UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 11203 / June 8, 2023

SECURITIES EXCHANGE ACT OF 1934
Release No. 97677 / June 8, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-21485

In the Matter of **DANIEL V. MARTINEZ, ESQ.** **Respondent.**	**ORDER INSTITUTING PUBLIC ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 8A OF THE SECURITIES ACT OF 1933, SECTIONS 4C, 15(b) AND 21C OF THE SECURITIES EXCHANGE ACT OF 1934, AND RULE 102(e) OF THE COMMISSION'S RULES OF PRACTICE, MAKING FINDINGS, AND IMPOSING REMEDIAL SANCTIONS AND A CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted against Daniel V. Martinez, Esq. ("Respondent" or "Martinez") pursuant to Section 8A of the Securities Act of 1933 ("Securities Act"), Sections 4C,[1] 15(b) and 21C of the Securities

[1] Section 4C provides, in relevant part, that:

> The Commission may censure any person, or deny, temporarily or permanently, to any person the privilege of appearing or practicing before the Commission in any way, if that person is found . . . (3) to have willfully violated, or willfully aided and abetted the violation of, any provision of the securities laws or the rules and regulations issued thereunder.

Exchange Act of 1934 ("Exchange Act"), and Rule 102(e)(1)(iii) of the Commission's Rules of Practice.[2]

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, Respondent admits the Commission's jurisdiction over him and the subject matter of these proceedings, and consents to the entry of this Order Instituting Public Administrative and Cease and Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Sections 4C, 15(b) and 21C of the Securities Exchange Act of 1934 and Rule 102(e) of the Commission's Rules of Practice, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order ("Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds[3] that:

A. SUMMARY

Between March 2011 and October 2017, Respondent carried out a series of acts pursuant to undisclosed agreements with Avtar Dhillon, the then-Chairman of several public companies having a class of equity securities registered under the Exchange Act, to hold and sell, mainly for Dhillon's benefit, millions of shares of stock of two of those Dhillon-chaired companies, in direct violation of antifraud, registration and beneficial ownership reporting provisions of the federal securities laws. In order to remove these shares' restricted legends, for example, and in accordance with his agreements with Dhillon, Respondent made false representations to brokerage firms. Respondent also disbursed most of the scheme's resulting proceeds for Dhillon's benefit as Dhillon directed. Despite Respondent's and Dhillon's combined holdings in each issuer well exceeding five percent of each issuer's outstanding shares, at no time did Respondent ever file a Schedule 13D, as required, disclosing his agreements with Dhillon or their combined holdings. Because Dhillon, who was an affiliate of both issuers, shared, with Respondent, beneficial ownership of all the stock offered and sold pursuant to their agreements, those offers and sales violated the registration provisions of the federal securities laws. Finally, by carrying out the ultimate disposition of shares in accordance with his agreements with Dhillon – who failed to file any Schedule 13D, Form 4 or Form 5 disclosures concerning the shares Dhillon held and sold through Respondent – Respondent also willfully aided and abetted and caused Dhillon's violations of antifraud, beneficial ownership

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[2] Rule 102(e)(1)(iii) provides, in pertinent part, that:

> The Commission may . . . deny, temporarily or permanently, the privilege of appearing or practicing before it . . . to any person who is found…to have willfully violated, or willfully aided and abetted the violation of any provision of the Federal securities laws or the rules and regulations thereunder.

[3] 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.

reporting, and insider transaction reporting provisions of the federal securities laws, as detailed below.

B. RESPONDENT

Respondent is a resident of Yuba City, California. At all relevant times, Respondent was a real estate and business lawyer holding a California bar license. Respondent has pleaded guilty to criminal conduct relating to findings in this Order. Specifically, on December 15, 2022, in *United States v. Martinez*, Crim. No. 1:22-cr-10266-PBS-1 (D. Mass.), Respondent pleaded guilty to willful violation of Sections 5(a)(1) and 5(c) of the Securities Act. As detailed below, Respondent participated in offerings of OncoSec Medical Incorporated ("OncoSec") and of Arch Therapeutics Inc. ("Arch") stock, each of which are penny stocks.

C. FACTS

1. Avtar S. Dhillon ("Dhillon") is a resident of Long Beach, California. At all relevant times, Dhillon served as Chairman of the Board of Directors of OncoSec and Arch, each of which was, at all relevant times, a company whose securities were registered under Section 12 of the Exchange Act, and a penny stock.

2. By March 2011, Respondent and Dhillon agreed that Respondent would acquire, hold, and ultimately sell, mainly for Dhillon's secret benefit, millions of "founders' shares" of OncoSec. In furtherance of this agreement, Respondent first established and arranged for the organization, in California, of a limited liability corporation called MMXI, LLC ("MMXI"). MMXI was formed on or about March 2, 2011, with Respondent as its sole purported manager.

