

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

ADMINISTRATIVE PROCEEDINGS RULINGS

Release No. 4652/March 3, 2017

ADMINISTRATIVE PROCEEDING

File No. 3-17716

In the Matter of

ROBERT L. BAKER,
JACOB B. HERRERA,
MICHAEL D. BOWEN and
TERRENCE A. BALLARD

ORDER FINDING RESPONDENT
BALLARD IN DEFAULT

On December 8, 2016, the Securities and Exchange Commission issued an order instituting proceedings (OIP) in this matter. I found that Respondent Terrence A. Ballard was personally served on January 10, 2017, and that his answer was due January 30, 2017. *Robert L. Baker*, Admin. Proc. Rulings Release No. 4563, 2017 SEC LEXIS 286, at *1 (ALJ Jan. 27, 2017). On February 15, 2017, I ordered Respondent Ballard to show cause by February 28, 2017, why he should not be found in default for failing to answer the OIP. *Robert L. Baker*, Admin. Proc. Rulings Release No. 4606, 2017 SEC LEXIS 467.

To date, Ballard has not answered the OIP or shown cause. The Division of Enforcement has also informed my office that it has been unable to contact Ballard regarding my order that the parties should conduct a prehearing conference among themselves. *See Robert L. Baker*, 2017 SEC LEXIS 467, at *1. Furthermore, on March 1, 2017, the Division of Enforcement submitted a status report revealing that its efforts to personally serve Ballard with the order to show cause via process server were unsuccessful and that Ballard may be purposefully evading service. Div. Status Report at 2. Accordingly, pursuant to Rule 155(a), I find Respondent Ballard in default.¹ OIP at 7; 17 C.F.R. §§ 201.155(a)(2), .220(f).

¹ Ballard is notified that he may move to set aside the default pursuant to Rule 155(b) of the Commission's Rules of Practice:

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. In order to prevent injustice and on such conditions as may be appropriate, the hearing officer, at any time prior to the filing of the initial

There are four individual Respondents in this proceeding, but the OIP's allegations arise from a common factual core and course of conduct in which all Respondents are alleged to have participated. *See* OIP at 1-5. As such, it would be premature for the Division to submit a motion for sanctions against Ballard at this time. At a later point, I will order the Division to submit such a motion.

For similar reasons, my finding of default does not trigger the 120 day deadline for an initial decision because I have not determined that "no hearing is necessary." 17 C.F.R. § 201.360(a)(2)(i)(C); *see* OIP at 7. A hearing might be necessary to develop facts relevant to determining the scope of Ballard's liability and whether sanctions are warranted against him.

Jason S. Patil
Administrative Law Judge

decision, or the Commission, at any time, may for good cause shown set aside a default.

17 C.F.R. § 201.155(b).