

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 88853 / May 11, 2020

Admin. Proc. File No. 3-19790

In the Matter of
MOLECULIN BIOTECH, INC.
AND
WALTER V. KLEMP

ORDER REQUESTING ADDITIONAL WRITTEN SUBMISSIONS

On May 1, 2020, the Commission issued an order pursuant to Section 12(k) of the Securities Exchange Act of 1934 suspending trading in the securities of Moleculin Biotech, Inc. (“Moleculin” or “the Company”) (CIK No. 0001659617) for the period from 9:30 a.m. EDT on May 4, 2020, through 11:59 p.m. EDT on May 15, 2020 (the “Trading Suspension Order”).¹ The Trading Suspension Order stated that it appeared to the Commission that a suspension of trading was required due to “questions regarding the accuracy and adequacy of information in the marketplace” about Moleculin.² The Trading Suspension Order further stated that the “questions relate to, among other things, statements made by Moleculin and others, in its Form 10-K filed with the Commission on March 19, in press releases on March 20 and April 8, and in other statements on March 19, March 20, and April 16 concerning the company's business, including the status of development of a drug candidate labeled WP1122 for potential application to COVID-19, and the Company’s ability to expedite regulatory approval of any such treatment.”³ The Commission was therefore “of the opinion that the public interest and the protection of investors require a suspension of trading.”⁴

¹ *Moleculin Biotech, Inc.*, Exchange Act Release No. 88801, 2020 WL 2124569 (May 1, 2020).

² *Id.* at *1.

³ *Id.*

⁴ *Id.*

On May 7, 2020, Moleculin and Walter V. Klemp, Moleculin's Chairman and CEO, filed a petition to terminate the trading suspension. In accordance with Rule of Practice 550(b), additional written submissions are requested.⁵

Accordingly, IT IS ORDERED that the parties file submissions as follows:

- By May 15, 2020, the Division of Enforcement shall file all the information that was before the Commission at the time of the Trading Suspension Order's issuance.⁶
- By May 29, 2020, petitioners shall file an opening brief, which is not to exceed 8,000 words.
- By June 12, 2020, the Division shall file an answering brief, which is not to exceed 8,000 words.
- By June 26, 2020, petitioners may file an optional reply brief, which is not to exceed 3,000 words.

Any evidentiary materials, such as supporting affidavits or declarations, shall be attached to the briefs, which must contain specific citations to the evidence relied upon. Although appropriately the subject of official notice,⁷ the Commission also requests that the parties provide a copy of any guidance document, policy statement, or other government record relied upon to establish the requirements of any applicable legal regime. No briefs in addition to those specified in this order may be filed without leave of the Commission.⁸

Pursuant to Rule of Practice 180(c), a party's failure to file a brief or to comply with this order may result in the Commission's determination of the matter at issue against that party, a finding of waiver, dismissal of the proceeding, or such other sanction as the Commission finds appropriate.⁹

⁵ 17 C.F.R. § 201.550(b).

⁶ See 15 U.S.C. § 78l(k)(5). The Division need not disclose privileged legal analysis or sensitive information about the staff's investigative methods.

⁷ See Rule of Practice 323, 17 C.F.R. § 201.323.

⁸ The briefs shall conform to Rule of Practice 450(b)-(d), with respect to content and length limitations, 17 C.F.R. § 201.450(b)-(d), except as modified in this order. Attention is also called to Rules of Practice 150-153, 17 C.F.R. §§ 201.150-153, and the Commission's March 18, 2020 order regarding the filing and service of papers in administrative proceedings. *Pending Administrative Proceedings*, Exchange Act Release No. 88415, 2020 WL 1322001 (Mar. 18, 2020), <https://www.sec.gov/litigation/opinions/2020/33-10767.pdf>. We note that petitioners have agreed to waive paper service of all opinions and orders and accept service electronically.

⁹ 17 C.F.R. § 201.180(c).

For the Commission, by the Office of the General Counsel, pursuant to delegated authority.

Vanessa A. Countryman
Secretary