3. Next, later that same month, Respondent signed a stock purchase agreement on MMXI's behalf, for the purchase of 73,590 shares of OncoSec's immediate predecessor, Netventory Solutions Inc (with and into which OncoSec had merged, on March 1, 2011, with OncoSec as the surviving entity), at $.01 per share, the total purchase price being $735.90, which Respondent caused MMXI to pay by check to OncoSec. Due to a 32:1 forward stock split, MMXI's 73,590 shares became 2,354,880 OncoSec shares and, on April 6, 2011, an OncoSec share certificate was issued to MMXI for 2,354,880 restricted shares. At the time of purchase, and in accordance with his agreement with Dhillon, Respondent (for MMXI) signed a stock purchase agreement falsely representing that MMXI was "acquiring the Purchased Shares as principal for its own account … and no other person has a direct or indirect beneficial interest in the Purchased Shares." In fact, as Respondent well knew, MMXI acquired the shares primarily for Dhillon, who, at a minimum, at all relevant times shared, with Respondent, beneficial ownership of those OncoSec shares.

4. Then, beginning in January 2013, and on more than a dozen occasions thereafter, in order to get various tranches of the shares' restricted legends removed, and in accordance with his agreement with Dhillon, Respondent falsely represented to the brokerage firms where MMXI held accounts that (i) Respondent was sole beneficial owner of MMXI and (ii) Respondent was not in any way an affiliate of OncoSec. In fact, as Respondent well knew, (i) Dhillon shared *de facto* ownership of MMXI and (ii) as OncoSec's Chairman, Dhillon was an affiliate of OncoSec.

5. Between February 26, 2013 and October 10, 2017, through communications he made with the brokerage firms where MMXI held accounts, Respondent caused MMXI to deposit and sell all the aforementioned OncoSec shares, through 55 separate trades ranging in size from 1,140 to 175,000 shares, for proceeds totaling approximately $872,502.[4] Respondent disbursed most of these proceeds at Dhillon's instruction and for Dhillon's benefit. These disbursements included at least $400,000 in checks to Dhillon's assistant, $67,400 to various Dhillon family members, $50,000 to various Dhillon creditors, $28,000 to Dhillon's Canadian tax preparer, and $14,000 to Dhillon's building contractor. Respondent also drew from the aforementioned proceeds to pay expenses associated with the scheme, including MMXI-related fees to the Franchise Tax Board and to an accounting firm. For his part, Respondent retained approximately $43,625, or 5%, of MMXI's OncoSec stock sales proceeds.

6. Similarly, by May 2013, Respondent and Dhillon agreed that Respondent would acquire, hold, and ultimately sell, mainly for Dhillon's secret benefit, millions of "founders' shares" of Arch. In furtherance of this agreement, Respondent first established and arranged for the organization, in California, of a limited liability corporation called Walk on Water Ventures LLC ("WoW"). WoW was formed on or about May 17, 2013, with Respondent as its sole purported manager.

7. In June 2013, Respondent signed a stock purchase agreement on WoW's behalf, for the purchase of 2,750,00 shares of Arch, at $.0001 per share, the total purchase price being $275. On June 19, 2013, an Arch share certificate was issued to WoW for 2,750,000 restricted shares. That stock purchase agreement included the false representation—which Respondent signed on WoW's behalf, in accord with his agreement with Dhillon—that WoW was "acquiring the Purchased Shares as principal for its own account … and no other person has a direct or indirect beneficial interest in the Purchased Shares." In fact, as Respondent knew, WoW acquired these shares primarily for Dhillon, who, at a minimum, at all relevant times shared, with Respondent, beneficial ownership of those Arch shares.

8. Then, in April 2016, in order to get the Arch shares' restricted legend removed, and in accordance with his agreement with Dhillon, Respondent falsely represented to the brokerage firm where WoW held its account that (i) Respondent was sole beneficial owner of WoW and (ii) Respondent was not in any way an affiliate of Arch. In fact, as Respondent knew, (i) Dhillon shared *de facto* ownership of WoW and (ii) as Arch's Chairman, Dhillon was an affiliate of Arch.

9. Between April 26, 2016 and July 11, 2016, through communications he made with the brokerage firm where WoW held its account, Respondent caused WoW to deposit and sell all the aforementioned Arch shares, for gross proceeds totaling approximately $1,337,336. As he had done with MMXI's OncoSec sales proceeds, Respondent likewise disbursed most of WoW's Arch

[4] The total number of OncoSec shares sold through MMXI during the scheme was just 1,751,344, because a 20:1 reverse stock split in early June 2015 (by which point MMXI had already sold 1,720,000 shares) reduced MMXI's number of remaining OncoSec shares from 634,880 to 31,744. Of the 1,751,344 shares that MMXI sold, 1,030,000 were sold between February and August 2013; 690,000 were sold between February and June 2014; and the remaining 31,744 were sold between February and October 2017.

sales proceeds at Dhillon's instruction and for Dhillon's benefit. These disbursements included at least $645,000 in checks to Dhillon's assistant, and $180,500 to various Dhillon creditors. Respondent also drew from the aforementioned proceeds to pay expenses associated with the scheme, including fees to the law firm furnishing the opinion letter resulting in the restricted legend being removed from WoW's Arch stock. For his part, Respondent retained approximately $110,999, or 8.3%, of WoW's Arch stock sales proceeds.

