

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933  
Release No. 11198 / June 2, 2023

SECURITIES EXCHANGE ACT OF 1934  
Release No. 97640 / June 2, 2023

INVESTMENT ADVISERS ACT OF 1940  
Release No. 6323 / June 2, 2023

INVESTMENT COMPANY ACT OF 1940  
Release No. 34933 / June 2, 2023

ACCOUNTING AND AUDITING ENFORCEMENT  
Release No. 4413 / June 2, 2023

In re  
Pending Administrative Proceedings

ORDER DISMISSING PROCEEDINGS

On April 5, 2022, the Securities and Exchange Commission issued a Statement Relating to Certain Administrative Adjudications (the “April 5 Statement”) describing a control deficiency related to the separation of enforcement and adjudicatory functions within our system for administrative adjudications. The April 5 Statement explained that the Chair of the Commission had initiated a comprehensive internal review to assess the scope and potential impact of the control deficiency, which review was conducted by experienced investigative staff from the Division of Examinations under the supervision of the Commission’s General Counsel. The April 5 Statement further disclosed the review team’s findings regarding *SEC v. Cochran*<sup>1</sup> and *SEC v. Jarkesy*.<sup>2</sup> As part of the April 5 Statement, the Commission further committed to release information about additional affected matters.

On June 2, 2023, we released a Second Commission Statement Relating to Certain Administrative Adjudications (the “June 2 Statement”) regarding *Cochran* and *Jarkesy*, as well

<sup>1</sup> Admin. Proc. File No. 3-17228; *see also Axon Enters., Inc. v. FTC*, 598 U.S. \_\_\_, 143 S. Ct. 890 (2023).

<sup>2</sup> Admin. Proc. File No. 3-15255; *see also Jarkesy v. SEC*, 34 F.4th 446 (5th Cir. 2022), *pet. for rev. filed* (Mar. 8, 2023).

as findings about additional adjudicatory matters currently pending before the Commission that were affected by the control deficiency identified in the April 5 Statement. Those include 28 adjudicatory matters in which Division of Enforcement administrative staff accessed one or more memoranda drafted by our Office of the General Counsel's Adjudication Group that was specific to a particular matter (the "Affected Matters") and 61 additional adjudicatory matters in which Enforcement administrative staff accessed only memoranda that described procedural actions that Adjudication staff recommended that the Commission take in many (or all) pending adjudicatory proceedings ("Omnibus Memoranda").

As detailed in the June 2 Statement, the review team found no evidence that any Enforcement staff assigned to investigate and prosecute any of the Affected Matters accessed any case-specific Adjudication memoranda before the Commission approved the action recommended in those memoranda. And the review team found no evidence that any individuals assigned to investigate and prosecute any of the Affected Matters contacted or communicated with the Adjudication staff advising the Commission in its decision-making in any of those matters. With respect to the eight Omnibus Memoranda accessed by administrative staff, the review team found that only one was uploaded to the Enforcement case management database. And the review team found no evidence that the administrative staff member who accessed the Omnibus Memoranda contacted any Enforcement staff responsible for investigating and prosecuting the relevant matters about any of these memoranda.

The review team's investigation thus uncovered no evidence that the control deficiency resulted in harm to any respondent or affected the Commission's adjudication in any proceeding.<sup>3</sup> We have nevertheless determined to dismiss, as a matter of discretion, all pending proceedings that the review team found to be connected to the control deficiency, as to which the Commission is seeking relief, and in which there is no final order against a respondent.<sup>4</sup> The respondents as to whom proceedings are being dismissed are listed in Exhibit A to this order.<sup>5</sup>

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<sup>3</sup> <https://www.sec.gov/news/statement/second-commission-statement-relating-certain-administrative-adjudications>.

<sup>4</sup> See, e.g., *John A. Carley*, Exchange Act Release No. 61966, 2010 WL 1638721, at \*1 (Apr. 23, 2010) (exercising our discretion to dismiss certain allegations); *Nicholas P. Howard*, Exchange Act Release No. 50633, 2004 WL 2480716, at \*1 (Nov. 4, 2004) (same); cf. *Heckler v. Chaney*, 470 U.S. 821, 831 (1985) ("This Court has recognized on several occasions over many years that an agency's decision not to prosecute or enforce, whether through civil or criminal process, is a decision generally committed to an agency's absolute discretion.").

