

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 5134/October 4, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-18129

In the Matter of

BRIAN MICHAEL BERGER

:
:

ORDER TO SHOW CAUSE

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. 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.

The OIP provides that Berger's Answer is due within twenty days of service of the OIP on him and that if he fails to answer, he may be deemed in default and the proceeding determined against him upon consideration of the OIP, the allegations of which may be deemed to be true. *See* OIP at 3; 17 C.F.R. §§ 201.155(a), .220(b), (f). 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 date, he has not filed an Answer or submitted any other correspondence.¹

Accordingly, Berger is ORDERED TO SHOW CAUSE, by October 16, 2017, why he should not be deemed to be in default and be barred from associating with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization and from participating in an offering of penny stock. *See* OIP at 2; 17 C.F.R. §§ 201.155(a), .220(f).

IT IS SO ORDERED.

/S/ Carol Fox Foelak
Carol Fox Foelak
Administrative Law Judge

¹ Berger was previously warned that if he failed to file an Answer within the time provided, he would be deemed to be in default, and the undersigned would enter an order barring him from the securities industry and imposing a penny stock bar. *See Brian Michael Berger*, Admin. Proc. Rulings Release No. 5023, 2017 SEC LEXIS 2739 (A.L.J. Sept. 6, 2017).