

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-21344

<p>In the Matter of</p> <p style="text-align:center">JOHN CUCINELLA,</p> <p>Respondent.</p>
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DECLARATION OF OLIVIA ZACH IN SUPPORT OF
THE DIVISION OF ENFORCEMENT'S MOTION FOR DEFAULT JUDGMENT
AND IMPOSITION OF REMEDIAL SANCTIONS

I, Olivia Zach, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am presently employed as Senior Counsel in the Division of Enforcement in the New York Regional Office of the Securities and Exchange Commission (the "Commission"). I submit this declaration in support of the Division of Enforcement's Motion for Default Judgment and Imposition of Remedial Sanctions.
2. Attached hereto as Exhibit A is a true and correct copy of the criminal complaint in *United States v. Cucinella*, 19-cr-00347 (E.D.N.Y. filed Mar. 21, 2019).
3. Attached hereto as Exhibit B is a true and correct copy of the Information in *United States v. Cucinella*, 19-cr-00347 (E.D.N.Y. filed Aug. 8, 2019).
4. Attached hereto as Exhibit C is a true and correct copy of the Transcript of Criminal Cause for Pleading Before the Honorable Steven Tiscione United States Magistrate Judge, dated August 8, 2019, in *United States v. Cucinella*, 19-cr-00347

(E.D.N.Y. filed Sept. 12, 2019). Cucinella pleaded guilty to one count of securities fraud in violation of 15 U.S.C. §§ 78j(b) and 78ff.

5. Attached hereto as Exhibit D is a true and correct copy of the Judgement and Order of Forfeiture for John Cucinella in *United States v. Cucinella*, 19-cr-00347 (E.D.N.Y. filed Dec. 7, 2021). Cucinella was sentenced to 30 months of imprisonment, three years of supervised release, and ordered to pay \$989,665.77 in restitution.

6. Attached hereto as Exhibit E is a true and correct copy of Declaration to Assist with Record of Service, executed by Preethi Krishnamurthy on June 1, 2023.

6. Attached hereto as Exhibit F is a true and correct copy of the Notice and Order to Cease and Desist against John Cucinella issued on January 23, 2019 by State of Michigan Department of Licensing and Regulatory Affairs Corporations, Securities & Commercial Licensing Bureau.

7. Attached hereto as Exhibit G is a true and correct copy of the Consent Order issued against John Cucinella on May 28, 2020 by State of Illinois Secretary of State Securities Department.

8. Attached hereto as Exhibit H is a true and correct copy of the certified mail return receipt dated September 19, 2023, showing service of the Order to Show Cause on John Cucinella at his Brooklyn address. According to the U.S. Postal Service (“USPS”) tracking information (tracking number 70153430000092731836), the USPS delivered the Order to Show Cause on September 5, 2023 at 2:02 p.m.

This Court is respectfully requested to take official notice of the above described documents pursuant to Rule 323 of the Commission’s Rules of Practice, 17 C.F.R. § 201.323.

Executed in New York, New York, on October 11, 2023.

I declare under the penalty of perjury that the foregoing is true and correct.

/s/ Olivia Zach

Olivia Zach