

**Office of Administrative Law Judges
U.S. Securities and Exchange Commission
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This information is primarily for pro se Respondents:

General Information Respondents in an administrative proceeding are entitled to be represented by counsel of their choice. The Office of Administrative Law Judges (“Office”) encourages Respondents to retain legal counsel; however, the Securities and Exchange Commission (“Commission”) cannot appoint or pay for a Respondent’s legal counsel. Administrative proceedings are governed by the Commission’s Rules of Practice (“Rules”) found at 17 C.F.R. § 201 et seq. The Rules specify that administrative proceedings should be concluded by initial decisions issued within specific time periods. (Rule 360) The Commission’s Rules of Practice are available on the Internet at <http://www.sec.gov/about/rulesofpractice.shtml>. All parties, including pro se litigants, are expected to be familiar with and abide by the applicable procedural Rules.

What follows is a brief explanation on subjects often questioned by pro se litigants and attorneys unfamiliar with administrative practice before the Commission. This information serves merely as a guide for understanding the Rules. The presiding administrative law judge cannot act as counsel for any party. Pro se litigants should ask questions of the judge so that they understand the procedures or rulings, but they may not engage in ex parte communications, which are communications with the presiding administrative law judge about the merits of the issues without all the parties being present. (Rules 111, 120)

Filings and Distribution Respondents are required to file an original and three copies of each pleading with the **Commission’s Secretary, 100 F Street NE, Mail Stop 1090, Washington, DC 20549; Phone 202-551-5400; Fax 703-813-9793**. Also, they must serve one copy of each pleading they file on each party on the service list in the proceeding. (Rules 150, 151) Optional, the administrative law judge would appreciate receiving a courtesy copy of all filings by e-mail.

The Commission’s Secretary mails all Commission orders and Office orders and initial decisions issued by the administrative law judge, to all persons on the service list. Additionally, if the Respondent would like to receive an electronic courtesy copy of all administrative law judges’ orders and initial decisions, the Respondent must provide this Office with a valid e-mail address. All issuances by Administrative Law Judges are posted on the Commission’s web site, <https://www.sec.gov/alj>, shortly after they are issued.

Phases Each administrative proceeding has a prehearing, hearing, and posthearing phase.

Prehearing Procedures Respondents must file an answer within twenty days after being served with the order instituting proceeding, unless a different period is provided by rule or order. (Rules 160, 220) Unless otherwise ordered, the Division of Enforcement (“Division”) is required to make the investigative file that supports the proceeding available to the Respondent for inspection and copying no later than seven days after the Respondent is served with the order instituting proceedings (OIP). (Rule 230)

It is necessary to file a request for issuance of subpoenas requiring the testimony of witnesses, and/or the production of documents with the Commission's Secretary and to serve a copy of the request on each party. (Rule 232) A copy of the request and the original subpoenas should be sent to the administrative law judge for signature. A subpoena form is available at <https://www.sec.gov/alj> Subpoenas with language substantially similar to what appears on the form are acceptable. The Office returns signed subpoenas by regular mail unless the requesting party, who is responsible for service, submits an alternative means such as a self-addressed Federal Express envelope.

At least one prehearing conference is held, usually by telephone, prior to the hearing. The parties generally are required to exchange copies of exhibits and the names of their witnesses, and file prehearing briefs.

An administrative law judge may default a Respondent who does not file a timely answer, answer a dispositive pleading, appear at a prehearing conference or hearing, or fails to otherwise defend the proceeding. On default, the administrative law judge may find the allegations in the OIP to be true, and order the relief requested by the Division. (Rules 155, 220, 221)

Hearing Procedures The hearing process is similar to a trial in federal court. The parties generally make opening statements. Each Respondent has the right to present witnesses and offer exhibits. The Division will present witnesses and offer exhibits first and last since it has the burden of proof. A party may object to testimony or documentary evidence on the grounds that it is irrelevant, immaterial, or unduly repetitious, and can cross-examine any adverse witness. (Rules 320, 321) A pro se Respondent called to testify may also object to questions for the same reasons.

A Respondent may exercise their constitutional right to refuse to testify as to any matter he or she believes would tend to be incriminating or subject him or her to a penalty, fine, or forfeiture. However, in an administrative proceeding, an adverse inference may be drawn from a Respondent's failure to testify or explain facts and circumstances, particularly if the matters are within the Respondent's knowledge.

Posthearing Procedures Soon after the conclusion of the hearing, the parties should jointly submit to this Office a list of exhibits admitted into evidence and material offered but not admitted. The joint exhibit list should be in MS Excel or Word format and contain columns with the following information: the exhibit number; a description of the exhibit; the Bates-stamp numbers, if any; and page(s) in the hearing transcript in which the exhibit was offered and admitted or not admitted. (Rule 351) The joint exhibit list should be e-mailed to alj@sec.gov.

The joint exhibit list does not take the place of the required hard-copy filing of exhibits with the Office of the Secretary.

Following the hearing, the parties have the right to submit proposed findings of fact and conclusions of law and briefs containing legal arguments in support of their positions. (Rule 340)