

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-19745

<p>In the Matter of</p> <p style="text-align:center">No Borders, Inc.,</p> <p>Respondent</p>

DIVISION OF ENFORCEMENT'S ANSWERING BRIEF

July 27, 2020

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The Division of Enforcement (“Division”) hereby submits its Answering Brief to the Petition to Terminate Trading Suspension filed by No Borders, Inc. (“NBDR”) and Joseph Snyder (“Snyder”) (“Petitioners”), in *In The Matter of No Borders, Inc.*, A.P. File No. 3-19745.

I. INTRODUCTION

On April 3, 2020, the Commission suspended trading in NBDR’s stock for ten business days, pursuant to Section 12(k) of the Securities and Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 781(k)] (the “Order”). That suspension was based on a flurry of misleading public statements NBDR made concerning its supposed foray into the purchase, sale and distribution of COVID-19 related medical products, combined with sudden spikes in the company’s share price and trading volume, and contemporaneous sizeable deposits and sales of the company’s stock.

Petitioners seek to vacate the trading suspension pursuant to Commission Rule of Practice 550. Their Petition should be denied. Nothing in their filings calls into any serious doubt that the information before the Commission substantiates concerns about the adequacy and accuracy of information about NBDR in the public markets in March 2020. NBDR offers no credible explanations for its misleading statements about its sudden supposed entry into the COVID-19 business. Instead, Petitioners offer *post-hoc* justifications, which do not hold up against the evidence. Nor do Petitioners contest the stock’s aberrantly large and questionably-timed variations in price, volume, deposits and sales that accompanied its public statements, implying that the market may have been impacted by the misleading information Petitioners were disseminating.

Because the Order was well-founded, and because Petitioners offer no meaningful basis for it to be vacated, the Commission should deny the Petition.

II. PROCEDURAL HISTORY

On April 3, 2020, pursuant to Exchange Act Section 12(k), the Commission issued the Order, suspending trading in NBDR’s securities from April 6, 2020, to April 20, 2020. The Order notes that the suspension was due to “questions regarding the accuracy and adequacy of publicly available information” about NBDR. Specifically, the Order identifies, since March 11, 2020, among other things, “statements about NBDR’s products and business activities related to the COVID-19 pandemic, including NBDR’s COVID-19 specimen collection kits, an agreement to bring COVID-19 test kits to the United States, and NBDR’s activities related to the distribution of personal protective equipment [“PPE”].” The Order sourced those concerns to statements by NBDR: (1) in social media posts since March 11, 2020; (2) in press releases since at least March 16, 2020; (3) on its website since at least March 24, 2020; and (4) in submissions to OTC Markets Group, Inc. (“OTC Markets Group”) since at least March 25, 2020.

On April 13, 2020, NBDR filed its Petition pursuant to Commission Rule of Practice 550(a)¹ to terminate the suspension (“Pet.”), accompanied by Snyder’s sworn declaration (the “Snyder Decl.”). On April 15, 2020, the Commission entered an order requesting additional written submissions. On April 20, 2020, the Division filed the information that was before the Commission at the time of the Order and accompanying Declaration of Roberto A. Tercero (“Tercero Decl.”).

On April 24, 2020, due to stated health concerns raised by Petitioners relating to the

¹ Commission Rule of Practice 550(a) provides, in relevant part:
Any person adversely affected by a suspension pursuant to Section 12(k)(1)(A) of the Exchange Act ... who desires to show that such suspension is not necessary in the public interest or for the protection of investors may file a sworn petition with the Secretary, requesting that the suspension be terminated.

COVID-19 pandemic, the parties filed a joint motion to extend the briefing deadlines. On April 27, 2020, the Commission granted the joint motion.

On May 21, 2020, Petitioners' original counsel in this proceeding moved to withdraw, and on June 30, 2020, their current counsel substituted in on their behalf. On July 13, 2020, Petitioners filed their opening brief ("Op. Br.").

III. STATEMENT OF FACTS

A. Issuer Background

NBDR is a non-reporting company incorporated on May 28, 1999, under the name "Finders Keepers, Inc.". Tercero Decl. ¶ 4. After several other name changes, it was renamed "No Borders, Inc." in October 2004. *Id.* According to its most recent annual submission to OTC Markets Group, NBDR is a "multifaceted brand development and marketing business focusing on impacting verticals with cutting edge software through product development, deployment, branding, program management, social media strategy and business consulting." *Id.* ¶ 32. NBDR describes its products and services as including cannabinoid (Hemp CBD) infused products, dental equipment, online educational courses, and blockchain technology. *Id.* ¶ 8. NBDR subsidiary MediDent Supplies ("MediDent") is a dental and medical supply company. *Id.* ¶ 14. Snyder is NBDR's CEO, and his mother, Cynthia Tanabe ("Tanabe"), is NBDR's CFO. *Id.* ¶ 6.

NBDR does not have a class of shares registered under Exchange Act Section 12. *Id.* ¶ 5. Its stock is quoted under the ticker symbol "NBDR" on OTC Link, operated by OTC Markets Group (previously "Pink Sheets"). *Id.* As of April 3, 2020, NBDR had an OTC "Pink Current Information" designation on OTC Markets Group's website (<http://otcmarkets.com>). As of March 30, 2020, NBDR's stock had twelve market makers, and was eligible for the "piggyback" exception under Exchange Act Rule 15c2-11(f)(3) [17 C.F.R. § 240.15c2-11(f)(3)]. *Id.* ¶ 11.

In its most recent OTC Markets Group annual submission, NBDR, for the year ended December 31, 2019, reported cash of about \$13,000, total assets of about \$65,000, total liabilities of about \$575,000, revenues of about \$427,000, and a net loss of about \$1.4 million. *Id.* ¶ 10. NBDR also reported an accumulated deficit of about \$2 million since its inception, and a going concern statement from NBDR's management team. *Id.*

On November 22, 2019, NBDR became qualified to conduct a Tier 1 offering in reliance on Securities Act Regulation A [17 C.F.R. § 230.251, *et seq.*] (the "Reg A Offering"). *Id.* ¶ 12. The Reg A Offering proposed to sell up to 300 million shares of NBDR stock at one cent per share for a maximum capital raise of \$3 million. *Id.* On March 24, 2020, NBDR filed a revised offering circular that adjusted the price to three cents per share, and reduced the shares available to 100 million shares. *Id.*

NBDR's disclosure counsel, also its counsel in this proceeding, was the subject of two subpoena enforcement actions (on May 4, 2017 and July 20, 2017), for failure to produce documents and an adequate privilege log. *SEC v. Andrew T.E. Coldicutt, et al.*, Case No. 17-mc-3401 (C.D. Cal.); Lit. Rel. No. 23825 (May 4, 2017); *SEC v. Andrew T.E. Coldicutt, et al.*, Case No. 17-mc-00095 (C.D. Cal.); Lit. Rel. No. 23882 (Jul. 21, 2017). *Id.* ¶ 7. The subpoenas to Coldicutt and the subsequent subpoena enforcement actions relate to a Commission investigation, *In the Matter of Andrew T.E. Coldicutt* (LA-04660), arising out of which, on May 20, 2019, the Commission filed an enforcement action alleging antifraud and securities registration violations against certain individuals associated with an issuer for which Coldicutt was disclosure counsel. *SEC v. Osegueda, et al.*, Case No. 2:19-cv-04348 (C.D. Cal.); Lit. Rel. No. 24472 (May 20, 2019). *Id.*

B. NBDR's Public Statements Regarding Its Coronavirus-Related Business

Beginning in early to mid-March 2020, NBDR made statements on social media, in press

releases, and on its website, concerning its purported involvement in COVID-19 related business activities.

Social media. Beginning on March 11, 2020, NBDR promoted on Twitter that it was working on COVID-19 test kits. *Id.* ¶¶ 13-16. From March 11, 2020 to March 24, 2020, NBDR issued at least thirty tweets through its Twitter handle, @NoBordersNBDR, concerning general and company-specific news related to the novel Coronavirus. At least five claimed that the company was working on, and subsequently launched, home specimen collection kits. *Id.* ¶ 13. After the markets closed on March 11, 2020, MediDent issued a tweet, which NBDR retweeted one minute later, stating that it was “actively engaged” with the offices of Congressmen Paul Gosar and Jim Jordan, House Minority Leader Kevin McCarthy, and the Centers for Disease Control to obtain “rapid deployment” of its COVID-19 testing kits. *Id.* ¶ 14. On March 12, 2020, professional wrestler Kevin Nash tweeted that he was hired as a spokesman for NBDR, and that MediDent was “working to immediately bring a Corona Virus [sic] test kit to the people in America.” *Id.* ¶ 15. On March 23 and 27, 2020, Congressman Gosar, whose district in Arizona includes NBDR’s office, tweeted his encouragement of NBDR’s efforts. *Id.* ¶ 16.

Press releases. Beginning on March 16, 2020, NBDR announced through press releases its further efforts into COVID-19 testing and to provide Coronavirus-related medical supplies. *Id.* ¶¶ 16-19, 23, 26-28.

- On **March 16, 2020**, NBDR announced “the launch of its ‘MediDent Supplies Covid-19 Home Specimen Collection Kit’ to support the #StayHomeSaveLives efforts across the country. This kit is designed with the idea to be processable [sic] by any one of the over 2,000 Covid-19 approved labs in the country by containing specimen collection equipment for Nasal, Throat and Saliva samples.”

The same day, the company also tweeted a link to the press release. *Id.* ¶ 18.

- On **March 20, 2020**, NBDR announced that MediDent had “begun expedited Air Freight shipments of medical equipment and supplies into its operations center in Phoenix, Arizona with the first shipment scheduled to land within 24 hours.” NBDR identified the supplies as ventilators, personal protective equipment (“PPE”) for health professionals, and its ““MediDent Supplies Viral Specimen Collection Kit.”” *Id.* ¶ 19.
- On **March 23, 2020**, NBDR announced that it had “executed an agreement with its existing suppliers in Hong Kong to bring its 15 minute ‘At Home’ Serological COVID-19 test to the USA.” It also announced that “The brand new ‘MediDent Supplies 15 Minute Rapid Result Covid-19 Test’ is being manufactured by a MediDent Supplies partner with existing US FDA registrations for both the manufacturer and the serological test kit itself.” *Id.* ¶ 23.²
- On **March 25, 2020**, NBDR announced that it had amended its Reg A offering to reduce the number of shares but increase the share price so that the offering amount remained the same. NBDR explained the change by stating that “[t]he strong demand and volume of the Company’s NBDR stock has created powerful value for the Company and its shareholders over the past months and NBDR executives are thrilled to be positioned to remove two hundred million shares

² NBDR also issued related tweets. In one, it stated “Announcing our new 15 Minute #COVID19 blood tests to aid in the [USA] #coronavirus response! We have thousands of units already on the way & are working with @US_FDA to get EUA approval fast.” The tweet also provided a link to the March 23 press release. In a second tweet, NBDR stated, “today we have NO LAB blood tests already paid4 & headed to [USA] while we work to receive FDA EUA. Our tests are registered med[ical] devices with FDA [and] will need EUA.” *Id.*

from this offering while maintaining the Company’s ability to access tranches of capital as the Company deploys resources to combat the COVID-19 pandemic around the globe.” *Id.* ¶ 26.

- On **March 26, 2020**, NBDR announced a new member to its strategic advisory board, whose efforts purportedly included “high level direct connection to government and world leaders to support the Company’s efforts to combat the COVID-19 pandemic through the MediDent Supplies subsidiary.” *Id.* ¶ 27.
- On **March 26, 2020**, NBDR announced that it had submitted its annual results for the period ending December 31, 2019 earlier than required. It also stated that “With the current volume of insatiable demand for medical equipment and supplies due to COVID-19 it was no small feat to get these financials and reports completed not only on time, but early once again.” *Id.* ¶ 28.

NBDR’s website. NBDR also promoted its COVID-19 business activities on its website. Tercero Decl. ¶ 29. Since at least March 24, 2020, NBDR’s website (<https://www.nbdr.co>) had a shareholder update video titled “COVID-19 Update.”³ During the video, Snyder repeated that the company had a COVID-19 collection kit and had ordered thousands of the 15-minute at-home COVID-19 blood test. Snyder also stated that the company is supported by Congressman Gosar and his office, whom Snyder claimed has given NBDR contacts at the FDA to help it apply for and obtain an emergency use authorization (“EUA”) for the 15-minute at home test. *Id.*

³ As of April 3, 2020, the video was also available on YouTube.

