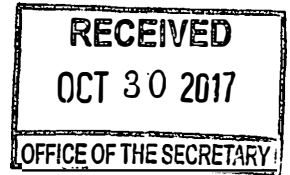


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**UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION**

**ADMINISTRATIVE PROCEEDING  
File No. 3-18165**

**In the Matter of  
  
GARY YIN,  
  
Respondent.**

**ANSWER**

Respondent Gary Yin, by his attorneys, sets forth the following answers and affirmative defenses to the allegations contained in the Order Instituting Proceedings and Notice of Hearing (“OIP”), upon knowledge with respect to himself and his own acts and upon information and belief with respect to all other matters.

**SECTION I**

Respondent denies having sufficient information to address the position of the Securities and Exchange Commission (“SEC” or “Commission”) that it is deemed “appropriate” and in the “public interest,” to institute administrative proceedings as set forth in Section I, except to state that the OIP was not appropriate or in the public interest, particularly with respect to the timing of its issuance, in light of the ongoing settlement negotiations between the Enforcement Staff of the Commission and Respondent, designed to reach a “global settlement” of the Commission’s civil injunctive action (alleging insider trading) against Respondent, which has been pending

since September 23, 2013.<sup>1</sup> Such settlement negotiations have been ongoing for nearly three (3) years, and have been supervised with the active involvement of the United States District Court.

From inception, such negotiations have always contemplated a “global settlement” which would encompass a resolution of the expected “follow-on” administrative proceeding. It was not in the public interest for the Commission to institute the OIP precipitously, a mere two months prior to a long-calendared Mandatory Settlement Conference in such civil injunctive action, in which all parties were moving toward such a global settlement. Such precipitous issuance has caused Respondent and this tribunal to needlessly expend litigation/administrative resources.

## SECTION II

### A. **RESPONDENT**

1. Respondent admits the allegations in Paragraph 1.

### B. **RESPONDENT’S CRIMINAL CONVICTION**

2. Respondent admits the allegations in Paragraph 2.
3. Respondent admits the allegations in Paragraph 3.

## SECTION III

A. Respondent states that section A constitutes a legal conclusion to which no answer is required. To the extent that a responsive pleading is required. Respondent denies each and every allegation in section A.

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<sup>1</sup> Securities and Exchange Commission v. Jing Wang and Gary Yin, Case No. 13-cv-02270-L-WVG (S.D. CA)

B. Respondent states that section B constitutes a legal conclusion to which no answer is required. To the extent that a responsive pleading is required. Respondent denies each and every allegation in section B.

C. Respondent states that section C constitutes a legal conclusion to which no answer is required. To the extent that a responsive pleading is required. Respondent denies each and every allegation in section C.

#### **SECTION IV**

Respondent states that the entirety of Section IV constitutes legal conclusions, expressed in the form of government commands, to which no answer is required.

#### **AFFIRMATIVE DEFENSES**

Further answering the OIP, Respondent asserts the following affirmative defenses without assuming the burden of proof where the burden would otherwise rest on the Commission:

##### **First Affirmative Defense**

The allegations of the Division of Enforcement fail to state a claim upon which relief may be granted by the Commission.

##### **Second Affirmative Defense**

The OIP, and each alleged cause of action contained therein, is barred in whole or in part by the statute of limitations.

### **Third Affirmative Defense**

Any civil penalties sought by the Commission should be denied or substantially reduced because any such award would be unjust, arbitrary and oppressive, or confiscatory.

### **Fourth Affirmative Defense**

No sanction against Respondent is in the public interest in view of various factors including but not limited to the absence of any likelihood that Respondent will violate the federal securities laws in the future in light of his retention of special compliance counsel, and in view of the fact that FINRA will set a nearly insurmountable bar to the extent that Respondent ever seeks to become associated with a broker-dealer.



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*Counsel for Respondent Yin*

**In the Matter of Gary Yin**  
**Administrative Proceeding File No. 3-18165**

**Service List**

Pursuant to Commission Rule of Practice 150 (17 C.F.R. §201.150), I certify that the attached:

**ANSWER**

was served on October 25, 2017 upon the following parties via first class U.S. Mail as follows:

Gary Y. Leung, Jr., Esq.  
Wendy Elizabeth Pearson, Esq.  
United States S.E.C.  
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Alison Greenlee  
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October 25, 2017



Via U.S. Priority Mail

Brent J. Fields  
Office of the Secretary  
100 F Street, NE  
Mail Stop 1090  
Washington, DC 20549  
Telephone: 202-551-5400

**Re: *In the Matter of Gary Yin***  
**File No.: 3-18165**  
**Our File No.: 3004.002**

Dear Mr. Fields:

Enclosed please find Respondent Gary Yin's Answer in the above entitled matter.

Please advise if you should have any questions.

Very truly yours,

SHUSTAK REYNOLDS & PARTNERS, P.C.

Alison M. Greenlee

Enclosure

Cc: Dennis A. Stubblefield, Esq.  
Frank T. Vecchione, Esq.  
Gary Y. Leung, Jr. Esq.