

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 2413/March 12, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16339

In the Matter of

JOHN BRINER, ESQ., DIANE DALMY, ESQ.,
DE JOYA GRIFFITH, LLC, ARTHUR DE JOYA, CPA,
JASON GRIFFITH, CPA, CHRIS WHETMAN, CPA,
PHILIP ZHANG, CPA, M&K CPAS, PLLC,
MATT MANIS, CPA, JON RIDENOUR, CPA, and
BEN ORTEGO, CPA

ORDER

The Securities and Exchange Commission issued an Order Instituting Administrative and Cease-and-Desist Proceedings (OIP) on January 15, 2015. On January 23, 2015, I issued an order scheduling a telephonic prehearing conference for February 10, 2015. *John Briner, Esq.*, Admin. Proc. Rulings Release No. 2249, 2015 SEC LEXIS 267. Although I held the conference as scheduled, Respondent John Briner did not participate in the conference.

During the conference, counsel for the Division of Enforcement represented that Mr. Briner had been served with the OIP on January 20, 2015 via UPS. Tr. 4. Division counsel also stated that Mr. Briner received a copy of the OIP via e-mail on January 15, 2015. Tr. 4. Based on a service date of January 20, 2015, Mr. Briner's Answer to the OIP was due by February 12, 2015. *See* OIP at 28; 17 C.F.R. §§ 201.160(b), 220(b). After he failed to answer, I ordered Mr. Briner to show cause by March 2, 2015, why the proceeding should not be determined against him for failing to file an Answer, attend the prehearing conference, or otherwise defend this proceeding. *John Briner, Esq.*, Admin. Proc. Rulings Release No. 2326, 2015 SEC LEXIS 576 (Feb. 18, 2015).

On March 2, 2015, Mr. Briner sent an e-mail to my Office. Attached to the e-mail were two documents. One purported to be Mr. Briner's Answer and the other was a letter in which he alleged "that service was only effected on John Briner on February 25, 2015."

In view of the foregoing, I ORDER that:

1. Within ten days, Mr. Briner shall submit a declaration under penalty of perjury explaining the date and circumstances under which he was served with the OIP.
2. Within ten days, the Division shall submit a declaration and any supporting evidence relating to the service of the OIP on Mr. Briner.

Mr. Briner is reminded that all motions, briefs, and other papers must be served on each party in this proceeding and must be accompanied by a certificate of service, pursuant to Rules 150(a) and 151(d). 17 C.F.R. §§ 201.150(a), .151(d). Any filing that fails to meet these requirements may be stricken. 17 C.F.R. § 201.180(b). At the prehearing conference, the participating parties agreed to accept service by e-mail, but all papers must also be filed with the Office of the Secretary in accordance with Rule 151(a). 17 C.F.R. § 151(a); Tr. 6-7.

James E. Grimes
Administrative Law Judge