

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

Administrative Proceedings Rulings
Release No. 5110 / September 28, 2017

Administrative Proceeding
File No. 3-18099

In the Matter of

**Black Diamond Asset
Management LLC and
Robert Wilson**

**Order Finding
Respondents in Default**

The Securities and Exchange Commission instituted this proceeding in August 2017. After Respondents failed to answer the order instituting proceedings (OIP) or attend a prehearing conference, I ordered them to show cause by September 25, 2017, why they should not be found in default. *Black Diamond Asset Mgmt. LLC*, Admin Proc. Rulings Release No. 5056, 2017 SEC LEXIS 2876, at *1 (ALJ Sept. 15, 2017). In light of Respondent Robert Wilson’s practice of sending profane and abusive e-mails, I also revoked Wilson’s privilege of submitting filings by e-mail and directed that only those “filings submitted in compliance with” the Commission’s Rules of Practice would be considered. *Id.* at *2–3.

Neither Respondent answered the order to show cause.¹ Given Respondents’ failure to answer the OIP, attend the prehearing conference, or

¹ Wilson attempted to evade the order revoking his ability to send filings by e-mail. On September 25, 2017, he e-mailed Division counsel a document and asked counsel to forward the e-mail and document to me. But Wilson cannot use an intermediary to do what I have barred him from doing directly. And even if I were to consider the document attached to Wilson’s e-mail—which I do not because it was not properly filed and violates my order about his use of e-mail—Wilson would fare no better. Although the subject-line of Wilson’s e-mail is “Order to Show Causes [sic],” the document attached to it does not address the charges in the OIP or why Respondents failed to answer the OIP.

respond to the order to show cause, they are in DEFAULT. *See* 17 C.F.R. §§ 201.155(a)(1), .220(f), .221(f); *see also* OIP at 6. Under Rule of Practice 155(a), I will deem as true the allegations in the OIP. 17 C.F.R. § 201.155(a).

In light of Respondents' default, the prehearing schedule entered on September 7, 2017, is canceled. *See Black Diamond Asset Mgmt. LLC*, Admin Proc. Rulings Release No. 5028, 2017 SEC LEXIS 2759, at *3–5 (ALJ Sept. 7, 2017). The Division of Enforcement is granted leave to file a motion for sanctions. The Division's motion for sanctions is due October 19, 2017. Any opposition is due November 9, 2017. The Division's reply is due November 20, 2017. On adjudicating the Division's motion, I will resolve whether a hearing is necessary. *See* 17 C.F.R. § 201.360(a)(2)(i)(C). As such, the deadline for issuing an initial decision has not begun to run. *See id.*

Respondents may move under Rule of Practice 155(b) to set aside the default in this case. Rule 155(b) provides that:

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

17 C.F.R. § 201.155(b).

James E. Grimes
Administrative Law Judge