UNITED STATES OF AMERICA Before the SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934 Release No. 93882 / December 30, 2021

ADMINISTRATIVE PROCEEDING File No. 3-20692

In the Matter of : ORDER INSTITUTING

PUBLIC ADMINISTRATIVE

: PROCEEDINGS PURSUANT TO RULE
NICOLE T. BIRCH, Esq., : 102(e) OF THE COMMISSION'S RULES OF

: PRACTICE, MAKING FINDINGS, AND Respondent. : IMPOSING REMEDIAL SANCTIONS

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I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted against Nicole T. Birch ("Respondent" or "Birch") pursuant to Rule 102(e)(3)(i) of the Commission's Rules of Practice.¹

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 her and the subject matter of these proceedings, and the findings contained in Section III.2 below, which are admitted, Respondent consents to the entry of

The Commission, with due regard to the public interest and without preliminary hearing, may, by order, . . . suspend from appearing or practicing before it any attorney . . . who has been by name (A) [p]ermanently enjoined by any court of competent jurisdiction, by reason of his or her misconduct in an action brought by the Commission, from violating or aiding and abetting the violation of any provision of the Federal securities laws or of the rules and regulations thereunder; or (B) [f]ound by any court of competent jurisdiction in an action brought by the Commission to which he or she is a party ... to have violated (unless the violation was found not to have been willful) or aided and abetted the violation of any provision of the Federal securities laws or of the rules and regulations thereunder.

¹ Rule 102(e)(3)(i) provides, in relevant part, that:

this Order Instituting Administrative Proceedings Pursuant to Rule 102(e) of the Commission's Rules of Practice, Making Findings, and Imposing Remedial Sanctions ("Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds that:

- 1. Birch, age 46, resides in Gainesville, Georgia. Birch is a member of the Georgia State Bar. Birch has never held any securities licenses and is not registered with the Commission in any capacity.
- 2. On September 20, 2021, the Commission filed a complaint against Birch in *SEC v. Robert Samuel Shumake, Jr., et al.* (Civil Action No. 21-cv-12193), in the United States District Court for the Eastern District of Michigan. On December 23, 2021, the court entered an order permanently enjoining Birch, by consent, from future violations of Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933, and Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder.
- 3. The Commission's complaint alleged, among other things, that Birch, along with others, conducted a fraudulent and unregistered crowdfunding offering through a cannabis company, raising over \$1 million from thousands of investors. Birch, with the assistance of others, prepared the offering statement for the company which misrepresented the use of proceeds from the offering. In addition, the offering statement falsely stated that the company employed an experienced management team and that it had contingently acquired certain real estate. The offering statement also omitted the significant involvement in the offering of an individual with a past criminal conviction. Finally, Birch diverted offering proceeds to herself and to her law firm.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanction agreed to in Respondent Birch's Offer.

Accordingly, it is hereby ORDERED pursuant to Rule 102(e)(3)(i) of the Commission's Rules of Practice, effective immediately, that:

Birch is suspended from appearing or practicing before the Commission as an attorney.

By the Commission.

Vanessa A. Countryman Secretary