C. Information Contrary to NBDR's Public Statements

1. NBDR's annual OTC Link submissions

On March 25, 2020, NBDR uploaded a submission to the OTC Markets Group website for the fiscal year ending December 31, 2019. Tercero Decl. ¶ 31. NBDR uploaded the Annual Submission again on March 28, 2020 (collectively, the "Annual Submission"). *Id.*⁴ The two versions differ in that NBDR, among other changes, reduced its reported revenue by approximately \$50,000 and increased its reported net loss by about \$24,000. *Id.* The Annual Submission was certified by Snyder and Tanabe. *Id.*

NBDR's Annual Submission makes *no mention* of COVID-19 or the company's purported business activities in those areas. *Id.* ¶ 32. Item 5 of the Annual Submission requires a "clear description of the issuer's current operations." Notwithstanding its public statements throughout March, NBDR described its business, in its Annual Submission, as a "multifaceted brand development and marketing business focusing on impacting verticals with cutting edge software through product development, deployment, branding, program management, social media strategy and business consulting." *Id.* As for MediDent, it is described merely as a dental supply company focused on dental consumables, with no mention of a COVID-19 business. *Id.*

The Annual Submission's description of NBDR's property or facilities is similarly inconsistent with its public statements. Item 6 of the Annual Submission calls for the issuer to "describe the assets, properties or facilities of the issuer, give the location of the principal plants and other property of the issuer and describe the condition of the properties." *Id.* ¶ 33. It further requires the issuer to describe any conditions on ownership, such as a mortgage, and to describe

⁴ The Annual Submission NBDR filed on March 28, 2020 included an attorney letter from its disclosure counsel, also its current counsel in this proceeding, which stated that he is the subject of a Commission investigation and identified the two subpoena enforcement actions.

the terms and conditions of any asset, property, or facility it leases. NBDR only identifies Tanabe's residence in Item 6. *Id.* A residence is hardly an "operations center" into which "Air Freight shipments" will be received with shipments "scheduled to land within 24 hours" as characterized in NBDR's March 20 press release. *Id.* ¶ 19.

2. Information and documents provided to the Division's staff

After initially being nonresponsive to FINRA and the SEC, NBDR provided information to the Division staff that raised further questions concerning the truthfulness of its public statements concerning COVID-19 related business activities.

On March 27, 2020, FINRA contacted NBDR by telephone (and left a voicemail) and email to request information. Tercero Decl. ¶ 20. FINRA received no response. *Id.* On March 31, 2020, Division staff also contacted NBDR by telephone and email, and initially received no response. *Id.* ¶ 20.⁵

On April 1, 2020, Division staff was able to interview Snyder by phone, with his counsel's participation. *Id.* ¶ 21. Prior to the interview, NBDR produced documents to the Division's staff per its request. *Id.* ¶ 22. The information and documents NBDR provided did not bear out its recent public statements, nor explain the divergence between those statements and NBDR's Annual Submission.

Existence of distribution center. Snyder admitted that NBDR's only distribution facility is Tanabe's personal home in Phoenix, Arizona. *Id.* ¶ 21. Snyder indicated that while NBDR had reached an agreement in principle with a warehouse located in Indiana, his mother's home was the only location that NBDR had used as of April 1, 2020. *Id.*

⁵ Without any evidentiary support in the sworn Petition, Petitioners' opening brief posits that NBDR "receives many phone calls per day and did not receive those messages." Op. Br. at 16.

Supplies en route to distribution center. Snyder admitted that NBDR did not have binding agreements to purchase and ship COVID-19 supplies. Prior to the interview, NBDR produced an April 1, 2020 \$174 million purchase order for personal protective equipment (“PPE”) with a Chinese company, and a \$16 million PPE sales order with a domestic company. *Id.* ¶ 22. During the interview, Snyder admitted that the company would not pay for the medical supplies itself, but would instead match up purchase orders with sales orders, and that the deals would not be final until the products were placed at a warehouse in escrow and the funds from the company’s customer were placed in escrow at a bank account. *Id.*⁶

Agreement re: test kits with Hong Kong supplier. Snyder admitted that NBDR did not have an agreement to purchase COVID-19 test kits from a Hong Kong supplier as claimed in the March 23 press release. *Id.* ¶¶ 23, 25.

The documents produced to the staff by NBDR included March 23, 2020 correspondence with Congressmen McCarthy’s and Gosar’s offices. *Id.* ¶ 24. In those emails, Snyder stated that the company had finalized a partnership with the supplier who would ship 15-minute/at-home COVID-19 test kits (“15-minute Test Kits”). Also, Snyder stated to the congressional offices that the supplier and 15-Minute Test Kits were FDA-registered. *Id.*

But during his April 1, 2020 interview, Snyder stated that there was no agreement with its suppliers in Hong Kong. *Id.* ¶ 25. Snyder also stated that NBDR was merely negotiating such an agreement. *Id.* Snyder and his counsel admitted that they were not even sure who the supplier was. *Id.* Not only was NBDR’s March 23 press release false, the company apparently

⁶ Before the Snyder interview, the Division’s staff had also asked for NBDR’s purchase orders. *Id.* ¶ 22. As of April 3, 2020, the staff received no additional purchase orders. *Id.* Although Petitioners’ opening brief states that “NBDR received several of these types of orders in the proceeding (*sic*) weeks” (Op. Br. at 18), they have identified no other orders.

misrepresented the true state of affairs to members of Congress from whom it was seeking assistance. NBDR provided a link to the website of a company it believed was the producer of the kit, but that company's name did not come up on the FDA's website search tools. *Id.* NBDR additionally admitted that it had not itself submitted an FDA application for the 15-Minute Test. *Id.*⁷ Snyder further stated that the company placed a small purchase order and received some of the kits, fewer than 100, and shipped them to a New Jersey township. *Id.*

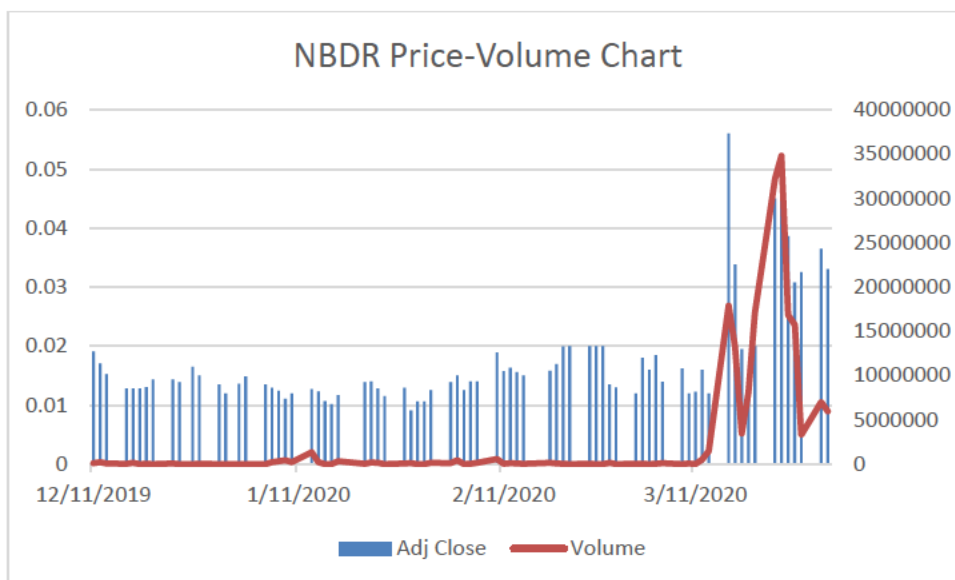
D. NBDR's Stock Price and Trading Volume

During the three months preceding March 11, 2020, NBDR's share price fluctuated between \$0.0091 and \$0.024, with an average daily trading volume of approximately 115,000 shares. *Id.* ¶ 34. In just the two trading days following NBDR's initial coronavirus-related tweet on March 11, 2020, the volume increased to approximately 500,000 and 1.5 million shares, respectively. *Id.* Following NBDR's first press release on March 16, 2020, through March 31, 2020, the stock price fluctuated from \$0.012 to \$0.056 per share, with an average daily trading volume of approximately **14.6 million shares**. *Id.*

Since the stock's high closing price on March 16, 2020, the price and trading volume have fluctuated, but the price has remained approximately **169%** higher than the price on March 11, 2020, when NBDR began tweeting about its COVID-19 business activities. *Id.* Additionally, NBDR's March 31, 2020 trading volume was approximately **5,000%** higher than its average daily trading volume before March 11, 2020. *Id.*

The following chart reflects NBDR's stock price and trading volume from December 11, 2020 to March 31, 2020:

⁷ The FDA also informed the staff that no Hong-Kong entity had an approved 15-Minute Test. *Id.* As of at least March 30, 2020, NBDR had received no EUA according to the FDA's public website, which identifies EUA approvals related to COVID-19. *Id.* ¶ 30.



E. Unusual Deposits and Sales of NBDR Stock

From March 3 to 23, 2020, a broker-dealer and two banks deposited 16 million shares of NBDR stock with the DTC on behalf of their customers. Tercero Decl. ¶ 35. At least 7.5 million of the deposited shares were on behalf of: (1) Trillium Partners, LP (“Trillium”), which is controlled by a recidivist and (2) Tri-Bridge Ventures, LLC (“Tri-Bridge”), which has been the subject of numerous FINRA referrals concerning its timely trading activity in suspected market manipulation schemes. *Id.* Both shareholders are among the larger microcap stock depositors (through broker-dealers and banks) to DTC. *Id.*

On March 3 and 25, 2020, U.S. Bank N.A. deposited a total of 5 million NBDR shares owned by Trillium. *Id.* ¶ 37. In 2010, the Commission charged Trillium’s principal, Stephen M. Hicks (“Hicks”), with antifraud violations related to a series of schemes involving hedge funds that invested in convertible notes and debentures from microcap stocks. *SEC v. Southridge Capital Management LLC, et al.*, Case No. 3:10-cv-01685 (D. Conn.); Lit. Rel. No. 21709 (Oct. 25, 2010). Hicks was permanently enjoined and barred from associating with any

investment adviser, broker, or dealer. *In re Stephen M. Hicks*, Exch. Act Rel. No. 82767 (Feb. 23, 2018). *Id.*

On March 17, 2020, Tri-Bridge submitted a request to deposit 2.5 million NBDR shares of stock into its account at Alpine Securities Corp. *Id.* ¶ 38. Tri-Bridge has been the subject of ten FINRA referrals concerning its timely trading activity in suspected market manipulation schemes. On March 20, 2020, Alpine accepted the shares and deposited them with DTC. Tri-Bridge sold all 2.5 million shares on March 20 and 23, 2020. *Id.*

IV. LEGAL STANDARDS GOVERNING TRADING SUSPENSIONS

Exchange Act Section 12(k)(1)(A) authorizes the Commission to issue an order summarily suspending trading in any security (other than an exempted security) for a period not exceeding ten business days if “in its opinion the public interest and the protection of investors so require.”⁸ The law authorizes the Commission to act “without any notice, opportunity to be heard, or findings based upon a record.” *SEC v. Sloan*, 436 U.S. 103, 112 (1978). There is no express statutory requirement “to allege or find that an issuer has violated a specific provision of the federal securities laws before suspending trading....” *Bravo Enter.*

⁸ A trading suspension order prohibits brokers, dealers, and members of a national securities exchange from using any instrumentality of interstate commerce “to effect any transaction in, or induce the purchase or sale of” a security subject to a suspension order while the suspension is in effect. Section 12(k)(4). After a trading suspension expires, Exchange Act Rule 15c2-11 governs the ability of brokers to initiate and resume securities quotations for securities not listed on a national securities exchange. *See* 17 C.F.R. § 240.15c2-11. “Once there has been a lapse in two-way quotations for more than four business days for any reason, including a trading suspension, a broker-dealer cannot re-initiate quotations without complying with the informational and other requirements of Rule 15c2-11 and filing a Form 211 with FINRA, or otherwise demonstrating that it qualifies for an exception or exemption under Rule 15c2-11(f) or (h).” *Bravo Enter. Ltd.*, 2015 WL 5047983 at *12, n.72.

Ltd., Exch. Act Rel. No. 75775, 2015 WL 5047983, at *3 (Aug. 27, 2015) (Commission Opinion).

A decision to suspend trading is “rooted in [the Commission’s] opinion based on [its] expertise, experience, and knowledge, that a trading suspension [is] in the public interest and would protect investors.” *Id.* at *3. The question of whether the Commission is of the “opinion” that a trading suspension is warranted is a subjective one, and there is a “significant ‘distinction between a subjective standard (whether the agency thinks that a condition has been met) and an objective one (whether the condition has in fact been met),’ with the former giving the agency more discretion to act.” *Id.* at * 2, citing *Drake v. FAA*, 291 F.3d 59, 72 (D.C. Cir. 2002). Likewise, while the phrase “in the public interest” is not statutorily defined, it is an “inherently ‘broad standard[] for administrative action.’” *Id.* at *2, citing *Am. Power & Light Co. v. SEC*, 329 U.S. 90, 104 (1946). The phrase “investor protection” implies an “expansive mandate.” *Id.* at *2.

