

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 104633 / January 20, 2026

Admin. Proc. File No. 3-21257

In the Matter of

JOHN MARQUES

ORDER REQUESTING ADDITIONAL BRIEFING AND MATERIALS FROM THE
PARTIES

On December 20, 2022, the Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) against John Marques under Section 15(b) of the Securities Exchange Act of 1934.¹ Although Marques was properly served with the OIP, he did not file an answer to it.² On January 6, 2025, the Division of Enforcement filed a motion for entry of default and remedial sanctions in which it requested that Marques be barred from the securities industry and from participating in an offering of penny stock. Marques has not responded to that motion.

When determining whether remedial action is in the public interest under Exchange Act Section 15(b), the Commission must consider the question with reference to the underlying facts and circumstances of the case.³ The factors that the Commission considers are the egregiousness of the respondent’s actions, the isolated or recurrent nature of the infraction, the degree of scienter involved, the sincerity of the respondent’s assurances against future violations, the respondent’s recognition of the wrongful nature of their conduct, and the likelihood that the respondent’s occupation will present opportunities for future violations.⁴ Such analysis must do

¹ *John Marques*, Exchange Act Release No. 96540, 2022 WL 17829013 (Dec. 20, 2022).

² *John Marques*, Exchange Act Release No. 96761, 2023 WL 1066732 (Jan. 27, 2023) (ordering Marques to show cause why he should not be deemed to be in default and this proceeding determined against him due to his failure to file an answer after service of the OIP).

³ *See Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979), *aff’d on other grounds*, 450 U.S. 91 (1981).

⁴ *See id.*; *see also Lawrence Allen DeShetler*, Advisers Act Release No. 5411, 2019 WL 6221492, at *2-3 (Nov. 21, 2019) (applying *Steadman* factors in follow-on proceeding).

more than “recite[], in general terms, the reasons why [a respondent’s] conduct is illegal,” but rather “devote individual attention to the unique facts and circumstances of th[e] case.”⁵

To support its motion, the Division relied on the complaint from a Commission injunctive action against Marques.⁶ The Division also relied on a final judgment upon Marques’s default in that action, which enjoined Marques from violating Section 5 of the Securities Act of 1933 and Exchange Act Section 15(a)(1).⁷ But because the injunction was based on a default, it does not appear to have preclusive effect as to facts alleged in the Commission’s complaint.⁸

In its moving brief, the Division also cites two paragraphs of the OIP that summarize the allegations of the complaint in the injunctive action.⁹ When a respondent defaults, the Commission may deem an OIP’s allegations to be true.¹⁰ But deeming the allegations of the OIP’s summary paragraphs to be true would appear, at most, to allow the Commission to conclude that the complaint contained certain allegations.¹¹ It would not appear to allow the Commission to deem the summarized allegations to be true themselves.

The Division also submitted the transcript of testimony it took from Marques during its investigation. This document appears to support some allegations concerning Marques’ conduct. But it does not address all factors the Division relied on in its motion concerning egregiousness and recurrence, such as that the unregistered securities Marques sold were part of a Ponzi scheme; that he raised \$7.9 million from selling them to more than fifty retail investors; that he did not disclose certain risks to the investors; that many of the investors were elderly, retired, and used their IRAs to invest; and that a prior investment Marques sold securities in was also a Ponzi scheme.

Under the circumstances, the Commission would benefit from the parties’ further developing the evidentiary record and briefing on whether sanctions are warranted. The Division

⁵ See *McCarthy v. SEC*, 406 F.3d 179, 189 (2d Cir. 2005) (vacating and remanding suspension for failing to meet this standard).

⁶ Complaint, *SEC v. Marques*, No. 4:21-cv-09796-JST (N.D. Ca. Dec. 20, 2021), ECF No. 1.

⁷ Final Judgment, *Marques*, No. 4:21-cv-09796-JST (N.D. Ca. Dec. 8, 2022), ECF No. 28.

⁸ See, e.g., *Don Warner Reinhard*, Exchange Act Release No. 61506, 2010 WL 421305, at *4 (Feb. 4, 2010) (finding that collateral estoppel did not apply as to allegations in complaint in injunctive proceeding resolved by default because none of the issues was actually litigated).

