

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 2465/March 26, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16339

In the Matter of

JOHN BRINER, ESQ., DIANE DALMY, ESQ.,
DE JOYA GRIFFITH, LLC, ARTHUR DE JOYA, CPA,
JASON GRIFFITH, CPA, CHRIS WHETMAN, CPA,
PHILIP ZHANG, CPA, M&K CPAS, PLLC,
MATT MANIS, CPA, JON RIDENOUR, CPA, and
BEN ORTEGO, CPA

ORDER

The Securities and Exchange Commission issued an Order Instituting Administrative and Cease-and-Desist Proceedings (OIP) on January 15, 2015. A prehearing conference was held on February 10, 2015, in which all Respondents except for John Briner, Esq. participated.

On February 18, 2015, I ordered Mr. Briner to show cause why the proceeding should not be determined against him for failing to file an Answer, attend the prehearing conference, or otherwise defend this proceeding. *John Briner, Esq.*, Admin. Proc. Rulings Release No. 2326, 2015 SEC LEXIS 576. On March 2, 2015, Mr. Briner sent an e-mail to my Office, attached to which were two documents. One purported to be Mr. Briner's Answer and the other was a letter in which he alleged "that service was only effected on John Briner on February 25, 2015." As a result of Mr. Briner's representation about the service date, I ordered Mr. Briner and the Division of Enforcement to file declarations explaining the date and circumstances under which Mr. Briner was served with the OIP. *John Briner, Esq.*, Admin. Proc. Rulings Release. No. 2413, 2015 SEC LEXIS 929 (Mar. 12, 2015) (March 12 Order).

Rule 141(a)(2)(iv), which governs service "[u]pon persons in a foreign country," provides that service may be accomplished "by any . . . method reasonably calculated to give notice, provided that the method of service used is not prohibited by the law of the foreign country." 17 C.F.R. § 201.141(a)(2)(iv). In response my March 12 Order, Mr. Briner attested that on January 20, 2015, a copy of the OIP was delivered to him by UPS. The declaration submitted by counsel for the Division confirmed that delivery of the OIP by UPS occurred on this date. In his declaration, Mr. Briner also stated that "[o]n February 25, 2015, I was formally served with the OIP through extra-jurisdictional service. I understood that to be my date of

service in this matter.” Implicitly, Mr. Briner suggests that service by UPS was insufficient to meet the requirements of Rule 141(a)(2)(iv).

Given the foregoing, I ORDER that within fourteen days, the Division and Mr. Briner shall each file a letter explaining whether service in Canada by UPS is sufficient to meet the requirements of Rule 141(a)(2)(iv).

James E. Grimes
Administrative Law Judge