10. At no time did Respondent file any Schedule 13D with the Commission disclosing his agreements with Dhillon regarding the acquisition, holding or sale of OncoSec or Arch shares mainly for Dhillon's benefit, or Respondent's and Dhillon's combined holdings in either issuer. Nor did Respondent ever file any Schedule 13D amendment disclosing any material changes to his and Dhillon's combined holdings in either OncoSec or Arch, as would have been required had an initial Schedule 13D been filed. Nor, for his part, did Dhillon ever make any Schedule 13D, Form 4 or Form 5 filings disclosing any of his OncoSec or Arch holdings or trading through MMXI or WoW.

11. Despite the fact that he knew or was reckless in not knowing that Dhillon was obligated, as Chairman of both OncoSec and Arch, not to engage in any undisclosed holding of or trading in the securities of either issuer, but, instead, to publicly and promptly disclose all of his holdings and trading in each, Respondent nonetheless allowed Dhillon to hold and sell millions of shares of each issuer's stock through the MMXI and WoW vehicles Respondent established, and disbursed most of the proceeds of those sales as Dhillon directed.

12. As a result of the conduct described above, Respondent willfully violated Sections 5(a), 5(c) and 17(a) of the Securities Act, Section 10(b) and 13(d) of the Exchange Act, and Rules 10b-5 and 13d-1 thereunder, and willfully aided and abetted and caused Dhillon's violations of Section 17(a) of the Securities Act, Sections 10(b), 13(d) and 16(a) of the Exchange Act, and Rules 10b-5, 13d-1 and 16a-3 thereunder.

Findings

13. Based on the foregoing, the Commission finds that Respondent willfully violated Sections 5(a), 5(c) and 17(a) of the Securities Act, Section 10(b) and 13(d) of the Exchange Act, and Rules 10b-5 and 13d-1 thereunder, and willfully aided and abetted and caused Dhillon's violations of Section 17(a) of the Securities Act, Sections 10(b), 13(d) and 16(a) of the Exchange Act, and Rules 10b-5, 13d-1 and 16a-3 thereunder.

Disgorgement and Prejudgment Interest

14. The disgorgement and prejudgment interest ordered in paragraph IV.4 below is consistent with equitable principles and does not exceed Respondent's net profits from his violations and will be distributed to harmed investors, if feasible. The Commission will hold funds paid pursuant to paragraph IV.4 below in an account at the United States Treasury pending a decision whether the Commission in its discretion will seek to distribute funds. If a distribution is determined feasible and the Commission makes a distribution, upon approval of the distribution

final accounting by the Commission, any amounts remaining that are infeasible to return to investors, and any amounts returned to the Commission in the future that are infeasible to return to investors, may be transferred to the general fund of the U.S. Treasury, subject to Section 21F(g)(3) of the Exchange Act.

Respondent's Cooperation

In determining to accept the Offer, the Commission considered Respondent's cooperation afforded to the Commission staff.

IV.

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

Accordingly, it is hereby ORDERED, effective immediately, that:

1. Respondent shall cease and desist from committing or causing any violations and any future violations of Sections 5(a), 5(c) and 17(a) of the Securities Act, Sections 10(b), 13(d) and 16(a) of the Exchange Act, and Rules 10b-5, 13d-1 and 16a-3 promulgated thereunder;

2. Respondent is barred 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;

3. Respondent is denied the privilege of appearing or practicing before the Commission as an attorney;

4. Respondent shall pay disgorgement of $154,624 plus prejudgment interest of $28,197 for a total of $182,821, to the Securities and Exchange Commission, according to the payment schedule set forth in this paragraph. The Commission will hold funds paid to it pursuant to this paragraph in an account at the United States Treasury pending a decision whether the Commission, in its discretion, will seek to distribute funds, or transfer them to the general fund of the United States Treasury, subject to Section 21F(g)(3) of the Exchange Act. Any monies paid in this proceeding may be combined with any other fund created in any related action arising out of the same investigative matter that is the basis of this action. If timely payment is not made of the first payment due hereunder, additional interest shall accrue pursuant to SEC Rule of Practice 600. Payments shall be made in the following installments: $71,822 (consisting of $43,625 in disgorgement plus all $28,197 in prejudgment interest) within thirty (30) days of the issuance of this Order; and $110,999 (consisting all remaining disgorgement) by December 1, 2023 provided that this $110,999 payment obligation shall be offset, up to its full amount, by the amount of any order of forfeiture entered

prior to December 1, 2023 against Respondent in *United States v Martinez*, Crim. No. 1:22-cr-10266-PBS-1 (D. Mass.).

Payments 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 Respondent by name 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 Melissa R. Hodgman, Associate Director, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549.

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