In determining whether to suspend trading, “the primary issues normally to be considered ... are whether or not there is sufficient public information about which to base an informed investment decision or whether the market for the security appears to reflect manipulative or deceptive activities.” *Id.* at *4 (quoting Rules of Practice, Exch. Act Rel. No. 35833, 60 Fed. Reg. 32738, 32787 (June 23, 1995) (adopting release) (Comment to Rule 550 discussing the Commission’s process for petitions to terminate a suspension of trading)). Commission Rule of Practice 550(b) provides that the Commission may “resolve petitions to terminate a trading suspension ‘on the facts presented in the petition and all other relevant facts known to the Commission.’” *Bravo Enter. Ltd.*, 2015 WL 5047983 at *11. Following these considerations, the Commission has, as it did here, has “suspended trading when there were

questions about the accuracy of publicly available information about the company, whether in press releases, public filings, or other statements.” *Id.* at *5. It has also ordered suspensions “in situations involving fraud or manipulation by individuals unconnected with the issuers.” *Id.* at *5.

Even though the NBDR suspension terminated on April 20, 2020, the Commission may still consider Petitioners’ petition to remove it pursuant to Commission Rule 550(b), because Petitioners filed their request for Commission review within the 10-day suspension. *Bravo Enter. Ltd.*, 2015 WL 5047983, at *6. On review, the Commission seeks to determine whether it remains of the opinion that the public interest and the protection of investors required suspension of trading in NBDR’s shares. *See id.* at *1.

V. **ARGUMENT**

A. **The Commission Properly Imposed the 10-Day Trading Suspension**

Though Petitioners’ opening brief argues strenuously that a different standard *should* apply (*see* Op. Br. at 3, arguing that the Commission should “allow a suspension to be terminated as easily or by a similar standard as it currently allows itself to impose the suspension”), there is no doubt about the standard that *in fact* applies under Rule 550. The Commission is justified in suspending trading when it believes that questions about the accuracy and adequacy of the information in the public market for an issuer’s securities warrant suspension, to protect the public interest and the public markets’ investors. Contrary to Petitioners’ assertion, the Commission is not required to find “wrongdoing or violation of any federal securities laws” (Op. Br. at 3) to uphold the suspension.

Here, the Commission was fully justified in its assessment that information in the marketplace about NBDR raised adequacy and accuracy questions because: (1) NBDR’s public

proclamations about its foray into the COVID-19 business were at odds with its contemporaneous Annual Submission; (2) NBDR's pronouncements that it was shipping certain COVID-19 products, and was under contract to ship others that were FDA-approved, were belied by the information and documents NBDR provided to the Division staff; (3) NBDR's rapid share price and trading volume suggested that investors may have been misled by NBDR's public statements; and (4) NBDR's misleading statements, and its stock price and volume jumps, coincided with large share deposits to DTC and certain significant stock sales. Petitioners' submissions in this proceeding provide no evidence to contradict any of these concerns, and either concede, ignore, or attempt to explain away these stark inconsistencies and their apparent effect on the market for NBDR's shares.

1. NBDR's public statements were false and misleading

Annual Submissions. It is undisputed that NBDR's Annual Submissions, filed on March 25, 2020 and March 28, 2020, made no reference to any COVID-19 business activities in which NBDR claimed to be engaged. This was despite the requirement in Item 5 to describe the issuer's current business operations, and notwithstanding that from March 11, 2020 onward, the company was vigorously promoting its supposed involvement in distributing COVID-19 products. As for MediDent, the NBDR subsidiary allegedly involved in COVID-19 product distribution, it was described in the Annual Submission as a dental supply company focused on dental consumables—not a company involved in a COVID-19 related business.

The apparent contradiction between NBDR's claims to be in the COVID-19 business and its description of its actual business in its OTC Link filings justified the Commission's Order. *See, e.g., Myriad Interactive Media, Inc.*, Exch. Act. Rel. 75791, 2015 WL 5081238, at *3-4 (Aug. 28, 2015) (Commission Opinion) (upholding trading suspension justified due to "conflicting information in the marketplace" from issuer's inaccurate press releases regarding the

development of an “Ebola tracking system”); *Immunotech Laboratories, Inc.*, Exch. Act Rel. No. 75790, 2015 WL 5081237, at *8 (Aug. 28, 2015) (Commission Opinion) (upholding trading suspension based, *inter alia*, on inconsistencies between the issuer’s press releases and Commission filings regarding the scope of a contract).

Petitioners offer no explanation for the disconnect between their public pronouncements that NBDR was highly involved in COVID-19 business in March 2020, and their simultaneous omission of any such business activity from their Annual Submission that same month. NBDR’s petition does not contest these facts, nor otherwise reference the Annual Submission, other than to state without explanation that they contained “no false or misleading statements.” Pet. ¶ 37.

In their brief, Petitioners argue that the COVID-19 products NBDR had sold as of the time the Annual Submission—March 25 and 28, 2020—were “promising” but “not material” and that referencing its new foray into COVID-19 in the Annual Submission was unnecessary because MediDent had already been selling PPE products that could be used to protect against COVID-19. Op. Br. at 22-23. However, NBDR’s public statements in March 2020 focus not merely on PPE products, but on various COVID-19 test kits MediDent purported to be on the cusp of supplying. For example, its March 11 and 12 social media statements claimed it was working on “rapid deployment” of COVID-19 testing kits, and working to “immediately bring” a test kit to the United States. Similarly, its March 16 and 20 press releases discussed test kits it was purporting to launch. That NBDR’s Annual Submission elided any reference to the COVID-19 products that were the focus of its social media and press releases, as well as its promotional video, resulted in inadequate information available to the public markets.

Information provided to the SEC. NBDR’s social media posts and press releases, and the information on its website, were also contradicted by the information Petitioners provided to

the staff prior to the Order.

First, NBDR claimed publicly in mid-March that it was launching, through MediDent, a home specimen collection kit for COVID-19, with shipments of the kit and other PPE products landing to its “operations center” imminently. However, Snyder admitted to the SEC that NBDR did not have final agreements to purchase products, but rather had only two purchase orders. NBDR admitted that it was awaiting customers’ sales orders before any deals would be final as it did not have funds to purchase the products. The documents NBDR produced to the SEC contained just two purchase orders.

The Petition does not identify any other purchase orders or actual agreements NBDR had entered for test kits or other PPE at the time of its public statements. While it states that MediDent used “new and pre-existing foreign business relationships to locate, source and purchase” product (Pet. ¶ 21), and that MediDent “contracted with a sourcing agent in the Far East to purchase” testing kits “to sell them in the U.S.,” (Pet. ¶ 23), it contains nothing to support the statement that such kits were paid for or would be imminently delivered to NBDR. Petitioners’ brief argues that NBDR “began using its medical supply subsidiary, its various contacts and sources to begin helping the public through the procurement and sale of ‘at home test-kits...’” (Op. Br. at 9), but is similarly lacking in detail. Based on the dearth of information supporting NBDR’s public claims of “rapid deployment” of test kits in the “thousands of units,” the Commission was well-placed to conclude that there were significant questions about the accuracy and adequacy of information about NBDR’s actual business activities in the public market. *See, e.g., Immunotech Laboratories, Inc.*, 2015 WL 5081237 at *2-4 (upholding trading suspension where “information available to potential investors was, at best, contradictory and confused”).

Second, NBDR claimed on March 23, 2020 that it had “executed an agreement” with a Hong Kong supplier for a 15-minute serological test, that had “existing FDA registrations” for the test and manufacturer. However, in Snyder’s SEC interview, he admitted there was no such agreement; rather, one was merely being negotiated. SEC staff was unable to verify any FDA registration on behalf of this purported supplier, nor on behalf of NBDR.

The Petition does not specify a Hong Kong supplier nor any agreement with one. Instead, it asserts that NBDR, through MediDent, “contracted with a sourcing agent in the Far East to purchase” serological tests from a company called Liming-Bio. Pet. ¶¶ 22-24. The Petition further asserts that “Liming-Bio was added to the FDA’s approved list of manufacturers” for serological tests. *Id.* ¶ 22. Petitioners’ brief likewise asserts that NBDR “had purchased these Antibody tests from its Hong Kong suppliers/partners who imported and exported the [] tests ... from the manufacturer Liming Bio, a Chinese company that had an EUA with the FDA.” Op. Br. at 13.⁹ However, searches of the FDA’s database show that Liming-Bio, a Chinese entity, was not added to the FDA database prior to March 25, 2020—after NBDR had already falsely claimed to have FDA registered tests *en route*. See Supplemental Declaration of Roberto Tercero *filed concurrently herewith* (Supp. Tercero Decl.), ¶¶ 4-5, Exs. 1-2. Furthermore, it was not until April 21, 2020 that the FDA announced that it had authorized the first at-home COVID-19 test, which was based upon nasal swabs rather than a blood, or

⁹ Petitioners’ brief departs from its Petition with respect to whether these kits required FDA approval. The Petition cites March 16, 2020 FDA guidance allowing manufacturers to distribute tests before receiving an EUA, with which it claims NBDR’s March 16, 20, and 23 press releases complied. Pet. ¶¶ 27, 29. However, the brief refers to a “surprise notice” issued by the FDA on March 20, 2020, of which Petitioners now claim (without evidentiary support) NBDR was “not aware ... until after the Company had issued its March 23, 2020 press release.” Op. Br. at 13. In either case, Petitioners offer no explanation for NBDR’s claims to have an agreement to ship FDA-registered test kits.

serological, test. *Id.* at ¶ 6, Ex. 3. The apparent falseness of NBDR’s claim, as of March 23, to have an agreement to ship FDA-registered test kits from Hong Kong, remains ample grounds for the Order.

Petitioners’ brief further tries to explain away Snyder’s admission in the interview that there was no executed agreement with a Hong Kong supplier, by suggesting that what Snyder “was actually saying” was that there was no “long term agreement wherein the Company was required to keep purchasing a specific amount of goods from a single supplier” and instead he was “negotiating a global agreement with a single supplier.” *Op. Br.* at 21. But Snyder’s sworn petition contains none of these assertions, rendering them mere argument. Petitioners have offered no evidence substantiating that NBDR had any agreement with a Hong Kong supplier as of March 23. This attempted after-the-fact spin on Snyder’s admission provides no basis to overturn the suspension.

2. NBDR’s stock price and trading volume

The information before the Commission at the time of the Order showed a dramatic increase in the price and trading volume of NBDR’s stock. Once the company began promoting its COVID-19 activities, the stock rose approximately 169%, and the trading volume increased roughly 5000%. These skyrocketing figures provided a basis for the Commission to conclude that the market may have been highly reactive to inadequate or inaccurate information about NBDR’s actual business activities. Suspension orders have been upheld on similar grounds in other matters. *See, e.g., See In the Matter of Efuel Enf. Corp.*, *Exch. Act Rel. No. 86307*, 2019 WL 2903941, at *7 (July 5, 2019) (Commission Opinion) (“In issuing a trading suspension, we must consider not only current shareholders but also the interests of *prospective* or *potential* investors who might be harmed because they purchase shares in reliance on potentially inaccurate or inadequate information about the issuer.”) (internal quotations omitted).

Petitioners argue that they did not engage in touting. *See* Pet. ¶ 38 (“NBDR has never hired, retained and has not ever had any understanding with an individual or entity to promote, or tout the Company or its business to the public”); Op. Br. at 4 (“There were no promoters, no promotions...”). As an initial matter, whether NBDR touted the stock or it was inflated due to actions by others, the activity can still justify the suspension. “Regardless of the culpable party, potentially manipulative or deceptive trading implicates the public interest and our objective to maintain fair and orderly markets in which investors can make informed investment decisions.” *Immunotech Laboratories, Inc.*, 2015 WL 5081237 at *7 (rejecting argument that trading suspension was inappropriate because issuer did not know the identity of the touters).

Moreover, evidence discovered by the Division after the Commission suspended trading suggests that NBDR’s stock was actively promoted in the relevant period. On March 18, 2020, microcap investor relations firm Bull in Advantage, LLC, through its Blue Horseshoe Stocks (“Blue Horseshoe”) newsletter and website (<https://www.bluehorseshoestocks.com>), featured NBDR on its “Corona Virus Watchlist,” as one of “a few plays that represent products and services that are high demand at the present time due to the fallout from COVID-19.” Supp. Tercero Decl. ¶ 7, Ex. 4. Next, on March 24, 2020, Blue Horseshoe announced that NBDR’s “stock has produced a multi-bag run in just a short period. It has traded in a range from .0112-.0489, which represents a gain of 337%.” *Id.* ¶ 8, Ex. 5. Finally, on March 25, 2020, Blue Horseshoe announced that NBDR’s stock “absolutely blasted off once again during yesterday’s session, this time reaching a new high of .089. That works out to a total increase of 695% in a span of just 5 trading days!” *Id.* ¶ 9, Ex. 6. These promotions of the spike in NBDR’s price and volume, which coincided with NBDR’s unsubstantiated claims to be providing COVID-19-related products, provide solid grounds for the suspension.

3. Suspicious stock deposits and trading in NBDR's stock

The Commission further had before it at the time of the Order information on large stock deposits to DTC by entities associated with actual or potential manipulation activities, and in one such instance, the rapid liquidation of the shareholder's position. Sixteen million shares of NBDR's stock were deposited between March 3 and March 23, 2020 by two large shareholders. One such shareholder sold all the shares it deposited on March 20 and 23, the same dates as NBDR's misleading press releases about its COVID-19 business, when its price had spiked.

