

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-21261

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In the matter of

**ANSWER TO ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 15(b) OF
THE SECURITIES EXCHANGE ACT
OF 1934 AND NOTICE OF HEARING**

ADAM MATTESSICH

Respondent.

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Pursuant to Securities and Exchange Commission (the “Commission”) Rule of Practice 220, Defendant Adam Mattessich (“Mattessich”), by his counsel, Talkin, Muccigrosso & Roberts, LLP, answers the Order Instituting Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Notice of Hearing (“OIP”), dated December 22, 2022, as follows:¹

1. Mattessich admits the allegations in Paragraph 1 of the OIP, except adds that he has been unemployed for long periods of time since 2018 and therefore denies any potential implication from the allegations in Paragraph 1 that Mattessich has been continuously employed in the two roles listed. Moreover, while Mattessich admits that he held the titles alleged in Paragraph 1—“head of trading” and “head of trading operations”—Mattessich contends that these titles should be capitalized as they do not completely and accurately describe his actual job functions.

2. Mattessich admits the allegations contained in Paragraph 2 of the OIP.

¹ Respondent has answered Section II of the OIP, the only section in which allegations are made. Mattessich reserves the right to amend and address other Sections, should a response to another portion of the OIP be necessary.

3. Mattessich admits the allegations contained in Paragraph 3 of the OIP.
4. Mattessich admits the allegations contained in Paragraph 4 of the OIP to the extent that they summarize some of the key allegations contained in the Complaint in the federal court case, *Securities and Exchange Commission v. Mattessich*, 18 Civ. 5884 (KPF) (“District Court Case”).

DEFENSES

While it is the Division of Enforcement’s burden to establish that any further relief is in the public interest pursuant to Section 15(b) of the Exchange Act, which burden Mattessich does not assume hereby, Mattessich states the following:

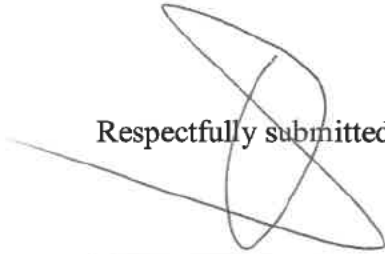
1. By Opinion and Order in the District Court Case, the Court imposed a civil money penalty of \$180,000 and permanently enjoined Mattessich from future violations of the “Compensation Record Rule,” Section 17(a) of the Securities Exchange Act of 1934, 15 U.S.C. § 78q(a), and Rule 17a-3(a)(19).
2. In combination with Respondent’s conduct as proved at trial in the District Court Case, the Division of Enforcement cannot prove that it is in the public interest to permanently disqualify Mattessich from appearing and practicing before the Commission, the remedial action the Division of Enforcement stated it planned seek during the District Court Case.
3. The Division of Enforcement cannot demonstrate it is in the public interest to impose a permanent bar against Respondent for multiple reasons, including because:
 - a. The violations involved do not involve fraudulent statements and misrepresentations;
 - b. There is no evidence that any customer or counterparty was harmed by the violations;
 - c. No forfeiture was requested by the Division of Enforcement because no party suffered a demonstrable loss as a result of the violations;

- d. Mattessich has no prior disciplinary history;
- e. The violative conduct ceased ten years ago, and there is no indication that Mattessich has engaged in any additional misconduct;
- f. In addition to the sanctions imposed by the Court, Mattessich has also suffered substantial collateral consequences from his actions, including the loss of his career as a broker, expiration of his securities licenses, and the loss of substantial deferred compensation from his previous employer.

Mattessich reserves the right to supplement the above-enumerated list with additional factors weighing against a permanent bar. Mattessich requests that this matter be decided by Motion for Summary Disposition pursuant to Rule 250 on a briefing schedule to be set by the Commission.

Dated: New York, NY
January 12, 2023

Respectfully submitted,



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