

ADMINISTRATIVE PROCEEDING
FILE NO. 3-13584

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
November 17, 2009

In the Matter of	:	ORDER ACCEPTING UNTIMELY
	:	ANSWER; DENYING MOTION FOR
JAYCEE JAMES	:	ENTRY OF DEFAULT; AND SETTING
	:	SUMMARY DISPOSITION BRIEFING
	:	SCHEDULE

The Securities and Exchange Commission (Commission) issued its Order Instituting Proceedings (OIP) on August 18, 2009. The Office of the Secretary has provided evidence that the Commission delivered the OIP to Respondent JayCee James (James) on August 26, 2009 (Postal Service Form 3811). When the time for filing an Answer expired, no Answer had been received. I then ordered James to show cause why he should not be held in default and why the factual allegations of the OIP should not be deemed to be true (Order to Show Cause, dated Sept. 18, 2009).

On October 5, 2009, this Office received an unsigned communication which was captioned as a response to the Order to Show Cause. By Order dated October 6, 2009, I rejected that communication because parts of it were incomprehensible and because it failed to comply with the requirements of the Commission's Rules of Practice. See Rule 180(b) of the Commission's Rules of Practice. However, I gave James until October 16, 2009, to cure the deficiencies and resubmit a pleading that complied with the Rules of Practice.

I then discussed the matter with James and counsel for the Division of Enforcement (Division) at a telephonic prehearing conference on October 15, 2009. The Division has made its investigative file available to James for inspection and copying. James has specifically waived his statutory right to a hearing within sixty days after delivery of the OIP. The Division sought leave to proceed by summary disposition if the matter was not resolved by entry of a default. I granted that request.

On November 16, 2009, this Office received a two-page letter from James. The letter is dated October 28, 2009, but the envelope in which it was mailed was not postmarked until November 13, 2009. The letter does not cure all of the deficiencies in James's prior submission (for example, it is again untimely, there is still no certificate of service on Division counsel, and the explanation for the earlier untimely filing is woefully inadequate). However, it is apparent

that James does not intend to accept a default and wishes to put the Division to its proof. In recognition of James's pro se status, I construe this most recent letter liberally. I conclude that James has belatedly satisfied most of the requirements of my September 18, 2009, Order to Show Cause, and my October 6, 2009, Order Striking Unsigned Pleading with Leave to Amend. In exercising my discretion not to resolve the proceeding by default, I have also considered the Division's inability to provide satisfactory answers to several questions about its underlying legal theories during the telephonic prehearing conference.

Accordingly, the Division's motion for the entry of default is denied, and the Division's alternative motion for leave to proceed by summary disposition is granted. The following summary disposition briefing schedule shall apply:

- Dec. 11, 2009: Division to file and serve its motion for summary disposition and all supporting documents;
- Dec. 17, 2009: Telephonic prehearing conference at 1:00 p.m., E.S.T.;
- Dec. 30, 2009: James to file and serve his opposition to the Division's motion and his cross-motion for summary disposition;
- Jan. 11, 2010: Division to file and serve its optional reply in support of its motion for summary disposition and its opposition to James's cross-motion for summary disposition; and
- Jan. 25, 2010: James to file and serve his optional reply in support of his motion for summary disposition.

Pursuant to my authority to regulate the course of the proceeding, see Rule of Practice 111(d), and my authority to require a party to identify the legal theories on which it relies, see Rule of Practice 222(a)(2), the motion and supporting documents that the Division files on December 11, 2009, must address with particularity each of the issues that I raised with Division counsel at pages 13-28 of the October 15, 2009, prehearing conference transcript.

SO ORDERED.

James T. Kelly
Administrative Law Judge