This suspicious deposit and trading activity, particularly when viewed in light of the active promotion of its stock, further provide a valid basis for the Order. *See, e.g., Bravo*, 2015 WL 5047983 at *5 (the Commission has exercised its trading suspension authority in a variety of circumstances, including "when there were questions about trading in the stock, including indicia of potential market manipulation or unusual market activity.").

The Petition is silent as to these deposits and sales, thus Petitioners offer no contrary evidence. In their brief, Petitioners do not dispute any of the facts surrounding the share deposits and sales. Instead, they argue (without evidentiary support) that the shares were sold "after the documentation was reviewed and approved on several levels" and were "in the[investors'] names." Op. Br. at 25. Whether either of these factual assertions are true, they matter not to the Commission's consideration of the activity as part of the basis for its Order. The deposits and sales were closely timed to NBDR's misleading promotions of its purported COVID-19 business activity, at a time when its stock was actively promoted in the microcap press, thus suggesting that market manipulation was occurring.

4. Petitioners provide no evidence that warrants vacating the suspension

Petitioners' brief refers to several aspects of their supposedly ongoing COVID-19 activities, but with no support, as they are not addressed in the Petition. These include that:

- NBDR “continues to sell the sample collection kits to hospitals, medical offices, and dental offices with proof of license as they had been previously doing with the medical products that they already had been selling which required such proof of license” (Op. Br. at 11); and
- NBDR is “still working with” Congressmen and their offices (Op. Br. at 15).

Petitioners have not supplied any evidence, sworn or otherwise, that would permit these assertions to be considered in relation to their Petition, and it should be disregarded.

Even if these points about NBDR's business were true, they would not provide grounds to vacate the suspension. The suspension was based on the information before the Commission at the time of the Order. That information included NBDR's March 2020 press releases, social media posts, and website touting its purported COVID-19 activities, and the indicia of market manipulation that coincided with them. Whether NBDR has continued to attempt to conduct these business activities post-Petition has no bearing on the Commission's Order.

B. NBDR Should Not Be Permitted to Rely on the Piggyback Exception to Rule 15c-211

Rule 15c2-11 requires brokers and dealers to have certain information before publishing quotations in an effort, among many, to curb fraudulent, manipulative conduct in the penny stock market. *Initiation or Resumption of Quotations Without Specified Information*, Rel. No. 34-29094, 1991 WL 292186, at *2 (Apr. 17, 1991). A trading suspension that results in a break in two-way quotations for more than four business days removes the so-called “piggyback exception” that enables many OTC tickers to be quoted by market-makers. Thus, following a suspension for a stock not traded on an exchange, broker-dealers may only resume quoting an OTC stock if they have a reasonable basis under the circumstances for believing that a

company's financial statements are reasonably current and accurate, and complies with the requirements of Rule 15c2-11. *Id.*; *see also* Steve Peikin, May 12, 2020 Keynote Speech, Securities Enforcement West, available at <https://www.sec.gov/news/speech/keynote-securities-enforcement-forum-west-2020#> (the "2020 Keynote").

Citing the 2020 Keynote, Petitioners argue that NBDR should have its "piggyback" exception to Rule 15c2-11 restored because it is current with OTC Link filings. Op. Br. at 28. However, for all the reasons that the Order was warranted when issued and remains so today, this exception should not be restored as to NBDR's stock. As the 2020 Keynote makes clear:

Trading suspensions have been a critical element of the Commission's response to COVID-19. [T]he Commission has suspended trading in the securities of more than 30 issuers as a result ***of questions about the adequacy and accuracy of coronavirus-related information.*** These suspensions followed a broad range of claims by issuers, ***including those relating to access to testing materials, developments of treatments or vaccines, and access to personal protective equipment.***

Id. (emphasis added). Precisely those kinds of concerns animated the Commission's actions here, and NBDR's submissions in this proceeding offer no assurance that the public now has accurate or adequate information about its business activity. *See, e.g., In the Matter of Helpeo, Inc.*, Rel. No. 34-82551, 2018 WL 487320, at *3 n.28 (Jan. 19, 2018) (upholding suspension of issuer's stock where it lacked timely and accurate public filings, but noting that Commission has authority to address "collateral consequences" of a suspension where appropriate).

Further, while broker-dealers cannot resume publishing quotations without complying with Rule 15c2-11, unsolicited trading under Rule 15c2-11(f)(2) is nevertheless permissible. *Bravo*, 2015 WL 5047983, at *12, n. 72; 17 C.F.R. § 240.15c2-11(f)(2). Investors may trade in the subject security and even have "a broker-dealer submit quotations on his or her behalf." *Bravo*, 2015 WL 5047983, at *12, n. 72. Thus, investors can currently trade NBDR securities publicly outside an interdealer quotation system in the so-called "grey market." The evidence suggests that such trading is ongoing. Supp. Tercero Decl., ¶ 10, Ex. 7.

C. Petitioners' Remaining Arguments are Without Merit

Petitioners raise two other arguments, neither of which should have any bearing on the Commission's review of the Order. First, Petitioners argue that the Commission inappropriately considered evidence concerning prior enforcement matters involving the company's disclosure counsel at the time of the Order. Op. Br. at 24-25. The information before the Commission included evidence of prior enforcement actions pertaining to NBDR's disclosure counsel at the time of the suspension. This included that the Commission had filed two litigated court actions to obtain compliance with administrative subpoenas, and that it had subsequently filed an enforcement action against an issuer represented by the same counsel. Petitioners do not dispute that these actions were filed, nor address them in their Petition, but instead argue in their brief that these issues are a "red herring." Op. Br at 24. Petitioners argue, without evidentiary support, that SEC staff "investigated corporate counsel several years ago but did not find any misconduct," that the SEC "used misinformation in order to use counsel's name to gain an illicit subpoena," that "counsel properly based his privilege log and production efforts on the advice of his counsel and California Law," and that the "matter was resolved to the SEC's satisfaction," *Id.*

In fact, the SEC's subpoena enforcement action resulted in a June 8, 2017 order compelling counsel's compliance with the SEC's subpoena. *See* Supp. Tercero Decl. ¶11, Ex. 8 [*SEC v. Andrew T.E. Coldicutt, et al.*, Case No. 17-mc-3888 (C.D. Cal.), Dkt. No. 15]. But even that did not "resolve" the matter; rather, the SEC filed a second order to show cause to enforce compliance, which the Court granted on July 31, 2017. *SEC v. Coldicutt*, 2017 U.S. Dist. LEXIS 121056 (C.D. Cal. Jul. 31, 2017). The action the SEC filed in 2019 against individuals associated with an issuer for which Coldicutt was disclosure counsel has resulted in several judgments and remains pending. *Id.* ¶ 12, Ex. 9 at 38, 40.

Second, Petitioners also argue that they were inadequately able to prepare for the SEC interview. Pet., ¶ 39 (NBDR "was unable to adequately and properly prepare" for interview); Op. Br. at 17 (claiming the company was "not well staffed, or well-funded" at the time).

However, an asserted “lack of resources does not relieve an issuer from its disclosure obligations under the securities laws.” *Helpeo*, Rel. No. 34-82551, 2018 WL 487320, at *4 (Jan. 19, 2018) (Commission Opinion). While Petitioners focus on their discussions with the SEC on April 1, 2020, the Petition does not dispute that FINRA tried to reach NBDR nearly a week before the interview, and the SEC the day before, without any response. Finally, Petitioners have failed in this proceeding, even with the benefit of an extended schedule, to supply competent evidence showing its public statements to have been complete and accurate at the time they were made.

VI. CONCLUSION

For the reasons stated above, the Division requests that the Commission deny Petitioners’ request to rescind the temporary trading suspension.

Dated: July 27, 2020

Respectfully submitted,

DIVISION OF ENFORCEMENT

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CERTIFICATE OF COMPLIANCE

In the Matter of No Borders, Inc., A.P. File No. 3-19745

I hereby certify that the attached Answering Brief uses 12-point, Times New Roman font and contains 7,880 words.

Dated: July 27, 2020

/s/ Amy Jane Longo
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In the Matter of No Borders, Inc.
Administrative Proceeding File No. 3-19745
SERVICE LIST

Pursuant to Commission Rule of Practice 151 (17 C.F.R. §201.151), I certify that the attached:

DIVISION OF ENFORCEMENT'S ANSWERING BRIEF

was served on July 27, 2020, upon the following parties as follows:

Vanessa Countryman, Secretary (By electronic mail)
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Dated: July 27, 2020

/s/ Amy Jane Longo
Amy Jane Longo

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-19745

<p>In the Matter of</p> <p style="text-align:center">No Borders, Inc.,</p> <p>Respondent</p>

SUPPLEMENTAL DECLARATION OF ROBERTO A. TERCERO

I, ROBERTO A. TERCERO, declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am a Senior Counsel with the United States Securities and Exchange Commission (“Commission”) and have been employed by the Commission as an attorney in the Division of Enforcement (“Division”) since 1995 in the Los Angeles Regional Office.

2. I submit this Declaration in support of the Answering Brief of the Division of Enforcement (“Division”) concerning the Commission’s April 3, 2020 Order of Suspension (“Order”) regarding the securities of No Borders, Inc. (“NBDR” or the “company”).

3. Pursuant to footnote 6 of the Order, the Division is not filing information which would disclose privileged legal analysis or sensitive information about the staff of the Division’s investigative methods. The Division additionally is not filing information the disclosure of which would otherwise violate applicable federal law or regulations.

4. On March 25, 2020, I directed the Division’s staff to conduct a search on the Food and Drug Administration (“FDA”) website to determine whether any Hong Kong entity was registered with the FDA to manufacture or distribute any blood specimen collection device.

The Division's staff searched the FDA's "Registration and Listing Database" on the FDA website [<https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfRL/rl.cfm>]. The search revealed no Hong Kong entity had an at-home blood test. None of the product descriptions made any mention of the Coronavirus or COVID-19. The name Liming-Bio did not come up in the search. A true and correct copy of the search result is attached hereto as **Exhibit 1**.

5. On March 25, 2020, I directed the Division's staff to conduct searches on the FDA website to determine whether any Hong Kong entity had a device under the product code "QKO," which is for "Reagent, Coronavirus Serological." The search revealed thirteen entities, but none of them were named Liming-Bio. A true and correct copy of the search result is attached hereto as **Exhibit 2**.

6. A true and correct copy of the FDA's April 21, 2020 announcement entitled "Coronavirus (COVID-19): FDA Authorizes First Test for Patient At-Home Sample Collection" is attached hereto as **Exhibit 3**.

7. On March 18, 2020, Bull in Advantage LLC, dba Blue Horseshoe Stocks ("Blue Horseshoe") published a document to its website (<https://bluehorseshoestocks.com/>) entitled "Coronavirus Watchlist and More." A true and correct copy of the March 18 publication is attached hereto as **Exhibit 4**.

8. On March 24, 2020, Blue Horseshoe published a document to its website entitled "OTC Stocks Popping." A true and correct copy of the March 24 publication is attached hereto as **Exhibit 5**.

9. On March 25, 2020, Blue Horseshoe published a document to its website entitled "Fresh Options Ideas & More." A true and correct copy of the March 25 publication is attached hereto as **Exhibit 6**.

10. I obtained a chart of the stock price and trading volume history of NBDR stock from Dow Jones Factiva. A true and correct copy of the chart is attached as **Exhibit 7**.

11. On June 8, 2017, the United States District Court for the Central District of California issued an order in the Commission's subpoena enforcement action against Andrew Coldicutt styled *SEC v. Andrew T.E. Coldicutt*, Case No. 2:17-cv-03888CAS (AFM). A true and correct copy of the June 8, 2017 order is attached hereto as **Exhibit 8**.

12. On May 20, 2019, the Commission filed an enforcement action in the United States District Court for the Central District of California styled *SEC v. David N. Osegueda, et al.*, Case No. 2:19-cv-04348-PSG (AGR). A true and correct copy of the court docket in the *Osegueda* district court action is attached hereto as **Exhibit 9**.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 27th day of July, 2020 in Los Angeles, California.


