

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 1102 / December 13, 2013

ADMINISTRATIVE PROCEEDING
File No. 3-15076

In the Matter of :
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 :
 CHINA VOICE HOLDING CORP., :
 CHINA YONGXIN PHARMACEUTICALS, INC., :
 CREATIVE TECHNOLOGIES HOLDINGS, INC., : ORDER DENYING MOTION OF
 CRESTEK, INC., : CRYSTEL
 CRYSTEL TELECOMMUNICATIONS.COM, INC. : TELECOMMUNICATIONS.COM,
 (n/k/a FLEET MANAGEMENT SOLUTIONS, INC.), : INC. (N/K/A FLEET MANAGEMENT
 CSI COMPUTER SPECIALISTS, INC., and : SOLUTIONS, INC.) TO SET ASIDE
 CST ENTERTAINMENT, INC. (n/k/a LEGACY : DEFAULT
 HOLDING, INC.) :

INTRODUCTION

The Securities and Exchange Commission (Commission) instituted this proceeding with an Order Instituting Administrative Proceedings (OIP) on October 24, 2012, pursuant to Section 12(j) of the Securities Exchange Act of 1934 (Exchange Act). The OIP alleged that Respondent Crys*Tel Telecommunications.com, Inc. (n/k/a Fleet Management Solutions, Inc.) (Fleet Management), repeatedly failed to file timely periodic reports with the Commission, in violation of Section 13(a) of the Exchange Act and Rules 13a-1 and 13a-13 thereunder.

The Office of the Secretary and the Division of Enforcement (Division) provided evidence that Fleet Management was served with the OIP in accordance with Rule 141(a)(2)(ii) of the Commission's Rules of Practice on October 25, 2012, via Express Mail to the address shown on its most recent filing with the Commission, and through personal service on its registered agent, Incorp Services, Inc. (Incorp), on November 1, 2012. See 17 C.F.R. § 201.141(a)(2)(ii). On November 13, 2012, Fleet Management was ordered to show cause, by November 23, 2012, why the registration of its securities should not be revoked by default. A telephonic prehearing conference was held on November 30, 2012.

Fleet Management failed to file an Answer due within ten days of service of the OIP, respond to the order to show cause, or participate in the prehearing conference. Accordingly, on December 4, 2012, Fleet Management was found to be in default and the registration of each class of its registered

securities was revoked. China Voice Holding Corp., Exchange Act Release No. 68346, 105 SEC Docket 61324; see 17 C.F.R. §§ 201.155(a), .220(f), .221(f).

On November 6, 2013, Fleet Management filed a Motion to Set Aside the Default Judgment as to Fleet Management (Motion), a Memorandum in Support of Motion (Memorandum), and a Declaration of Evangelos Alexandris in Support of Motion (Declaration) with three exhibits attached (Resp. Exs. A-C). On November 22, 2013, the Division filed its Opposition to Fleet Management's Motion, with two exhibits attached (Div. Exs. 1-2) and Fleet Management filed its Reply on December 6, 2013.

FINDINGS AND CONCLUSIONS

Rule 155(b) of the Commission's Rules of Practice (Commission Rule) states that "[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." 17 C.F.R. § 201.155(b). The standard for setting aside a default is good cause. Id.

Service on Fleet Management was effected via Express Mail on October 25, 2012, and via personal service on its registered agent on November 1, 2012, registration of its securities was revoked on December 4, 2012, and it became actually aware of the revocation and began an investigation at some unspecified time after its trading on OTC Link was revoked. China Voice Holding Corp., 105 SEC Docket 61324; Div. Exs. 1-2; Memorandum, p. 4; Declaration, p. 2. Fleet Management filed the Motion over one year after it had constructive notice of the OIP, over eleven months after revocation of its securities' registration, and an unknown time after it actually learned of the revocation and began an investigation leading to the Motion. Were I writing on a blank slate, I would find that Fleet Management had not met its burden of showing the Motion was made within a reasonable time. However, Rapoport v. SEC holds that the Commission has "left vague and indecisive the date that starts the reasonable time clock, as well as the amount of time considered reasonable." 682 F.3d 98, 106-07 (D.C. Cir. 2012) (internal quotations omitted). I am unaware of any post-Rapoport cases that shed any light on this issue. Accordingly, I find that Fleet Management has met its burden on this element.