⁹ See *Marques*, 2022 WL 17829013, at *1, ¶¶ B.3—B.4.

¹⁰ See Commission Rules of Practice 155(a), 220(f), 17 C.F.R. §§ 201.155(a), 201.220(f).

¹¹ See, e.g., *Bruce C. Worthington*, Exchange Act Release No. 98789, 2023 WL 7039955, *3 (Oct. 24, 2023) (stating that the Commission deemed the OIP’s allegations to be true due to respondent’s default, but that it did not “deem true the underlying allegations of the Complaint recited by the OIP because the OIP merely recounts the allegations in the Complaint, rather than independently alleging that [respondent] engaged in particular conduct”).

should submit any additional evidentiary materials that may be helpful to the Commission's determination of the public interest.¹² In its briefing, the parties should address each statutory element of the relevant provisions of Exchange Act Section 15(b), and discuss relevant authority relating to the legal basis for and the appropriateness of the requested sanctions.

Accordingly, it is ORDERED that the Division of Enforcement shall submit, as it deems necessary, any additional evidentiary materials that are relevant to its motion and determination of the public interest by February 19, 2026, as well as a brief not to exceed 5,000 words, explaining the relevance of those materials to its request and the public interest and containing specific citations to the evidence relied upon.

It is further ORDERED that Marques may file a brief by March 22, 2026, not to exceed 5,000 words, addressing the same matters to be addressed by the Division. Marques's brief should also address why he has failed to file an answer previously or to otherwise defend this proceeding, and why the Commission should not find him in default as a result.¹³ Marques shall also include a proposed answer to be accepted if the Commission does not enter a default against him.¹⁴ Marques is reminded that when a party defaults, the allegations in the OIP will be deemed to be true and the Commission may determine the proceeding against that party upon consideration of the record without holding a public hearing.¹⁵ If Marques files a response to this order, the Division may file a reply within 14 days after its service.

The parties' attention is directed to the e-filing requirements in the Rules of Practice.¹⁶ We also remind the parties that any document filed with the Commission must be served upon all participants in the proceeding and be accompanied by a certificate of service.¹⁷

¹² See generally *Rapoport v. SEC*, 682 F.3d 98, 108 (D.C. Cir. 2012) (requiring "meaningful explanation for imposing sanctions"); *McCarthy*, 406 F.3d at 190 (stating that "each case must be considered on its own facts"); *Sean Kelly*, Advisers Act Release No. 6006, 2022 WL 1288179, at *2 (Apr. 28, 2022) (noting that the Division submitted declaration from lead investigator in Commission investigation).

¹³ See *Marques*, 2023 WL 1066732, at *1 (show cause order).

¹⁴ *Id.*

¹⁵ Rules of Practice 155, 180, 17 C.F.R. § 201.155, .180.

¹⁶ See Rules of Practice 151, 152(a), 17 C.F.R. §§ 201.151, .152(a) (providing procedure for filing papers with the Commission and mandating electronic filing in the form and manner posted on the Commission's website); *Instructions for Electronic Filing and Service of Documents in SEC Administrative Proceedings and Technical Specifications*, <https://www.sec.gov/efapdocs/instructions.pdf>. Parties generally also must certify that they have redacted or omitted sensitive personal information from any filing. Rule of Practice 151(e), 17 C.F.R. § 201.151(e).

¹⁷ See Rule of Practice 150, 17 C.F.R. § 201.150 (generally requiring parties to serve each other with their filings); Rule of Practice 151(d), 17 C.F.R. § 201.151(d) ("Papers filed with the Commission . . . shall be accompanied by a certificate stating the name of the person or persons

Upon review of the filings in response to this order, the Commission will either direct further proceedings by subsequent order or issue a final opinion and order resolving the matter.

For the Commission, by the Office of the General Counsel, pursuant to delegated authority.

Vanessa A. Countryman
Secretary

served, the date of service, the method of service, and the mailing address or email address to which service was made, if not made in person.”).