ROBERTO A. TERCERO

In the Matter of No Borders, Inc.
Administrative Proceeding File No. 3-19745
SERVICE LIST

Pursuant to Commission Rule of Practice 151 (17 C.F.R. §201.151), I certify that the attached:

SUPPLEMENTAL DECLARATION OF ROBERTO A. TERCERO

was served on July 27, 2020, upon the following parties as follows:

Vanessa Countryman, Secretary
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(By electronic mail)

Dated: July 27, 2020

/s/ Amy Jane Longo
Amy Jane Longo

EXHIBIT 1



[FDA Home](#)³ [Medical Devices](#)⁴ [Databases](#)⁵

Establishment Registration & Device Listing

1 to 3 of 3 Results for **Establishment**

Results per Page 10 ▼

Country : *HONG KONG, CHINA*

[New Search](#)⁶

Classification Name : *Tubes, Vials, Systems, Serum*

Establishment Name	▲ ⁷ ▼ ⁸	Registration Number	Current Registration Yr
CBR ENTERPRISE LIMITED ⁹	HONG KONG, CHINA	3013557562	2020
<ul style="list-style-type: none"> Tubes, Vials, Systems, Serum Separators, Blood Collection¹⁰ Tubes, Vials, Systems, Serum Separators, Blood Collection¹¹ Tubes, Vials, Systems, Serum Separators, Blood Collection¹² Tubes, Vials, Systems, Serum Separators, Blood Collection¹³ 			Foreign Exporter
GLOBALMED INTERNATIONAL LTD ¹⁴	HONG KONG, CHINA	3010605677	2020
<ul style="list-style-type: none"> Tubes, Vials, Systems, Serum Separators, Blood Collection¹⁵ 			Foreign Exporter
SOL-MILLENNIUM MEDICAL HK LIMITED ¹⁶	HONG KONG, CHINA	3013794253	2020
<ul style="list-style-type: none"> Tubes, Vials, Systems, Serum Separators, Blood Collection - Sol-Care Safety Blood Collection Needle; Sol-Care Safety Blood Collection Needle With Pre-Attached Holder; Sol-Care Safety Winged Infusion Set; Sol-M Blood Collection Tube Holder; Sol-M Blood Culture Holder; Sol-M Holder With Male Luer Lock Adapter; Sol-M Multi Sample Needle¹⁷ 			Foreign Exporter

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- [./rl.cfm?rid=174153](https://www.fda.gov/cfr/rl.cfm?rid=174153)
- [./rl.cfm?lid=532222&lpcd=JKA](https://www.fda.gov/cfr/rl.cfm?lid=532222&lpcd=JKA)
- [./rl.cfm?rid=218170](https://www.fda.gov/cfr/rl.cfm?rid=218170)

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EXHIBIT 2



[FDA Home](#)³ [Medical Devices](#)⁴ [Databases](#)⁵

Establishment Registration & Device Listing

1 to 13 of 13 Results for Product Code :

QKO

Results per Page 100 ▼

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Establishment Name	▲ ⁷ ▼ ⁸	Registration Number	Current Registration Yr
ASSURE TECH. (HANGZHOU) CO., LTD. ⁹	CHINA	3009585529	2020
<ul style="list-style-type: none"> Reagent, Coronavirus Serological - COVID-19 IgG/IgM Rapid Test Device¹⁰ 			Manufacturer
AYTU BIOSCIENCE, INC. ¹¹	CO/USA	3011934191	2020
<ul style="list-style-type: none"> Reagent, Coronavirus Serological - COVID-19 IgG/IgM Rapid Test Cassette (Emergency Use Only)¹² 			Repackager/Relabeler
BioMedomics Inc. ¹³	NC/USA	3008706509	2020
<ul style="list-style-type: none"> Reagent, Coronavirus Serological - COVID-19 IgM-IgG Rapid Test¹⁴ 			Manufacturer
BTNX Inc. ¹⁵	CANADA	3003917514	2020
<ul style="list-style-type: none"> Reagent, Coronavirus Serological - Rapid Response COVID-19 IgG/IgM Test Cassette (Whole Blood/Serum/Plasma)¹⁶ 			Foreign Private Label Distributor
EPITOPE DIAGNOSTICS, INC. ¹⁷	CA/USA	2032839	2020
<ul style="list-style-type: none"> Reagent, Coronavirus Serological - KT-1032 EDI™ Novel Coronavirus COVID-19 IgG ELISA Kit, KT-1033 EDI™ Novel Coronavirus COVID-19 IgM ELISA Kit¹⁸ 			Manufacturer
Hangzhou Biotest Biotech Co., Ltd. ¹⁹	CHINA	3011522054	2020
<ul style="list-style-type: none"> Reagent, Coronavirus Serological - CORONACHEK COVID-19 IgG/IgM Rapid Test Cassette (Whole Blood/ Plasma/Serum); Coronacide COVID-19 IgM/ IgG Rapid Test (Whole Blood/ Serum/ Plasma); Ovios COVID-19 IgG/IgM Rapid Test Cassette(Whole Blood/ Plasma/Serum); Premier Biotech COVID-19 IgG/IgM Rapid Test Cassette(Whole Blood/ Plasma/Serum); RightSign® COVID-19 IgG/IgM Rapid Test Cassette(Whole Blood/ Plasma/Serum)²⁰ 			Manufacturer
HEALGEN SCIENTIFIC LLC ²¹	TX/USA	3009238284	2020
<ul style="list-style-type: none"> Reagent, Coronavirus Serological²² 			Specification Developer
PHAMATECH INC. ²³	CA/USA	2031229	2020
<ul style="list-style-type: none"> Reagent, Coronavirus Serological - Phamatech's COVID-19 IgG / IgM Rapid Test²⁴ 			Contract Manufacturer; Manufacturer; Repackager/Relabeler; Specification Developer; U.S. Manufacturer of Export Only Devices
SD BIOSENSOR ²⁵	KOREA, REPUBLIC OF	3008959428	2020
<ul style="list-style-type: none"> Reagent, Coronavirus Serological - STANDARD™ Q COVID-19 IgM/IgG Duo Test²⁶ 			Manufacturer
SD BIOSENSOR, INC. ²⁷	KOREA, REPUBLIC OF	3012133212	2020
<ul style="list-style-type: none"> Reagent, Coronavirus Serological - STANDARD™ Q COVID-19 IgM/IgG Duo Test²⁸ 			Specification Developer
TECO DIAGNOSTICS ²⁹	CA/USA	1832216	2020
<ul style="list-style-type: none"> Reagent, Coronavirus Serological - 2019-NCoV Ab Test; Innovita 2019-NCoV Ab Test³⁰ 			U.S. Manufacturer of Export Only Devices
ZHEJIANG ORIENT GENE BIOTECH ³¹	CHINA	3008517993	2020
<ul style="list-style-type: none"> Reagent, Coronavirus Serological³² 			Contract Manufacturer
ZHUHAI ENCODE MEDICAL ENGINEERING CO., LTD. ³³	CHINA	No number listed	2020
<ul style="list-style-type: none"> Reagent, Coronavirus Serological - Encode Coronavirus, COVID-19, SARS-CoV-2, IGG & IGM Rapid Test³⁴ 			Manufacturer

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EXHIBIT 3

FDA NEWS RELEASE

Coronavirus (COVID-19) Update: FDA Authorizes First Test for Patient At-Home Sample Collection

For Immediate Release:

April 21, 2020

The U.S. Food and Drug Administration authorized the first diagnostic test with a home collection option for COVID-19. Specifically, the FDA re-issued the emergency use authorization (<https://www.fda.gov/media/136148/download>) (EUA) for the Laboratory Corporation of America (LabCorp) COVID-19 RT-PCR Test to permit testing of samples self-collected by patients at home using LabCorp's Pixel by LabCorp COVID-19 Test home collection kit.

“Throughout this pandemic we have been facilitating test development to ensure patients access to accurate diagnostics, which includes supporting the development of reliable and accurate at-home sample collection options,” said FDA Commissioner Stephen M. Hahn, M.D. “The FDA’s around-the-clock work since this outbreak began has resulted in the authorization of more than 50 diagnostic tests and engagement with over 350 test developers. Specifically, for tests that include home sample collection, we worked with LabCorp to ensure the data demonstrated from at-home patient sample collection is as safe and accurate as sample collection at a doctor’s office, hospital or other testing site. With this action, there is now a convenient and reliable option for patient sample collection from the comfort and safety of their home.”

This reissued EUA for LabCorp’s molecular test permits testing of a sample collected from the patient’s nose using a designated self-collection kit that contains nasal swabs and saline. Once patients self-swab to collect their nasal sample, they mail their sample, in an insulated package, to a LabCorp lab for testing. LabCorp intends to make the Pixel by LabCorp COVID-19 Test home collection kits available to consumers in most states, with a doctor’s order, in the coming weeks.

The LabCorp home self-collection kit includes a specific Q-tip-style cotton swab for patients to use to collect their sample. Due to concerns with sterility and cross-reactivity due to inherent genetic material in cotton swabs, other cotton swabs should not be used with this test at the present time. The FDA continues to work with test developers to determine whether or not Q-tip-style cotton swab can be used safely and effectively with other tests.

This authorization only applies to the LabCorp COVID-19 RT-PCR Test for at-home collection of nasal swab specimens using the Pixel by LabCorp COVID-19 home collection kit. It is important to note that this is not a general authorization for at-home collection of patient samples using other collection swabs, media, or tests, or for tests fully conducted at home.

The FDA, an agency within the U.S. Department of Health and Human Services, protects the public health by assuring the safety, effectiveness, and security of human and veterinary drugs, vaccines and other biological products for human use, and medical devices. The agency also is responsible for the safety and security of our nation's food supply, cosmetics, dietary supplements, products that give off electronic radiation, and for regulating tobacco products.

###

Inquiries

Media:

✉ [Stephanie Caccomo \(mailto:stephanie.caccomo@fda.hhs.gov\)](mailto:stephanie.caccomo@fda.hhs.gov)

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- [Coronavirus Disease 2019 \(COVID-19\) \(/emergency-preparedness-and-response/counterterrorism-and-emerging-threats/coronavirus-disease-2019-covid-19\)](#)

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EXHIBIT 4



Coronavirus Watchlist & More

Todos Medical, Ltd. TOMDF

The see-saw of market volatility persists with no end in sight. Traditional investing has become a fool's errand in many, if not most, cases. The kind of opportunistic short term trading that we do is relatively intact, with the right targets and scenarios.

In this case, we caught TOMDF's coronavirus news in the premarket yesterday, stating that the company had secured distribution agreements for testing kits in both the US and Isreal. After including it in our extended watchlist, the stock managed a very nice intraday gain. It traded up from a low of .0413, and reached a high of .08, which works out to an intraday upswing of 94%

Coronavirus Watchlist

While we do focus primarily on quick strike opportunities, it's also worth it to mention a few plays that represent products and services that are high demand at the present time due to the fallout from COVID-19. If the report from the UK's highly respected Imperial College is accurate, this global health crisis is only in its beginning stages, and will get much, much worse in the months ahead.

While neither these, nor any other plays are “corona-proof”, the effects may weigh less heavily on these stocks and those like them:

CPB, APRN, CLX, GIS, PG

Extended Watchlist:

MATN, ZOOM, DECN, PCTL, NBDR, IPIX, GNPX, GNB

BHS / March 18, 2020 / Newsletters / APRN, CLX, CPB, DECN, GIS, GNB, GNPX, IPIX, MATN, NBDR, PCTL, PG, TOMDF, ZOOM

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EXHIBIT 5



OTC Stocks Popping

Reviewing OTC Gains

We have been focusing a bit more on OTC stocks than we have in years in the middle of the global health crisis. When big board stocks get in trouble, many opportunistic short term traders will turn to the lower exchanges to seek out chances.

So that's why our readers have seen an uptick in OTC mentions here in our daily newsletter offerings, and already we've seen multiple significant payoff opportunities. In [our morning report from last Wednesday](#), we tagged NBDR, and the stock has produced a multi-bag run in just a short period. It has traded in a range from .0112-.0489, which represents a gain of 337%

In addition to our premarket newsletters, any of our followers are welcome to participate in our daily traders chats on Skype (Contact request "stocksumo" to gain entry) to discover or share other opportunities throughout the course of each trading day. Here are a couple of coronavirus related chatroom plays from yesterday which fared very well:



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ABMC rapid testing kits for Covid-19



and insider buys

looks good

BIEI going on Covid-19 news

BIEI up 50% posted at .0012 now .0016 up

Premier Biomedical, Inc. BIEI

Range: .0011-.0055 | Gain: 400%

American Biomedical Corp. ABMC

Range: .175-.43 | Gain: 146%

Fresh Options Ideas:

**Direxion Daily Junior Gold Miners Index Bull 3X (ETF) JNUG Weekly \$4-5
Calls**

Virgin Galactic Holdings, Inc. SPCE \$13.50-16.50 Calls

Extended Watchlist:

BWMG, WINT, NEXCF,

BHS / March 24, 2020 / Newsletters / ABMC, BIEI, BWMG, JNUG, NBDR, NEXCF, SPCE,
WINT

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EXHIBIT 6



Tag: NBDR

Fresh Options Ideas & More

No Borders, Inc. NBDR

We opened up [yesterday's report](#) by highlighting the 337% move from .0112-.0489 made by NBDR since we tagged it [last Wednesday](#). It is one of a number of OTC stocks we've been tracking in relation to the COVID-19 pandemic response.

The stock absolutely blasted off once again during yesterday's session, this time reaching a new high of .089. That works out to a total increase of 695% in a span of just 5 trading days! We've done our best to continue bringing our readers chances to make quick-strike trades for profit during this crisis, and have in fact done a fantastic job of doing so.