Fleet Management asserts that it failed to file an Answer, respond to the order to show cause, or otherwise appear or defend the proceeding because it did not receive notice of the proceeding "until it was too late." Memorandum, pp. 5-6. Fleet Management states it had been informed that the OIP was sent to its "former executive office in La Jolla, California," the address on file with the Commission, which Respondent candidly acknowledges "was never updated, and the Commission requires a valid address to be on file." Id., pp. 5-6. Fleet Management asserts that the former entity, Crys*Tel Telecommunications.com, Inc. (Crys*Tel), was de-listed from the OTC Bulletin Board over a decade ago, causing Fleet Management to believe that the "need to update the address of its registered agent" was obviated. Id., p. 6. Fleet Management also contends that its "complex corporate history . . . as well as its foreign-based management and the change in control of the company" contributed to its failure to appear or defend the proceeding. Reply, p. 2; see Memorandum, pp. 5-7.

Fleet Management's reasons for failing to appear or defend this proceeding are inadequate and do not establish good cause. The complexity of Fleet Management's corporate history and changes to its management and office location are irrelevant, because Incorp was served with the OIP on November 1, 2012, thereby providing Fleet Management with notice and opportunity to defend this proceeding

prior to entry of default over one month later. Its registered agent either did or did not forward the OIP to Fleet Management, but Fleet Management provides no explanation either way. Indeed, although Fleet Management candidly admits that Incorp was its registered agent, it otherwise completely ignores the fact that its registered agent was served with the OIP. Memorandum, p. 3; see generally Reply.

Fleet Management's proposed defense is also inadequate and does not establish good cause. Fleet Management's proposed defense is that it "had no involvement in, and has no relation to, the events surrounding the original proceeding and Crys*Tel's failure to de-register" its securities. Memorandum, pp. 6-7 (capitalization altered). In support of this contention, Fleet Management relies primarily on Birman Managed Care, Inc. (n/k/a Alcar Chemical Group, Inc.), Exchange Act Release No. 58627 (Sept. 23, 2008), 94 SEC Docket 9854, in which an Administrative Law Judge (ALJ) granted Birman Managed Care, Inc.'s (Birman), motion to set aside default, stating: "Concerning the nature of the proposed defense, [Birman] states that it was bankrupt . . . and not able to create financial statements and receive audits. Thereafter, unauthorized persons hijacked the company, changed its name, and obtained new CUSIP numbers and ticker symbols." Birman, 94 SEC Docket at 9855. The ALJ found this to satisfy Commission Rule 155(b)'s requirement of specifying the nature of the proposed defense. Id.

Fleet Management argues that similarities exist between Birman and this proceeding, and that the same outcome is warranted in this proceeding. Specifically, Fleet Management states:

Similar to Birman . . . Fleet Management's ownership, officers and directors, name, and ticker symbol all changed. With this lack of institutional knowledge, Fleet Management was not knowingly or recklessly foregoing any obligation or requirements, but rather was simply not aware of Crys*Tel's inadequate filings or failure to properly de-register its securities with the Commission.

Memorandum, pp. 6-7. The Division does not address Birman or the alleged similarities between this proceeding and Birman. Nevertheless, I am not persuaded by Fleet Management's argument.

The respondent in Birman argued, among other things, a case of mistaken identity, stating that Alcar Chemicals Group, Inc. (Alcar) "was not a legitimate successor to Birman." Birman, Exchange Act Release No. 59074 (Dec. 10, 2008), 94 SEC Docket 12264, 12265 (internal quotation marks omitted). After the motion to set aside default was granted, the Division conducted an investigation and the parties filed a joint motion to amend the OIP, asserting that there were "two entirely separate and unrelated corporate entities" associated with the name Birman, including Alcar, which acquired the name Birman when the original Birman corporate charter and name were declared void and available, respectively, in Delaware. Id. The original Birman was subsequently restored to good standing. Id. Based on these facts, the Commission granted the joint motion, finding that "[a]lthough at one time Alcar had the same name as the [r]espondent Birman, it appears on the record before us that there *never has been a corporate relationship between the companies.*" Id. at 12266 (emphasis added).

This proceeding is clearly distinguishable from Birman. Fleet Management has experienced several changes in corporate name, business sectors, and control. See Memorandum, pp. 2-3. However, unlike Birman, this proceeding does not involve either a corporate hijacking or a case of mistaken identity. There is a clear corporate relationship between Crys*Tel and Fleet Management dating back to

1987, when Fleet Management was incorporated as Progressive General Corporation; therefore, Fleet Management is not an entirely separate and unrelated entity. See Memorandum, pp. 2-3; Resp. Exs. A-C. Given this history, the facts that there have been several changes in corporate name, business sectors, and control do not excuse Fleet Management's failure to know that it had registered securities, to file its periodic reports as required, or to participate in this administrative proceeding following service of the OIP on it.

ORDER

It is ORDERED that the Motion to Set Aside the Default Judgment filed by Crys*Tel Telecommunications, Inc. (n/k/a Fleet Management Solutions, Inc.), is DENIED.

Cameron Elliot
Administrative Law Judge