

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 89517 / August 10, 2020

ADMINISTRATIVE PROCEEDING
File No. 3-19908

In the Matter of

NICHOLAS MEJIA
SCRIVENER,

Respondent.

ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Nicholas Mejia Scrivener (“Scrivener” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over him and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that:

Summary

1. Between February 2015 and September 2016 (the "Relevant Time"), Scrivener engaged in a manipulative securities trading strategy known as spoofing. Scrivener's spoofing strategy generally involved placing multiple orders to buy or sell a stock that Scrivener did not intend to execute, or non-bona fide orders, sometimes at multiple price levels, to create a false appearance of buy or sell interest at those price levels, and thus to induce other market participants to trade against Scrivener's bona fide orders on the opposite side of the market at artificially inflated or artificially depressed prices. After securing beneficially priced executions for his bona fide orders, Scrivener typically canceled any open non-bona fide orders. During the Relevant Time, Scrivener generated at least \$140,250 in illicit profits from his manipulative trading.

Respondent

2. Scrivener, 49 years old, is a resident of Temecula, California, and was a full-time securities day trader during the Relevant Time.

Background

3. Between February 2015 and September 2016, Scrivener engaged in a manipulative securities trading strategy known as spoofing. Scrivener engaged in this strategy in multiple brokerage accounts that he controlled, held both in his own and in his wife's names, sometimes trading in the same security in multiple accounts at the same time.

4. Scrivener's spoofing strategy generally involved placing multiple orders to buy or sell a stock that Scrivener did not intend to execute, or non-bona fide orders, sometimes at multiple price levels. The purpose of these non-bona fide orders was to create a false appearance of buy or sell interest at those price levels and thus to induce other market participants to trade against Scrivener's bona fide orders on the opposite side of the market at artificially inflated or artificially depressed prices.

5. For example, after establishing a long position in a stock, Scrivener would place multiple orders to buy that stock, at multiple price levels, often at then-prevailing market prices, without an intent to execute those orders, but rather to create a false appearance of buy interest for the stock at those price levels. Once his non-bona fide buy orders had the desired effect and led to an increase in the market price of the stock, Scrivener entered bona fide sell orders to benefit from

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

the artificially created price increase. After obtaining beneficially priced executions for his bona fide sell orders, and thus closing out his long position at a profit, Scrivener would then cancel his open non-bona fide buy orders.

6. On other occasions, after establishing a short position in a stock, Scrivener would place non-bona fide sell orders to close out his short position at artificially depressed prices.

7. At times, Scrivener conducted his manipulative trading in the same stock in multiple accounts at the same time, often placing non-bona fide orders in one account and bona fide orders in another account.

8. In June 2015, the broker-dealer where Scrivener had held his brokerage account since February 2015 closed Scrivener's account. But in mid-February 2016, Scrivener opened another account with that broker-dealer in his wife's name and continued his manipulative trading in that account until March 2016, when the broker-dealer closed that account as well. Scrivener then opened accounts with three other broker-dealers, one in his own name and two in his wife's name, and continued his manipulative trading in these three accounts until the three broker-dealers closed those accounts one by one between April and September 2016.

9. By late September 2016, Scrivener generated at least \$140,250 in illicit profits from his manipulative trading.

Violations

10. As a result of the conduct described above, Scrivener violated Section 9(a)(2) of the Exchange Act, which makes it illegal for any person to effect, alone or with others, a series of transactions in a security creating actual or apparent active trading in such security, or raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Scrivener's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Scrivener cease and desist from committing or causing any violations and any future violations of Section 9(a)(2) of the Exchange Act.

B. Scrivener shall pay disgorgement of \$140,250, prejudgment interest of \$15,020 and civil penalties of \$50,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). Payment shall be made in the following installments: (1) \$100,000 within thirty days of the entry of the Order; and

(2) \$105,270 within nine months of the entry of the Order. Payments shall be applied first to post order interest, which accrues pursuant to SEC Rule of Practice 600 and pursuant to 31 U.S.C. § 3717. Prior to making the final payment set forth herein, Respondent shall contact the staff of the Commission for the amount due. If Respondent fails to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Order, including post-order interest, minus any payments made, shall become due and payable immediately at the discretion of the staff of the Commission without further application to the Commission.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Nicholas Mejia Scrivener as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Joseph G. Sansone, Chief, Market Abuse Unit, Division of Enforcement, U.S. Securities and Exchange Commission, 200 Vesey Street, Suite 400, New York, NY 10281-1022.

C. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, he shall not argue that he is entitled to, nor shall he benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that he shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based

on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the findings in this Order are true and admitted by Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

By the Commission.

Vanessa A. Countryman
Secretary