing or causing any further violations of the statute, suspended him from participating in any offering of a penny stock for a period of twelve months, and required him to pay disgorgement, prejudgment interest, and civil penalties. *In re Alexander Kon*, Exchange Act Rel. No. 83336, 2018 SEC LEXIS 1254 (May 29, 2018).

11. No sooner than the effective date of the penny stock bar, on May 30, 2018, Kon continued to promote microcap stocks through his own website as well as through recruiting other promoters to tout penny stocks and being compensated by and compensating other promoters. Kon was part of a group of promoters that was engaged in activities with microcap issuers.

12. During the twelve months Kon was suspended from participating in any offering of a penny stock, Kon was involved in activities that violated 2018 Commission Order.

#### **V. CLAIM FOR RELIEF**

##### **Violations of Section 15(b)(6)(B)(i) of the Exchange Act**

13. The Commission realleges and incorporates by reference Paragraphs 1 through 12 of this Complaint as if fully set forth herein.

14. From May 30, 2018 through May 30, 2019, Kon was subject to the 2018 Commission Order suspending him from “participating in any offering of a penny stock, including: acting as a promoter, finder, consultant, agent or other person who engages in activities with a broker, dealer or issuer for purposes of the issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock.”

15. Without the consent of the Commission, and in contravention of the 2018 Commission Order, Kon willfully participated in an offering of a penny stock by acting as a

promoter or “person who engages in activities with a[n] . . . issuer for purposes of . . . attempting to induce the purchase or sale of any penny stock.”

16. The stocks Kon touted would have qualified as penny stocks because they were equity securities that did not meet any of the exceptions from the definition of penny stock contained in Section 3(a)(51) of the Exchange Act, 15 U.S.C. § 78c(a)(51) and Rule 3a51-1 thereunder, 17 C.F.R. § 240.3a51-1.

17. By reason of the foregoing, Kon, directly or indirectly, violated Section 15(b)(6)(B)(i) of the Exchange Act, 15 U.S.C. § 78o(b)(6)(B)(i).

#### **VI. RELIEF REQUESTED**

**WHEREFORE**, the Commission respectfully requests the Court find the Defendant committed the violations alleged, and:

**A.**

Issue an Order pursuant to Section 21(d)(6) of the Exchange Act, 15 U.S.C. § 78u(d)(6) barring Kon from participating in any future offering of a penny stock.

**B.**

Issue an Order directing Kon to disgorge all ill-gotten gains, including prejudgment interest, resulting from the acts and/or courses of conduct alleged in this Complaint.

**C.**

Issue an Order directing Kon to pay civil money penalties pursuant to Section 21(d) of the Exchange Act, 15 U.S.C. § 78(d)(3).

**D.**

Grant such other and further relief as may be necessary and appropriate.

**VII. RETENTION OF JURISDICTION**

The Commission respectfully requests that the Court retain jurisdiction over this action in order to implement and carry out the terms of all orders and decrees that it may enter, or to entertain any suitable petition or motion by the Commission for additional relief within the jurisdiction of this Court.

December 14, 2021

Respectfully submitted,

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