Options Recaps

Speaking of success quick-strike trades, we also formulated an options idea in the **Virgin Galactic Holdings, Inc. (SPCE)** chain yesterday morning, and were met with instant results. The stock enjoyed a solid session, as did most stocks, and it produced very respectable gain opportunities in our target

range, the SPCE Weekly \$13.50-16.50 Calls:

\$13.50: 2.25-4.45 (+98%)

\$14: 1.80-4.20 (+133%)

\$15: 1.35-3.35 (+148%)

\$16.50: .60-2.48 (+313%)

Our other options idea fresh for yesterday's report was the **Direxion Daily Junior Gold Miners Index Bull 3X (ETF) JNUG Weekly \$4-5 Calls**. Those also produced some nice moves on the day for us:

\$4.00: 1.38-2.10 (+52%)

\$5.00: .89-1.47 (+65%)

Fresh Options Ideas:

SPY Weekly \$240-245 Calls

WGO 04/17 \$25-30 Calls

NKE Weekly \$78-81 Calls

Extended Watchlist:

BSGM(>[News](#)), GALT, HAL,

March 25, 2020 / Newsletters / BSGM, GALT, HAL, JNUG, NBDR, NKE, SPCE, SPY, WGO

OTC Stocks Popping

Reviewing OTC Gains

Exhibit 6

Page 19

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ABMC rapid testing kits for Covid-19



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Extended Watchlist:

BWMG, WINT, NEXCF,

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Extended Watchlist:
MATN, ZOOM, DECN, PCTL, NBDR, IPIX, GNPX, GNBT

March 18, 2020 / Newsletters / APRN, CLX, CPB, DECN, GIS, GNBT, GNPX, IPIX, MATN, NBDR,
PCTL, PG, TOMDF, ZOOM

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EXHIBIT 7

No Borders Inc. (NBDR)

Dailyprices from 02-Mar-2020 to 22-Jul-2020

Currency: USD

Data: Adjusted Exchange: Other OTC/NBB

Date	Close	Open	High	Low	Volume
22-Jul-20	0.015	0.015	0.015	0.01	313586
21-Jul-20	0.015	0.015	0.0159	0.015	84079
20-Jul-20	0.015	0.015	0.015	0.01	104933
17-Jul-20	0.016	0.016	0.016	0.01	222500
16-Jul-20	0.016	0.014	0.016	0.0134	293900
15-Jul-20	0.014	0.014	0.0159	0.0137	83453
14-Jul-20	0.0159	0.0135	0.0159	0.0134	69310
13-Jul-20	0.0159	0.0134	0.0159	0.0134	44429
10-Jul-20	0.016	0.0137	0.017	0.0137	26143
9-Jul-20	0.0134	0.017	0.017	0.0134	233216
8-Jul-20	0.0134	0.0176	0.02	0.0134	121552
7-Jul-20	0.0177	0.017	0.0177	0.016	178565
6-Jul-20	0.016	0.016	0.016	0.016	10000
2-Jul-20	0.0178	0.0141	0.018	0.0141	255650
1-Jul-20	0.0178	0.014	0.018	0.014	34000
30-Jun-20	0.0179	0.0135	0.0179	0.0135	117100
29-Jun-20	0.018	0.0134	0.0195	0.0134	124892
26-Jun-20	0.018	0.019	0.019	0.0134	47128
25-Jun-20	0.019	0.018	0.02	0.012	253100
24-Jun-20	0.018	0.016	0.018	0.015	157466
23-Jun-20	0.015	0.0175	0.02	0.012	325505
22-Jun-20	0.0175	0.0111	0.0175	0.0111	140677
19-Jun-20	0.0185	0.011	0.02	0.011	61348
18-Jun-20	0.019	0.02	0.02	0.01	54867
17-Jun-20	0.015	0.014	0.02	0.014	238921
16-Jun-20	0.016	0.014	0.019	0.01	425002
15-Jun-20	0.014	0.0092	0.014	0.0092	701579
12-Jun-20	0.01	0.012	0.0125	0.0092	154278
11-Jun-20	0.01	0.01	0.013	0.0091	135620
10-Jun-20	0.01	0.0089	0.014	0.0089	170866
9-Jun-20	0.01	0.01	0.012	0.0089	74500
8-Jun-20	0.011	0.01	0.011	0.0089	257676
5-Jun-20	0.0089	0.0074	0.015	0.0074	657033
4-Jun-20	0.011	0.0088	0.012	0.0088	266804
3-Jun-20	0.009	0.0095	0.012	0.009	268779
2-Jun-20	0.0095	0.01	0.01	0.009	105300
1-Jun-20	0.01	0.0088	0.01	0.0088	153366
29-May-20	0.0092	0.007	0.0092	0.007	127360
28-May-20	0.011	0.0088	0.011	0.0088	138625
27-May-20	0.011	0.0088	0.011	0.0088	110400
26-May-20	0.0088	0.0088	0.009	0.005	161488
22-May-20	0.0082	0.011	0.011	0.0082	57693
21-May-20	0.011	0.0081	0.013	0.0081	22951

20-May-20	0.012	0.008	0.014	0.008	232521
19-May-20	0.011	0.01	0.012	0.01	795404
18-May-20	0.01	0.007	0.011	0.007	523267
15-May-20	0.0088	0.0088	0.01	0.0088	235266
14-May-20	0.0088	0.01	0.01	0.0065	117558
13-May-20	0.01	0.012	0.012	0.0081	39141
12-May-20	0.008	0.01	0.01	0.008	53195
11-May-20	0.01	0.01	0.0115	0.0096	395772
8-May-20	0.01	0.01	0.012	0.007	178786
7-May-20	0.0098	0.0099	0.0099	0.005	619985
6-May-20	0.009	0.0098	0.0098	0.008	255317
5-May-20	0.0095	0.0081	0.0098	0.0076	551220
4-May-20	0.008	0.01	0.01	0.0077	227489
1-May-20	0.011	0.0049	0.0127	0.0049	881087
30-Apr-20	0.0092	0.0089	0.012	0.0089	544878
29-Apr-20	0.0088	0.012	0.0125	0.007	933656
28-Apr-20	0.012	0.0129	0.0134	0.0113	1179215
27-Apr-20	0.013	0.00885	0.0134	0.008	1547857
24-Apr-20	0.0069	0.007	0.009	0.006	2024144
23-Apr-20	0.005	0.007	0.01	0.003	2202024
22-Apr-20	0.0094	0.0091	0.011	0.003	3233741
21-Apr-20	0.02	0.01	0.0215	0.009	641864
6-Apr-20	0.0295	0.0295	0.0295	0.0295	170000
3-Apr-20	0.0295	0.028	0.03	0.021	5151356
2-Apr-20	0.0275	0.033	0.033	0.0236	2835437
1-Apr-20	0.0325	0.033	0.0399	0.03	2690764
31-Mar-20	0.033	0.034	0.04	0.0301	5949668
30-Mar-20	0.0365	0.04	0.0497	0.034	7007904
27-Mar-20	0.0325	0.0311	0.035	0.0297	3286949
26-Mar-20	0.0308	0.0349	0.0349	0.027	15705350
25-Mar-20	0.0386	0.052	0.0699	0.038	16823680
24-Mar-20	0.048	0.049	0.089	0.045	34811406
23-Mar-20	0.045	0.0225	0.0489	0.021	32251900
20-Mar-20	0.02	0.0135	0.0345	0.01116	17072471
19-Mar-20	0.0135	0.018	0.02	0.01162	8097531
18-Mar-20	0.01945	0.0335	0.0335	0.019	3476664
17-Mar-20	0.0338	0.0581	0.0581	0.0265	13247690
16-Mar-20	0.056	0.0155	0.056	0.0114	17893881
13-Mar-20	0.012	0.015	0.016	0.0091	1501560
12-Mar-20	0.016	0.01275	0.018	0.0111	516330
11-Mar-20	0.01225	0.01225	0.01225	0.01225	10006
10-Mar-20	0.012	0.016	0.0162	0.012	67558
9-Mar-20	0.0162	0.012	0.0162	0.012	19500
6-Mar-20	0.01394	0.018	0.018	0.0121	103400
5-Mar-20	0.0185	0.015	0.0188	0.012	25600
4-Mar-20	0.016	0.0142	0.016	0.0142	9000
3-Mar-20	0.018	0.019	0.019	0.018	22190

2-Mar-20	0.012	0.0135	0.018	0.012	37500
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EXHIBIT 8

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL ‘O’

Case No.	2:17-cv-03888-CAS(AFM)	Date	June 8, 2017
Title	SECURITIES AND EXCHANGE COMMISSION v. ANDREW T.E. COLDICUTT ET AL.		

Present: The Honorable CHRISTINA A. SNYDER

Catherine Jeang	Not Present	N/A
Deputy Clerk	Court Reporter / Recorder	Tape No.

Attorneys Present for Plaintiffs: Not Present Attorneys Present for Defendants: Not Present

Proceedings: (IN CHAMBERS) - ORDER TO SHOW CAUSE WHY AN ORDER COMPELLING COMPLIANCE WITH INVESTIGATIVE SUBPOENAS SHOULD NOT BE ISSUED (Dkt. 8, filed May 11, 2017)

The Court finds this motion appropriate for decision without oral argument. See Fed. R. Civ. P. 78; C.D. Cal. L.R. 7–15. Accordingly, the hearing date of June 12, 2017 is vacated, and the matter is hereby taken under submission.

I. INTRODUCTION & BACKGROUND

In May 2016, the Securities and Exchange Commission (“SEC”) initiated an investigation to determine whether respondent Andrew T.E. Coldicutt and others may have prepared company registration statements for initial public offerings (“IPOs”) and other documents that falsely described the companies’ business and identities of their management. Dkt. 1-1 (“App.”) at 1. The SEC sought business and financial records from Coldicutt and the Law Office of Andrew Coldicutt (collectively, “respondents”), including: Coldicutt’s communications with specific entities that he assisted in their IPOs and issuance of stock certificates; his engagement letters for those services; his bank records and attorney trust account records; and Rule 144 opinion letters that he drafted. Id. at 1–2; dkt. 1-2, Declaration of Roberto A. Tercero (“Tercero Decl.”) ¶¶ 6–10.

On September 2, 2016, in response to the SEC’s subpoenas, respondents produced 263 documents and a privilege log that listed 1,539 documents as responsive to the subpoenas, identifying 1,276 of those documents as privileged. App at 2; Tercero Decl. ¶ 19 & Ex. 10. For each document listed in the privilege log, respondents provided the following information: a document name, the Bates number range and number of pages, and whether the document was responsive or privileged. Tercero Decl. Ex. 10.

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On December 15, 2016, the SEC sent respondents a letter requesting an amended privilege log for each document that identified: (1) the author; (2) the date; (3) the subject matter; (4) the name of the person who possesses the item or the last person known to have it; (5) the names of everyone who ever had the item or a copy of it, and names of everyone who was told of the item’s contents; (6) the reason for not producing the item; and (7) the specific request in the subpoena to which the document relates. Tercero Decl. Ex. 11. Respondents failed to provide an amended privilege log. App. at 8–9.

On May 4, 2017, the Securities and Exchange Commission (“SEC”) filed an application for an order to show cause why an order compelling compliance with investigative subpoenas should not be issued. See generally App. The SEC seeks to compel respondents to produce an amended privilege log. Id. at 2.

On May 8, 2017, the Court issued an order to show cause why an order compelling compliance with the SEC’s investigative subpoenas should not be issued. Dkt. 8. Respondents filed an opposition on May 31, 2017, dkt. 13 (“Opp’n”), and the SEC filed a reply on June 5, 2017, dkt. 14. (“Reply”).

Having carefully considered the parties’ arguments, the Court finds and concludes as follows.

II. DISCUSSION

“[T]he requisite detail for inclusion in a privilege log consists of [1] a description of responsive material withheld, [2] the identity and position of its author, [3] the date it was written, [4] the identity and position of all addressees and recipients, [5] the material’s present location, [6] and specific reasons for its being withheld, including the privilege invoked and grounds thereof.” Friends of Hope Valley v. Frederick Co., 268 F.R.D. 643, 650–51 (E.D. Cal. 2010); see also Fed. R. Civ. P. 26(b)(5)(A)(ii) (“When a party withholds information otherwise discoverable by claiming that the information is privileged or subject to protection as trial-preparation material, the party must: (i) expressly make the claim; and (ii) describe the nature of the documents, communications, or tangible things not produced or disclosed--and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.”). The Court finds, and respondents do not dispute, that respondents’ current privilege log does not satisfy these requirements.

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However, respondents argue that they are not required to provide an amended privilege log that includes such details for four reasons: (1) a more detailed privilege log would violate Coldicutt’s clients’ Fifth Amendment privilege against self-incrimination;¹ (2) the attorney-client privilege precludes respondents from disclosing any additional information about the documents designated as “privileged”; (3) the duty of client confidentiality under California ethics rules precludes respondents from disclosing client confidences and secrets; and (4) the common-interest privilege protects the documents at issue because Coldicutt entered into a joint defense agreement with other parties involved in the SEC’s investigation. See generally Opp’n. The Court addresses these arguments in turn.

