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Jury Trial Begins in Case Challenging SEC’s Arbitrary Expansion of Rules for Securities Companies

U.S. Securities and Exchange Commission v. Spartan Securities Group, LTD., et al.

Washington, DC (July 13, 2021) – The jury trial has begun in *U.S. Securities and Exchange Commission v. Spartan Securities Group, LTD., et al.* in the District Court for the Middle District of Florida before Judge Virginia Hernandez Covington. The New Civil Liberties Alliance, a nonpartisan, nonprofit civil liberties group, will argue that SEC is rewriting the rules and seeking to unlawfully enforce agency guidance against NCLA clients Spartan Securities Group, LTD., Island Capital Management LLC, Carl E. Dilley, Micah J. Eldred, and David D. Lopez.

From 2005 through 2015, Spartan applied to publish quotations of securities as a market maker for approximately 1500 issuers. To apply to publish quotations, Spartan was required to file a Form 211 application with the Financial Industry Regulatory Authority (FINRA) to demonstrate compliance with both FINRA and SEC rules. Spartan, a market maker, and Island, a transfer agent, participated in the Form 211 application process to publicly list 19 issuers’ common stock to be traded and available to investors. SEC eventually discovered that these 19 issuers were involved in fraud, and the agency now faults Spartan and Island for failing to discover the misconduct that SEC itself long failed to uncover.

Defendants will attest that they neither knew nor suspected that any of the information provided by the issuers or their intermediaries related to the 19 issuers was materially inaccurate or misleading. SEC’s underlying suggestion that Spartan should have refused to do business with these companies or been concerned over the possibility of planned reverse mergers contradicts the Commission’s longstanding recognition that such companies and transactions are legitimate.

SEC’s theory of liability rests on an expansion of the applicable rules via guidance. It proposes to hold transfer agents strictly liable for merely recording others’ sales of securities, even when the transfer agent played no role in arranging the sale and would face liability for refusing the transfer. This action by the SEC would effectively prohibit every transfer agent’s normal practice. SEC also seeks to hold market makers who help small to mid-sized public companies access investor capital to a heightened role as an industry “gatekeeper” that is fully responsible for any representations made by issuers, even though SEC rules impose no such obligations.

In this case, SEC cannot prove a violation of their rules because market makers, like Spartan, need only establish a “reasonable basis” for their decision to publish quotations in an over-the-counter market. The Defendants amply complied with their obligations, gathering all required information, and supporting it with reams of documents above and beyond the lawful requirements. Island, as a transfer agent, followed standard industry practice and timely recorded transfers when it was required to do so by SEC regulations.

NCLA released the following statement:

“Rather than lobby the Commission to change the rules governing the market for small to mid-sized issuers of stock, the Division of Enforcement is trying to rule through this bruising and meritless lawsuit. NCLA’s clients followed all of the rules, even the unwritten ones. But that’s not good enough for an agency that looks at an entire section of the economy with distrust. The jury will see through this effort and exonerate our clients.”

— **Caleb Kruckenberg, Litigation Counsel, NCLA**

For more information visit the case page [here](#).

ABOUT NCLA

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

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