

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 92829 / August 31, 2021

INVESTMENT ADVISERS ACT OF 1940
Release No. 5843 / August 31, 2021

Admin. Proc. File No. 3-19838

In the Matter of

JOHN CHRISTOPHER POLIT

ORDER DISMISSING PROCEEDING

On June 29, 2020, the Securities and Exchange Commission issued an order instituting proceedings (“OIP”) against John Christopher Polit pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Section 203(f) of the Investment Advisers Act of 1940.¹ The OIP alleged that, based on conduct that occurred while Polit was associated with a broker-dealer and investment adviser, a court of competent jurisdiction in Ecuador found Polit “guilty of being an accomplice to the crime of extortion,” pursuant to Article 264, subsection 2, of the Ecuadorian Penal Code.² The OIP instituted proceedings to determine if the allegations were true and, if so, whether any remedial action should be taken against Polit.

On December 18, 2020, the Division of Enforcement filed a motion to dismiss the proceedings. The Division stated that the National Court of Ecuador had “reversed the conviction of the Respondent and no further proceedings are contemplated” and that “[b]ecause the basis for this proceeding was Respondent being convicted of a crime in Ecuador and the conviction has now been reversed by the highest court of appeal, the Division believes it prudent for the Commission to dismiss this matter.” On February 12, 2021, Polit joined the Division’s motion to dismiss the proceeding and requested further that the proceeding be expressly dismissed “with prejudice,” and that the Commission “also amend its webpage showing the institution of this proceeding with an appropriate legend indicating that the proceeding has been dismissed because the verdict of guilty was annulled or reversed, and containing a link to the order of dismissal.” The Division opposes Polit’s additional requests.

¹ *John Christopher Polit*, Exchange Act Release No. 89171, 2020 WL 3529893 (June 29, 2020).

² *Id.* at *1.

As a result of the reversal of Polit's conviction by the Ecuadorian National Court of Justice, Ecuador's highest court of appeals, there is no basis for continuing the proceeding against Polit pursuant to Exchange Act Section 15(b) or Advisers Act Section 203(f) on the record before us. Therefore, it is appropriate to dismiss the proceeding.³

As to the question of whether the proceeding should be dismissed expressly "with prejudice," we have stated that "[o]ur Rules of Practice . . . do not distinguish between dismissing proceedings with or without prejudice."⁴ As a result of this dismissal, we may not reinstitute this proceeding.

Polit further requests that an "appropriate legend" be appended to the Commission's webpage that links to the OIP. But our Rules of Practice do not provide for such a request, and Polit does not identify any instance where the Commission's website has been appended in the way he requests. Indeed, none of the examples cited above where we dismissed an administrative proceeding because of the reversal of the conviction or injunction that provided the basis for the administrative proceeding have such a legend on the Commission's website with a link to the OIP in the relevant case. Further, the OIP, as noted above, merely instituted proceedings to determine if the *allegations* contained therein were true and made no findings that they were true. Therefore, Polit's claims that the "lingering webpage [containing the OIP] . . . has lost its validity" and that the OIP "establishes a presumption that Mr. Polit was 'convicted' of a serious crime in Ecuador" lack merit. This order, which expressly finds that there is no longer a basis for the proceeding and therefore dismisses it, will be published on the Commission website. We therefore deny Polit's request that we "amend the webpage showing the institution of this proceeding with an appropriate legend indicating that the proceeding has been dismissed

³ See, e.g., *Evelyn Litwok*, Investment Advisers Act Release No. 3438, 2012 WL 3027914 (July 25, 2012) (dismissing a follow-on administrative proceeding after the court of appeals reversed or vacated and remanded convictions that were the basis of the proceeding); *John M. Lucarelli*, Exchange Act Release No. 56075, 2007 WL 2031556, at *2 (July 13, 2007) (dismissing a proceeding based on a jury verdict after the district court judge entered judgment of acquittal notwithstanding the verdict).

⁴ *Richard L. Goble*, Exchange Act Release No. 68651, 2013 WL 150557, at *2 & n.13 (Jan. 14, 2013) (citing *Lucarelli*, 2007 WL 2031556, at *2).

because the verdict of guilty was annulled or reversed, and containing a link to the order of dismissal.”⁵

Accordingly, it is ORDERED that this proceeding is dismissed.

By the Commission.

Vanessa A. Countryman
Secretary

⁵ We deny Polit’s request for oral argument because the “decisional process” would not be “significantly aided by oral argument.” Rule of Practice 451(a), 17 C.F.R. § 201.451(a).