First, respondents argue that they may withhold the information sought by the SEC pursuant to the Fifth Amendment rights of Coldicutt’s clients. Ordinarily, the Fifth Amendment privilege against self-incrimination is personal and may not be asserted on another’s behalf. “The Fifth Amendment privilege ‘adheres basically to the person, not to information that may incriminate him. As Mr. Justice Holmes put it: ‘A party is privileged from producing the evidence, but not from its production.’ The Constitution explicitly prohibits compelling an accused to bear witness ‘against himself’: it necessarily does not proscribe incriminating statements elicited from another.” Couch v. United States, 409 U.S. 322, 328 (1973).

However, the state of the law is not clear with respect to whether an attorney can decline to produce client documents that the client himself would be entitled to withhold pursuant to the Fifth Amendment. For example, in Fisher v. United States, 425 U.S. 391 (1976), the Supreme Court expressly held that a client’s “Fifth Amendment privilege is . . . not violated by enforcement of [document] summonses directed toward their attorneys. This is true whether or not the Amendment would have barred a subpoena directing the [client] to produce the documents while they were in his hands.” Id. at 397. The Ninth Circuit referred to this holding in Fischer as the “clear[] announce[ment]” of the Supreme Court. See Beckler v. Superior Court, 568 F.2d 661, 662 (9th Cir. 1978). However, the Supreme Court in Fischer appeared to announce a contradictory rule in the very same case, stating that where a client transfers material to his attorney “for the purpose of obtaining legal advice” and “the client himself would be privileged from

¹ Coldicutt clarifies he “is not *himself* asserting the protection of the fifth amendment.” Opp’n at 3.

UNITED STATES DISTRICT COURT
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Case No.	2:17-cv-03888-CAS(AFM)	Date	June 8, 2017
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production of the document, either as a party at common law . . . or as exempt from self-incrimination, the attorney having possession of the document is not bound to produce.” Fischer, 425 U.S. at 404 (quotation marks omitted). More recently, the Ninth Circuit has found this latter pronouncement persuasive, concluding that the Fifth Amendment’s “protection also extends to prevent an individual’s attorney from being compelled to produce documents if that production would violate the individual’s Fifth Amendment rights.” United States v. Sideman & Bancroft, LLP, 704 F.3d 1197, 1201 (9th Cir. 2013). “Accordingly, [an attorney] does not have to produce [her client’s records] if doing so violates [the client’s] Fifth Amendment rights.” Id. Other district courts have recognized the conflict presented by Beckler and Sideman’s interpretations of Fischer. See Waymo LLC v. Uber Techs., Inc., No. 17-cv-00939-WHA, 2017 WL 1316878, at *4 n.1 (N.D. Cal. Apr. 10, 2017) (recognizing the discrepancy, but following Beckler).

Even following Sideman’s interpretation of Fischer, compelled self-incrimination is protected by the Fifth Amendment only when it is “testimonial” in character. United States v. Hubbell, 530 U.S. 27, 34 (2000). It is well-settled law that “a person may be required to produce specific documents even though they contain incriminating assertions of fact or belief because the creation of those documents was not ‘compelled’ within the meaning of the privilege.” Id. at 35–36. Where documents are “voluntarily prepared prior to the issuance of [a court order to produce them],” such papers cannot be “said to contain compelled testimonial evidence.” Id. at 36 (quotation marks omitted). A person cannot “avoid compliance with [a] subpoena served on him merely because the demanded documents contain[] incriminating evidence, whether written by others or voluntarily prepared by himself.” Id. The underlying documents that the SEC seeks were prepared voluntarily. As a result, such documents do not contain compelled testimonial evidence.

Nevertheless, the involuntary act of producing a more detailed privilege log could have a testimonial aspect. See id. at 37 (“[T]he act of production itself, may certainly communicate information about the existence, custody, and authenticity of the documents. Whether the constitutional privilege protects the answers to such questions, or protects the act of production itself, is a question that is distinct from the question whether the unprotected contents of the documents themselves are incriminating.”). However, when the “existence and location” of the documents under subpoena are a “foregone conclusion” and the witness “adds little or nothing to the sum total of the Government’s information by conceding that he in fact has the[documents],” then

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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no Fifth Amendment right is touched because the “question is not of testimony but of surrender.” In re Grand Jury Subpoena, Dated Apr. 18, 2003, 383 F.3d 905, 910 (9th Cir. 2004). “For this foregone conclusion exception to apply, the government must establish its independent knowledge of three elements: the documents’ existence, the documents’ authenticity and respondent’s possession or control of the documents.” United States v. Bright, 596 F.3d 683, 692 (9th Cir. 2010). Through the current privilege log, respondents have already acknowledged the existence, authenticity, and possession of the documents that the SEC has requested. Accordingly, respondents’ inclusion of *additional* information about the requested documents does not convert the production of an amended log into a testimonial act. Thus, pursuant to the “foregone conclusion” doctrine, the Court concludes that even if respondents may, in general, assert the Fifth Amendment rights of their clients—a question which the Court does not resolve here—respondents may *not* do so in response to the SEC’s request for an amended privilege log.

Second, respondents argue that the attorney-client privilege precludes them from disclosing the identity of clients and monetary transactions involving these clients. Opp’n at 11–12. Respondents argue that such information is “private and confidential, and must be protected against unwarranted intrusion.” Id. at 6–7. However, “the attorney-client privilege ordinarily protects neither a client’s identity nor information regarding the fee arrangements reached with that client.” In re Horn, 976 F.2d 1314, 1317 (9th Cir. 1992). There is an exception to this rule: “[a]n attorney may invoke the privilege to protect the identity of a client or information regarding a client’s fee arrangements if disclosure would ‘convey[] information which ordinarily would be conceded to be part of the usual privileged communication between attorney and client.’” Id. (quoting Baird v. Koerner, 279 F.2d 623, 632 (9th Cir. 1960)). Pursuant to the so-called Baird exception, a client’s identity is privileged “if revelation of that identity would constitute an acknowledgement of guilt of the offense that led the client to seek legal assistance. Fee information may be privileged if it would provide the ‘last link’ in the chain of evidence incriminating the client.” Id. (citation and quotation marks omitted). “It is important to note that the application of privilege is not triggered by the fact that the disclosure of the client’s identity and the fee arrangements may incriminate the client. Rather, the privilege is invoked where disclosure of the client’s identity and fee information would infringe upon a privileged *communication*.” United States v. Braun, No. 02-cv-5184-RMW, 2003 WL 21791231, at *2 (N.D. Cal. June 17, 2003) (citation omitted, emphasis added); see Tornay v. United States, 840 F.2d 1424, 1428 (9th Cir. 1988) (fact that amount and method of payment of attorney’s fees might

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incriminate client did not trigger attorney-client privilege). “Nothing in the circumstances of this case suggests that disclosure of the amounts and dates of payments of fees by appellant to his attorney would in any way convey the substance of confidential professional communications between appellant and his attorney. Accordingly, in this case this information is not protected by the attorney-client privilege.” In re Osterhoudt, 722 F.2d 591, 594 (9th Cir. 1983). Furthermore, respondents have made “no showing” that revealing the identity of their clients would constitute acknowledgment of guilt of any offense that led them to seek legal assistance in the first place, or that the fee information would provide the last link in the chain of incriminating evidence. See In re Grand Jury Subpoena Duces Tecum to Rork, 94 F. App’x 495, 497 (9th Cir. 2004); Tornay, 840 F.2d at 1426 (“The party asserting an evidentiary privilege has the burden to demonstrate that the privilege applies to the information in question.”). Accordingly, respondents are not entitled to withhold the requested information from the privilege log pursuant to the attorney-client privilege.

Third, respondents contend that California’s ethics rules protect from disclosure the identity of their clients and the financial information sought. Opp’n at 5–6. The duty of confidentiality under California law “is broader than the lawyer-client privilege and protects virtually everything the lawyer knows about the client’s matter regardless of the source of the information.” Elijah W. v. Superior Court, 216 Cal. App. 4th 140, 151 (2013); see Cal. Bus. & Prof. Code § 6068(e)(1) (an attorney has the duty “[t]o maintain inviolate the confidence, and at every peril to himself or herself to preserve the secrets of his or her client”); Cal. RPC Rule 3-100 (“A member shall not reveal information protected from disclosure by Business and Professions Code section 6068, subdivision (e)(1) without the informed consent of the client,” but may do so “to the extent that the member reasonably believes the disclosure is necessary to prevent a criminal act that the member reasonably believes is likely to result in death of, or substantial bodily harm to, an individual.”). However, having carefully reviewed the case law, no court has concluded that a client’s identity is protected by California’s confidentiality rules. See Sande L. Buhai, Confidentiality of Client Identity, 2013 Prof. Law. 195, 209 (2013) (“That still leaves an unanswered question: is client identity included in the realm of information that falls outside attorney-client privilege, but still protected under the umbrella of confidentiality? As discussed, neither the confidentiality rules nor case law are helpful in answering that question.”). Furthermore, the SEC does not, at this time, seek to compel disclosure of financial information. Rather it seeks “a privilege log from which the SEC can assess Respondents’ asserted privilege.” Reply at 6. Accordingly,

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL ‘O’

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Title	SECURITIES AND EXCHANGE COMMISSION v. ANDREW T.E. COLDICUTT ET AL.		

the Court finds that respondents may not rely on the duty of confidentiality under California law to withhold the additional information that the SEC now seeks.

Finally, “[t]he joint defense privilege is *an extension* of the attorney-client privilege.” United States v. Henke, 222 F.3d 633, 637 (9th Cir. 2000) (emphasis added). Even if respondents have a valid joint defense agreement, such an agreement does not transform non-privileged information into privileged information.

In sum, respondents may not rely on the Fifth Amendment, the attorney-client privilege, California ethics rules, or the joint defense privilege to withhold the information the SEC requests. Thus, the Court concludes that respondents have failed to show cause why an order compelling compliance with the SEC’s investigative subpoenas should not be issued. Respondents shall produce to the SEC an amended privilege log that includes: (1) the author; (2) the date; (3) the subject matter; (4) the name of the person who possesses the item or the last person known to have it; (5) the names of everyone who ever had the item or a copy of it, and names of everyone who was told of the item’s contents; (6) the reason for not producing the item; and (7) the specific request in the subpoena to which the document relates.

III. CONCLUSION

In accordance with the foregoing, the Court **ORDERS** respondents to comply with the SEC’s investigative subpoenas and produce an amended privilege log within fourteen days of the date of this order, June 22, 2017.

IT IS SO ORDERED.

Initials of Preparer 00 : 00
CMJ

EXHIBIT 9

[Query](#) [Reports](#) [Utilities](#) [Help](#) [Log Out](#)

ACCO,(AGRx),DISCOVERY,MANADR

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA (Western Division - Los
Angeles)
CIVIL DOCKET FOR CASE #: 2:19-cv-04348-PSG-AGR**

Securities and Exchange Commission v. David N.
Osegueda et al
Assigned to: Judge Philip S. Gutierrez
Referred to: Magistrate Judge Alicia G. Rosenberg
Cause: 15:77 Securities Fraud

Date Filed: 05/20/2019
Jury Demand: Defendant
Nature of Suit: 850
Securities/Commodities
Jurisdiction: U.S. Government
Plaintiff

Plaintiff

**Securities and Exchange
Commission**

represented by **Roberto A Tercero**
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ATTORNEY TO BE NOTICED

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V.

