

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 101183 / September 25, 2024

ADMINISTRATIVE PROCEEDING
File No. 3-22198

In the Matter of

Elevation, LLC,

Respondent.

**ORDER INSTITUTING
ADMINISTRATIVE AND CEASE-AND-
DESIST PROCEEDINGS PURSUANT TO
SECTIONS 15(b) AND 21C OF THE
SECURITIES EXCHANGE ACT OF 1934,
MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS AND A CEASE-
AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Elevation, LLC (“Elevation” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds¹ that:

¹ The findings herein are made pursuant to Respondent’s Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

Summary

1. This matter involves Elevation’s failure to timely file with the Commission and to deliver to retail investors a Form CRS that complies with the requirements of Rule 17a-14 under the Exchange Act. Elevation was required to file its initial Form CRS with the Commission and to begin delivering its Form CRS to prospective and new retail investors, as applicable, by June 30, 2020. Elevation was further required to deliver its Form CRS to existing retail investor customers by July 30, 2020. The firm failed to file and deliver its Form CRS by these deadlines. In addition, the Form CRS that Elevation filed on December 20, 2022, failed to include certain information and language required by Rule 17a-14. As a result, Elevation violated Section 17(a)(1) of the Exchange Act and Rule 17a-14 thereunder.

Respondent

2. Elevation is a North Carolina limited liability company with its principal place of business in Charlotte, North Carolina. Elevation has been registered with the Commission as a broker-dealer pursuant to Section 15 of the Exchange Act since August 25, 2006. Elevation offers services to retail investors.

Facts

3. On June 5, 2019, the Commission adopted Form CRS and rules creating new requirements for Commission-registered broker-dealers offering services to a retail investor.² *See Form CRS Relationship Summary; Amendments to Form ADV*, Exchange Act Release No. 86032, Advisers Act Release No. 5247 (June 5, 2019), 84 Fed. Reg. 33,492 (July 12, 2019) (“*Form CRS Adopting Release*”).

4. *The Form CRS Filing Requirement.* Rule 17a-14 under the Exchange Act requires all Commission-registered broker-dealers offering services to a retail investor (“Retail BDs”) to electronically file on the Central Registration Depository (“Web CRD”) operated by the Financial Industry Regulatory Authority, Inc. (“FINRA”) an initial Form CRS satisfying the requirements of Rule 17a-14 no later than June 30, 2020.

5. *The Form CRS Delivery Requirement.* Rule 17a-14(c) under the Exchange Act requires each Retail BD to deliver its current Form CRS to each retail investor. Rule 17a-14(c)(3) requires each Retail BD to post its current Form CRS prominently on its website, if it has one, in a location and format that is easily accessible to retail investors. Each Retail BD was required to begin delivering its current Form CRS to prospective and new retail investors, as applicable, by June 30, 2020, and to existing retail investor customers by July 30, 2020. *See* Rules 17a-14(c) and

² For purposes of Form CRS, the term “retail investor” means “a natural person, or the legal representative of such natural person, who seeks to receive or receives services primarily for personal, family or household purposes.” Rule 17a-14(e)(2) under the Exchange Act.

(f)(3); *Form CRS Adopting Release*, 84 Fed. Reg. at 33,555–56, 33,602; Instructions to Form CRS, General Instruction 7.C. (Sept. 2019).

6. Rule 17a-14(b)(1) under the Exchange Act requires a Retail BD to prepare its Form CRS by following the instructions in the form. The Instructions to Form CRS identify specific information and language to be included in Form CRS. *See* Instructions to Form CRS (Sept. 2019).

7. Elevation did not file its initial Form CRS by June 30, 2020, did not begin delivering its Form CRS to prospective and new retail customers by June 30, 2020, and did not deliver its Form CRS to existing retail customers by July 30, 2020. Thus, Elevation failed to comply with the regulatory deadlines imposed by the filing and delivery requirements for Form CRS. Elevation initially filed its Form CRS on December 20, 2022. It began delivering its Form CRS to retail customers in July 2022, but did not complete delivery to all of its retail customers until sometime between October 2022 and March 2023. The Form CRS that Elevation filed on December 20, 2022, also failed to include certain language and information specified in the Instructions to Form CRS and required by Rule 17a-14. On or about June 6, 2023, after it received a deficiency letter from the Commission’s Division of Examinations, Elevation filed an updated Form CRS with additional information and language required by Rule 17a-14, delivered the updated Form CRS to existing retail customers, and posted the updated Form CRS on its website.

Violations

8. As a result of the conduct described above, Elevation willfully³ violated Section 17(a)(1) of the Exchange Act and Rule 17a-14 thereunder.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent Elevation’s Offer.

Accordingly, pursuant to Sections 15(b) and 21C of the Exchange Act, it is hereby ORDERED that:

A. Respondent cease and desist from committing or causing any violations and any future violations of Section 17(a)(1) of the Exchange Act and Rule 17a-14 thereunder.

³ “Willfully,” for purposes of imposing relief under Section 15(b) of the Exchange Act “means no more than that the person charged with the duty knows what he is doing.” *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor “also be aware that he is violating one of the Rules or Acts.” *Tager v. SEC*, 344 F.2d 5, 8 (2d Cir. 1965). The decision in *The Robare Group, Ltd. v. SEC*, which construed the term “willfully” for purposes of a differently structured statutory provision, does not alter that standard. 922 F.3d 468, 478–79 (D.C. Cir. 2019) (setting forth the showing required to establish that a person has “willfully omit[ted]” material information from a required disclosure in violation of Section 207 of the Advisers Act).

B. Respondent is censured.

C. Respondent shall pay a civil money penalty in the amount of \$60,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Section 21F(g)(3) of the Exchange Act. Payment shall be made in the following installments: \$20,000 to be paid within 10 days of the entry of the Order; \$20,000 to be paid within 180 days of the entry of the Order; and the remaining balance to be paid within 300 days of the entry of the Order. Payments shall be applied first to post-order interest, which accrues pursuant to 31 U.S.C. 3717. Prior to making the final payment set forth herein, Respondent shall contact the staff of the Commission for the amount due. If Respondent fails to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Order, including post-order interest, minus any payments made, shall become due and payable immediately at the discretion of the staff of the Commission without further application to the Commission.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Elevation as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Stacy L. Bogert, Associate Director, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549 or such other person or address as the Commission staff may provide.

D. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil

penalty in this action (“Penalty Offset”). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission’s counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a “Related Investor Action” means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Vanessa A. Countryman
Secretary