<sup>5</sup> In dismissing these proceedings, we set aside any initial decision or Commission opinion and order not yet final as to a respondent listed in Exhibit A. But we do not disturb any such decision or order that has been previously resolved in its entirety. Nor do we disturb any final resolution already reached as to any co-respondents in any of the proceedings listed in Exhibit A, or any orders previously issued as to those co-respondents. This includes *Matthew R. Rossi and SJJ Capital, LLC*, and *Timothy C. Scarfino* in which we set aside the pending proceedings to determine what, if any, monetary sanctions are appropriate, but do not disturb the settled orders

(continued . . .)

We find that taking this action is appropriate to preserve the Commission's resources.<sup>6</sup> In doing so, we take no view on the merits of Enforcement's allegations and claims or any defenses raised by the respondents, including the extent to which statutes, Commission Rules, and other precedent would be determinative or relevant to those allegations, claims, or defenses.<sup>7</sup>

Accordingly, IT IS ORDERED that the proceedings against respondents listed in Exhibit A are dismissed.

By the Commission.

Vanessa Countryman  
Secretary

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finding violations and imposing other sanctions. Exchange Act Release No. 85683 (Apr. 17, 2019); Exchange Act Release No. 83236 (May 15, 2018).

The proceedings that we are hereby dismissing similarly do not include the 47 matters identified in the June 2 Statement that were resolved upon issuance of a final Commission order, but were reopened due to one or more requests to vacate a remedial bar. We address those 47 matters in separate orders issued concurrently with this order.

<sup>6</sup> See, e.g., *Glob. Digit. Sols., Inc.*, Exchange Act Release No. 85364, 2019 WL 1274911, at \*2 (Mar. 19, 2019) (dismissing proceeding to, in part, preserve the Commission's resources); see also *Thomas C. Trauger, CPA*, Exchange Act Release No. 51435, 2005 WL 701204, at \*1 (Mar. 25, 2005) (same).

<sup>7</sup> Cf. *Warren G. Trepp*, Exchange Act Release No. 41913, 1999 WL 753922, at \*1 (Sept. 24, 1999) (dismissing sua sponte without reaching merits).

**Exhibit A**

<b>Respondent(s)</b>	<b>Administrative Proceeding Number</b>
Michelle L. Helterbran Cochran, CPA	3-17228
Mark Feathers	3-15755
The Robare Group, Ltd., Mark L. Robare, and Jack L. Jones, Jr.	3-16047
Laurie Bebo	3-16293
Alexandre S. Clug	3-16318
Timothy W. Carnahan and CYIOS Corporation	3-16386
Edward M. Daspin, a/k/a "Edward (Ed) Michael"	3-16509
Charles R. Kokesh	3-16517
Christopher M. Gibson	3-17184
James A. Winkelmann, Sr., and Blue Ocean Portfolios LLC	3-17253
Saving2Retire, LLC, and Marian P. Young	3-17352
Digital Brand Media & Marketing Group, Inc. and Intellicell Biosciences, Inc.	3-17990
INTREorg Systems, Inc.	3-18733
Toda International Holdings Inc.	3-18746
Joseph S. Amundsen, CPA, Michael T. Remus, CPA, and Michael Remus, CPA	3-18994
Matthew R. Rossi and SJL Capital, LLC	3-19145
ERHC Energy, Inc.	3-19419
Genoil Inc.	3-19661
Barton W. Stuck	3-19685

EliteSoft Global Inc.	3-19868
Spectrascience, Inc.	3-20308
UBI Blockchain Internet Ltd.	3-20309
Traquer Corp.	3-20312
Rystar Communications Ltd.	3-20344
Spongetech Delivery Systems, Inc.	3-20345
Globesat Holding Corp.	3-20355
Golden Goliath Resources Ltd.	3-20356
Biovest International, Inc., Olie, Inc. (n/k/a Syndicate Business Development Corp.), and StarGate Entertainment, Inc.	3-17935
Atomic Paintball, Inc., North American Oil & Gas Corp., and VelaTel Global Communications, Inc.	3-17991
A.C. Simmonds and Sons, Inc., Game Plan Holdings, Inc., and HashingSpace Corp.	3-17999
StationDigital Corp.	3-18004
New Western Energy Corp. and Primco Management, Inc.	3-18007
Evolucia, Inc., and OSL Holdings, Inc.	3-18014
Huixin Waste Water Solutions, Inc.	3-18187
Gregory A. Wahl, CPA, Michael Deutchman, CPA, and Georgia Chung, CPA	3-18292
Jeffrey Wada, CPA, and David Middendorf, CPA	3-18346
China Energy Technology Corp., Ltd.	3-18378
Timothy C. Scarpino	3-18483
Heidi Wivolin	3-18774

Jennifer R. Johnson	3-18780
Susan E. Walker	3-18781
Daniel Joseph Touizer	3-18867