

ALJ

ADMINISTRATIVE PROCEEDING
FILE NO. 3-11355

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
February 26, 2004

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In the Matter of :
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LUIS F. LORIE : ORDER
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Under consideration is an undated document, received January 21, 2004, from Luis F. Lorie (Lorie), entitled "Motion Requesting a Postponement of the Proceedings, or Alternatively an Extension of Time to Answer Complaint" (Motion). On January 14, 2004, Lorie was barred, by default, from participating in an offering of penny stock. Luis F. Lorie, Exch. Act Rel. No. 49073 (A.L.J. Jan. 14, 2004) (Default Order). The Motion will be treated as a motion to set aside the default pursuant to 17 C.F.R. § 201.155(b), and will be denied.

The Securities and Exchange Commission (Commission) issued its Order Instituting Proceedings (OIP) against Lorie on December 12, 2003, pursuant to Section 15(b) of the Securities Exchange Act of 1934 (Exchange Act). The OIP alleged that he was convicted of, and enjoined from, securities fraud, based on his wrongdoing in 1999 and 2000 while participating in an offering of stock of American Healthcare Providers, Inc. (American Healthcare). The only sanction authorized by the OIP was a penny stock bar. Lorie failed to file an Answer, due twenty days after service of the OIP.¹ See 17 C.F.R. § 201.220(b); OIP at 5. Accordingly, the undersigned found him in default and determined the proceeding against him. See 17 C.F.R. §§ 201.155(a), .220(f); OIP at 5.

Pursuant to 17 C.F.R. § 201.155(b), "A motion to set aside a default shall be made within a reasonable time, state the reasons for the failure to appear or defend, and specify the nature of the proposed defense in the proceeding." In his Motion, Lorie states that he is in prison and that this restricts his ability to participate in legal proceedings in various ways. He does not, however, specify, or even hint at, the nature of any proposed defense. Accordingly, the Motion will be denied.

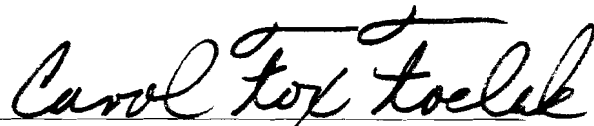
¹ In his Motion Lorie states that he received the OIP on December 17, 2003. The return receipt associated with the OIP was undated and was received at the Commission on December 24, 2003. The Default Order used the later date in calculating a January 13, 2004, deadline for Lorie's Answer.

As found in the Default Order, Lorie was convicted of securities fraud and is currently in prison, serving a fifty-one month sentence. United States v. Lorie, 02-CR-20962 (S.D. Fla. Feb. 24, 2003). He was also permanently enjoined from violating the antifraud and registration provisions of the federal securities laws. SEC v. American Healthcare Providers, Inc., 01 CV 7649 (BSJ) (S.D.N.Y. May 29, 2002). The conviction and injunction were based on Lorie's wrongdoing in a scheme to pump and dump a penny stock. He perpetrated the fraud by disseminating false and misleading information via the Internet.

It is well established that the Commission does not permit criminal convictions to be collaterally attacked in its administrative proceedings. See Ira William Scott, 53 S.E.C. 862, 866 (1998); William F. Lincoln, 53 S.E.C. 452, 455-56 (1998). Additionally, the Commission considers summary disposition particularly appropriate in proceedings that are based on a respondent's conviction for fraud. Joseph P. Galluzi, 78 SEC Docket 1125, 1128 n.15 (Aug. 23, 2002); John S. Brownson, 77 SEC Docket 3636, 3640 (July 3, 2002), pet. denied, Brownson v. SEC, 66 Fed. Appx. 687 (9th Cir. 2003) (unpublished).

The penny stock bar imposed in the Default Order serves the public interest and the protection of investors, pursuant to Section 15(b) of the Exchange Act. It accords with Commission precedent and the sanction considerations set forth in Steadman v. SEC, 603 F.2d 1126, 1140 (5th Cir. 1979), aff'd on other grounds, 450 U.S. 91 (1981).

IT IS ORDERED that Lorie's Motion IS DENIED.



Carol Fox Foelak
Administrative Law Judge