

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 5023/September 6, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-18129

In the Matter of

BRIAN MICHAEL BERGER

:
:

POSTPONEMENT ORDER

The Securities and Exchange Commission instituted this proceeding with an Order Instituting Proceedings (OIP) on August 22, 2017, pursuant to Sections 15(b) of the Securities Exchange Act of 1934 and 203(f) of the Investment Advisers Act of 1940, and the hearing was scheduled to commence on September 18, 2017. The proceeding is a follow-on proceeding based on *United States v. Berger*, No. 9:16-cr-80167 (S.D. Fla. Feb. 1, 2017), in which Respondent Brian Michael Berger was convicted of three counts of wire fraud in violation of 18 U.S.C. § 1843.

Berger was served with the OIP in accordance with 17 C.F.R. § 201.141(a)(2)(i) on August 28, 2017, by delivery to his current place of abode, MIAMI FCI, according to the U.S. Postal Service, tracking number 7016 2070 0001 1133 8125. To allow time for Berger's Answer,¹ consistent with 17 C.F.R. § 201.161, the hearing will be postponed *sine die*. A prehearing conference will be held by telephone on November 17, 2017, at 10:30 a.m. EST, if the proceeding has not been resolved by then, or, alternatively, on such other date and time as the parties may request.

IT IS SO ORDERED.

/s/ Carol Fox Foelak
Carol Fox Foelak
Administrative Law Judge

¹ Berger's Answer is due within twenty days of service on him. See OIP at 3; 17 C.F.R. § 201.220(b). If he fails to file an Answer within the time provided, he will be deemed to be in default, and the undersigned will enter an order barring him from the securities industry and imposing a penny stock bar. See OIP at 3; 17 C.F.R. §§ 201.155(a), .220(f).