

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

Administrative Proceedings Rulings
Release No. 6589 / May 30, 2019

Administrative Proceeding
File No. 3-17716

In the Matter of

**Robert L. Baker,
Jacob B. Herrera,
Michael D. Bowen, and
Terrence A. Ballard**

**Stay Order and
Order Requesting
Motion for Default
and Sanctions as to
Terrence A. Ballard**

Stay Order

On May 29, 2019, the Division of Enforcement and Respondents Robert L. Baker, Jacob B. Herrera, and Michael D. Bowen submitted a joint motion to stay this proceeding based upon an agreement in principle to a settlement that will resolve the proceeding on all major terms.

It is ORDERED that the motion is GRANTED, and the proceeding is STAYED as to those three Respondents, subject to compliance with Rule of Practice 161(c)(2)(ii), which requires that this office be notified promptly if any requirements of the Rule are not met. 17 C.F.R. § 201.161(c)(2)(ii). I draw the parties' attention in particular to the provisions requiring notification of my office if a signed settlement offer is not received within fifteen business days or if such offer is not submitted to the Securities and Exchange Commission within twenty business days of receipt. *Id.* § 201.161(c)(2)(i)(A)-(B).

Order Requesting Motion for Default and Sanctions

On October 15, 2018, the previously assigned administrative law judge issued an order to show cause to the fourth Respondent in this proceeding, Terrence A. Ballard, warning that he could be found in default for failing to respond. *Baker*, Admin. Proc. Rulings Release No. 6187, 2018 SEC LEXIS 2839.

Ballard never responded to the show cause order, and has thus far failed to participate in this proceeding at all. I am prepared to find him in default. The order instituting proceedings (OIP) alleges Ballard's violations and contains the amount of transaction-based compensation he allegedly received, which could be a basis for disgorgement. However, there is no evidence in the record other than the OIP. It is hard to fashion an appropriate civil penalty or determine the appropriateness of an associational or investment company bar without evidence pertaining to the relevant public interest factors. See 15 U.S.C. §§ 77h-1(g)(2), 78o(b)(6), 78u-2(c), 80a-9(b), (d)(3); *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979), *aff'd on other grounds*, 450 U.S. 91 (1981); *Rapoport v. SEC*, 682 F.3d 98, 108 (D.C. Cir. 2012) (“[T]he [Commission] must provide some meaningful explanation for imposing sanctions.”). Additional evidence pertaining to the nature of the violations and the appropriate amount of disgorgement would also be useful.

Accordingly, I ORDER the Division to file by June 21, 2019, a motion for default and sanctions with evidence sufficient to establish the violations and justify the requested sanctions.

It would be helpful if in addition to filing its motion with the Office of the Secretary, the Division also emails a courtesy copy to alj@sec.gov as a text-searchable PDF. Electronic copies of exhibits should not be combined into a single PDF file, but sent as separate attachments, and should be provided in text-searchable format whenever practicable.

Brenda P. Murray
Chief Administrative Law Judge