

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 86615 / August 9, 2019

Admin. Proc. File No. 3-18807

In the Matter of

DAVID HOWARD WELCH
(a/k/a DAVID HOWARD BRYANT)

ORDER REGARDING SERVICE

On September 20, 2018, the Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) against David Howard Welch (a/k/a David Howard Bryant) pursuant to Section 15(b) of the Securities Exchange Act of 1934.¹ On May 10, 2019, we directed the Division of Enforcement to file a status report within 14 days concerning service of the OIP, and to file periodic status reports every 28 days thereafter until service was completed.² The Division submitted status reports reciting its belief that Welch lives full time in Costa Rica and its efforts to serve him at his office in the United States. On July 9, 2019, we directed the Division to file an additional submission addressing whether its efforts met the requirements for service under Rules of Practice 141(a)(2)(i) and 141(a)(2)(iv).³

On August 6, 2019, the Division filed a supplemental report and notice of service, which states that a process server served the OIP personally on Welch at George Bush Intercontinental Airport in Houston, Texas, on August 4, 2019, consistent with Rule 141(a)(2)(i). The Division states that this “meets the requirements for service.”

¹ *David Howard Welch*, Exchange Act Release No. 84234, 2018 WL 4537200 (Sep. 20, 2018), <https://www.sec.gov/litigation/admin/2018/34-84234.pdf>.

² *David Howard Welch*, Exchange Act Release No. 85834, 2019 WL 2071385 (May 10, 2019).

³ 17 C.F.R. § 201.141(a)(2)(i), (a)(2)(iv)(A); see *David Howard Welch*, Exchange Act Release No. 86337, 2019 WL 3021191 (July 9, 2019), *deadline for filing extended by* Exchange Act Release No. 86430, 2019 WL 3284696 (July 22, 2019).

We construe the Division's August 6 supplemental report and notice of service as including a request that we accept it in lieu of the submission that our July 9 order requested and that is currently due September 27, 2019. Under the circumstances, personal service on Welch in the United States obviates any question whether the Division's earlier efforts to serve Welch at his office were consistent with the Commission's Rules of Practice and Costa Rican law, and renders moot our July 9 order's request that the Division submit additional briefing on that question.⁴

Welch's answer to the OIP is due within twenty (20) days after service.⁵ We direct Welch to the OIP for information about the consequences of the failure to timely file an answer.

For the Commission, by the Office of the General Counsel, pursuant to delegated authority.

Vanessa A. Countryman
Secretary

⁴ See, e.g., *C.I.R. v. Shapiro*, 424 U.S. 614, 622-23 n.7 (1976) (stating that valid service of new administrative notices of deficiency and levies mooted any question about whether previously served notices were "in technical compliance" with statutory requirements); *Ins. Co. of N. Am. v. Pyramid Ins. Co. of Bermuda, Ltd.*, 1994 WL 88754, at *4 (S.D.N.Y. Mar. 16, 1994) (Sotomayor, D.J.) (explaining that because the defendant had been re-served in the manner that the defendant claimed was required the "alleged defect in service has been cured, and therefore, the motion to dismiss for insufficiency of process has been mooted").

⁵ Rule of Practice 220(b), 17 C.F.R. § 201.220(b).