Defendant

Exhibit 9

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Defendant

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TERMINATED: 07/19/2019

formerly known as

Jessica Gutierrez

TERMINATED: 07/19/2019

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*LEAD ATTORNEY**ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text
05/20/2019	1	COMPLAINT No Fee Required - US Government, filed by Plaintiff Securities and Exchange Commission. (Attorney Lynn M Dean added to party Securities and Exchange Commission(pty:pla))(Dean, Lynn) (Entered: 05/20/2019)
05/20/2019	2	CIVIL COVER SHEET filed by Plaintiff Securities and Exchange Commission. (Dean, Lynn) (Entered: 05/20/2019)
05/20/2019	3	Request for Clerk to Issue Summons on Complaint (Attorney Civil Case Opening) 1 filed by Plaintiff Securities and Exchange Commission. (Dean, Lynn) (Entered: 05/20/2019)
05/21/2019	4	NOTICE OF ASSIGNMENT to District Judge Philip S. Gutierrez and Magistrate Judge Alicia G. Rosenberg. (esa) (Entered: 05/21/2019)
05/21/2019	5	NOTICE TO PARTIES OF COURT-DIRECTED ADR PROGRAM filed. (esa) (Entered: 05/21/2019)
05/21/2019	6	21 DAY Summons issued re Complaint 1 as to defendants Zachary R. Logan, David N. Osegueda, Ishmail Calvin Ross, Jessica Snyder. (esa) (Entered: 05/21/2019)
05/21/2019	7	STANDING ORDER REGARDING NEWLY ASSIGNED CASES by Judge Philip S. Gutierrez. (ji) (Entered: 05/21/2019)
05/24/2019	8	PROOF OF SERVICE Executed by Plaintiff Securities and Exchange Commission, upon Defendant Jessica Snyder served on 5/21/2019, answer due 6/11/2019. Service of the Summons and Complaint were executed upon Miguel Berio as co-resident/spouse in compliance with Federal Rules of Civil Procedure by substituted service at home address and no service by mail was executed. Original Summons NOT returned. (Dean, Lynn) (Entered: 05/24/2019)
05/24/2019	9	PROOF OF SERVICE Executed by Plaintiff Securities and Exchange Commission, upon Defendant Ishmail Calvin Ross served

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		on 5/22/2019, answer due 6/12/2019. Service of the Summons and Complaint were executed upon Jane Doe as co-resident in compliance with Federal Rules of Civil Procedure by substituted service at home address and no service by mail was executed. Original Summons NOT returned. (Dean, Lynn) (Entered: 05/24/2019)
05/29/2019	10	PROOF OF SERVICE Executed by Plaintiff Securities and Exchange Commission, upon Defendant Zachary R. Logan served on 5/21/2019, answer due 6/11/2019. Service of the Summons and Complaint were executed upon Zachary R. Logan in compliance with Federal Rules of Civil Procedure by personal service. Original Summons NOT returned. (Dean, Lynn) (Entered: 05/29/2019)
06/12/2019	11	STIPULATION for Extension of Time to File Answer to July 19, 2019 re Complaint (Attorney Civil Case Opening) 1 filed by Defendant Ishmail Calvin Ross. (Attachments: # 1 Proposed Order To Extend Defendant Ishmail Calvin Ross's Time to Respond to Complaint)(Attorney Jonathan A Loeb added to party Ishmail Calvin Ross(pty:dft))(Loeb, Jonathan) (Entered: 06/12/2019)
06/13/2019	12	NOTICE TO FILER OF DEFICIENCIES in Electronically Filed Documents RE: Stipulation to Extend Time 11 . The following error(s) was/were found: [Proposed] Order signature line does not indicate judge's name below it In response to this notice, the Court may: (1) order an amended or correct document to be filed; (2) order the document stricken; or (3) take other action as the Court deems appropriate. You need not take any action in response to this notice unless and until the Court directs you to do so. (bm) (Entered: 06/13/2019)
06/18/2019	13	ORDER GRANTING STIPULATION TO EXTEND DEFENDANT ISHMAIL CALVIN ROSS'S TIME TO RESPOND TO THE COMPLAINT 11 by Judge Philip S. Gutierrez. IT IS ORDERED that the time for Ross to respond to the Complaint is extended from June 12, 2019 to July 19, 2019. (lom) (Entered: 06/18/2019)
07/08/2019	14	DOCUMENT STRICKEN ON 7/11/19. ANSWER to Complaint (Attorney Civil Case Opening) 1 with JURY DEMAND filed by Defendant Zachary R. Logan.(Attorney Jennifer Siverts-McGrady added to party Zachary R. Logan(pty:dft))(Siverts-McGrady, Jennifer) Modified on 7/11/2019 (bm). (Entered: 07/08/2019)
07/11/2019	15	ORDER by Judge Philip S. Gutierrez: the following document(s) be STRICKEN for failure to comply with the Local Rules, General Order and/or the Courts Case Management Order: Answer 14 , for Exhibit 9

		the following reasons: Local Rule 7.1-1 No Certification of Interested Parties and/or no copies. Other: Failure to comply with L.R. 5-4.5 Re: Mandatory Chambers. (bm) (Entered: 07/11/2019)
07/15/2019	16	STIPULATION for Judgment as to Defendant Jessica Snyder filed by Plaintiff Securities and Exchange Commission. (Attachments: # 1 [Proposed] Judgment)(Dean, Lynn) (Entered: 07/15/2019)
07/19/2019	17	ANSWER to Complaint (Attorney Civil Case Opening) 1 AND AFFIRMATIVE DEFENSES filed by Defendant Ishmail Calvin Ross. (Loeb, Jonathan) (Entered: 07/19/2019)
07/19/2019	18	NOTICE of Interested Parties filed by Defendant Ishmail Calvin Ross, (Loeb, Jonathan) (Entered: 07/19/2019)
07/19/2019	21	JUDGMENT AS TO JESSICA SNYDER by Judge Philip S. Gutierrez. There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Judgment forthwith and without further notice. (SEE JUDGMENT FOR FURTHER DETAILS) (yl) (Entered: 07/22/2019)
07/22/2019	19	APPLICATION of Non-Resident Attorney Martin S. Krezalek to Appear Pro Hac Vice on behalf of Defendant Ishmail Calvin Ross (Pro Hac Vice Fee - \$400 Fee Paid, Receipt No. 0973-24123147) filed by Defendant Ishmail Calvin Ross. (Attachments: # 1 Proposed Order) (Loeb, Jonathan) (Entered: 07/22/2019)
07/22/2019	20	NOTICE of Deficiency in Electronically Filed Pro Hac Vice Application RE: APPLICATION of Non-Resident Attorney Martin S. Krezalek to Appear Pro Hac Vice on behalf of Defendant Ishmail Calvin Ross (Pro Hac Vice Fee - \$400 Fee Paid, Receipt No. 0973-24123147) 19 . The following error(s) was/were found: Local Rule 5-4.3.4 Application not hand-signed. Local Rule 83-2.1.3.3(d) Certificate of Good Standing not attached for every state court listed to which the applicant has been admitted. Other error(s) with document(s): Certificates of Good Standing have been required since 9/08. See LR 83-2.1.3.3. See Instructions for Applicants (1) (G-64). (lt) (Entered: 07/22/2019)
07/23/2019	22	ORDER SETTING SCHEDULING CONFERENCE by Judge Philip S. Gutierrez. Scheduling Conference set for 4/20/2020 at 02:00 PM. See order for complete details. (jre) (Entered: 07/23/2019)
07/29/2019	23	APPLICATION of Non-Resident Attorney Martin S. Krezalek to Appear Pro Hac Vice on behalf of Defendant Ishmail Calvin Ross (Pro Hac Vice Fee - \$400.00 Previously Paid on 7/22/2019, Receipt No. 0973-24123147) filed by Defendant Ishmail Calvin Ross.

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		(Attachments: # 1 Certificate of Good Standing, # 2 Proposed Order) (Loeb, Jonathan) (Entered: 07/29/2019)
07/29/2019	24	ORDER ON APPLICATION OF NON-RESIDENT ATTORNEY TO APPEAR IN A SPECIFIC CASE PRO HAC VICE by Judge Philip S. Gutierrez: GRANTING 19 23 Non-Resident Attorney Martin S. Krezalek APPLICATION to Appear Pro Hac Vice on behalf of Defendant Ishmail Calvin Ross, designating Jonathan A. Loeb as local counsel. (lt) (Entered: 07/31/2019)
08/19/2019	25	STATUS REPORT <i>re Defendant David N. Osegueda</i> filed by Plaintiff Securities and Exchange Commission. (Dean, Lynn) (Entered: 08/19/2019)
09/12/2019	26	REQUEST for Clerk to Enter Default against Defendant Zachary R. Logan filed by Plaintiff Securities and Exchange Commission. (Dean, Lynn) (Entered: 09/12/2019)
09/13/2019	27	DEFAULT BY CLERK F.R.Civ.P.55(a) as to Zachary R. Logan (bm) (Entered: 09/13/2019)
09/13/2019	28	PROOF OF SERVICE filed by Plaintiff Securities and Exchange Commission, re Clerks Entry of Default (CV-37) - optional html form 27 served on 9/13/2019. (Dean, Lynn) (Entered: 09/13/2019)
10/15/2019	29	MINUTE ORDER (In Chambers) ORDER TO SHOW CAUSE RE LACK OF PROSECUTION by Judge Philip S. Gutierrez: IT IS HEREBY ORDERED that counsel/party show cause in writing on or before October 22, 2019 why this action should not be dismissed for lack of prosecution. The Court will consider the filing of the following as an appropriate response to this Order to Show Cause. Failure to respond in writing, may result in the dismissal of the entire action. (see document for further details) (bm) (Entered: 10/16/2019)
10/22/2019	30	NOTICE OF MOTION AND MOTION for Default Judgment against Defendant Zachary R. Logan filed by Plaintiff Securities and Exchange Commission. Motion set for hearing on 1/6/2020 at 01:30 PM before Judge Philip S. Gutierrez. (Attachments: # 1 Memorandum, # 2 Declaration of Roberto A. Tercero, # 3 Exhibit 1 to Tercero Decl., # 4 Final Judgment as to Defendant Logan) (Dean, Lynn) (Entered: 10/22/2019)
10/24/2019	31	STIPULATION for Judgment as to David N. Osegueda filed by Plaintiff Securities and Exchange Commission. (Attachments: # 1 Final Judgment as to David N. Osegueda)(Dean, Lynn) (Entered: 10/24/2019)

11/04/2019	32	FINAL JUDGMENT AS TO DAVID N. OSEGUEDA by Judge Philip S. Gutierrez, Related to: Stipulation for Judgment 31 (bm) (Entered: 11/04/2019)
11/05/2019	33	PROOF OF SERVICE filed by Plaintiff Securities and Exchange Commission, re Judgment 32 served on 11/5/2019. (Dean, Lynn) (Entered: 11/05/2019)
12/17/2019	34	NOTICE of Failure to File Opposition to Securities and Exchange Commission's Motion for Entry of Default Judgment as to Defendant Zachary R. Logan filed by Plaintiff Securities and Exchange Commission. (Dean, Lynn) (Entered: 12/17/2019)
01/02/2020	35	FINAL JUDGMENT AS TO DEFENDANT ZACHARY R. LOGAN by Judge Philip S. Gutierrez granting 30 MOTION for Default Judgment: IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined. IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is permanently barred. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for disgorgement of \$164,000. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. Section 523, the allegations in the complaint are true and admitted by Defendant. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment. There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without further notice. (see document for further details) (bm) (Entered: 01/02/2020)
01/02/2020	36	PROOF OF SERVICE filed by Plaintiff Securities and Exchange Commission, re Order on Motion for Default Judgment,,,, 35 served on 1/2/2020. (Dean, Lynn) (Entered: 01/02/2020)
04/08/2020	37	JOINT REPORT Rule 26(f) Discovery Plan ; estimated length of trial 5 days, filed by Plaintiff Securities and Exchange Commission.. (Dean, Lynn) (Entered: 04/08/2020)
04/13/2020	38	ORDER VACATING SCHEDULING CONFERENCE by Judge Philip S. Gutierrez. Opening Expert Witness Disclosure: 9/25/20, Rebuttal Expert Witness Disclosure: 10/23/20, Expert Discovery Cut-off: 11/13/20, Trial Estimate: 5 days. Amended Pleadings due by 5/20/2020. Discovery cut-off 8/21/2020. Motions due by 1/19/2021.

		Final Pretrial Conference set for 4/12/2021 02:30 PM. Jury Trial set for 4/27/2021 09:00 AM. (wm) (Entered: 04/13/2020)
04/13/2020	39	ORDER FOR JURY TRIAL by Judge Philip S. Gutierrez. Final Pretrial Conference set for 4/12/2021 02:30 PM. Jury Trial set for 4/27/2021 09:00 AM. (wm) (Entered: 04/13/2020)
04/13/2020	40	ORDER/REFERRAL to ADR Procedure No 2 by Judge Philip S. Gutierrez. Case ordered to Court Mediation Panel for mediation. ADR Proceeding to be held no later than 2/26/21. (wm) (Entered: 04/13/2020)
04/14/2020	41	PROOF OF SERVICE filed by Plaintiff Securities and Exchange Commission, re Pretrial-Trial Scheduling Order - form only, 38 , Pretrial-Trial Scheduling Order - form only 39 , Order/Referral to ADR (No 2) (Mediation Panel) (ADR-12) 40 served on 4/14/2020. (Dean, Lynn) (Entered: 04/14/2020)
04/16/2020	42	PROOF OF SERVICE filed by Plaintiff Securities and Exchange Commission, re Pretrial-Trial Scheduling Order - form only, 38 , Pretrial-Trial Scheduling Order - form only 39 , Order/Referral to ADR (No 2) (Mediation Panel) (ADR-12) 40 served on 4/15/20. (Dean, Lynn) (Entered: 04/16/2020)
05/04/2020	43	STIPULATION REGARDING SELECTION of Panel Mediator filed. Parties stipulate that Robert Mainland may serve as Panel Mediator. Plaintiff obtained the Panel Mediators consent to serve. All parties and the Panel Mediator have agreed that the mediation will be held on 2/16/2021 and counsel will submit mediation statements seven (7) calendar days before the session. Filed by Plaintiff Securities and Exchange Commission(Dean, Lynn) (Entered: 05/04/2020)
05/07/2020	44	SEE DOCUMENT NUMBER 45 - NOTICE OF ASSIGNMENT of Panel Mediator. Mediator (ADR Panel) Richard R. Mainland has been assigned to serve as Panel Mediator. (mb) Modified on 5/12/2020 (mb). (Entered: 05/07/2020)
05/12/2020	45	NOTICE OF ASSIGNMENT of Panel Mediator. Mediator (ADR Panel) Richard R. Mainland has been assigned to serve as Panel Mediator.(mb) (Entered: 05/12/2020)

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Transaction Receipt

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