

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

ADMINISTRATIVE PROCEEDINGS RULINGS

Release No. 999/October 28, 2013

ADMINISTRATIVE PROCEEDING

File No. 3-15548

In the Matter of

PHILIP MARK CAIN

ORDER SCHEDULING
PREHEARING CONFERENCE
AND EXTENDING TIME TO
ANSWER ORDER
INSTITUTING PROCEEDINGS

The Securities and Exchange Commission (Commission) issued an Order Instituting Administrative Proceedings (OIP) on October 1, 2013, alleging that on December 14, 2011, Philip Mark Cain (Cain) pled guilty in United States v. Cain, 4:11-cr-1105 (D. Ariz.) to one count each of mail fraud in violation of 18 U.S.C. § 1341, engaging in an illegal monetary transaction greater than \$10,000 in violation of 18 U.S.C. § 1957, and structuring transactions to evade currency reporting requirements in violation of 31 U.S.C. §§ 5324(a)(3) and (d)(2); and that on March 15, 2012, Cain was sentenced to fifty-one months in prison followed by five years of supervised release, and ordered to pay over \$1.2 million in restitution. A hearing is scheduled for November 4, 2013.

The Commission's files show that the OIP was delivered to Cain at United States Penitentiary Tucson ("USP Tucson"), P.O. Box 24550, Tucson, Arizona 85734 – where Cain is incarcerated – on October 4, 2013. The Commission's Rules of Practice require that a Respondent file an Answer within twenty days after service of the OIP, or by October 28, 2013. See OIP at 2; 17 C.F.R. §§ 201.141(a)(2)(i), .160(a)-(b), .220(b).

On October 24, 2013, the Division of Enforcement (Division) filed Motions for Adjournment of Hearing and Prehearing Conference and a Brief in Support, and on October 25, 2013, I received the Division's Supplemental Brief in Support (Revised Motion). The Revised Motion represents that: the Division received a letter from Cain, dated October 15, 2013, which asked that the Division correspond with USP Tucson and determine when Cain can participate in a prehearing conference; and the parties will begin settlement negotiations. The Revised Motion requests that I postpone the hearing, and schedule a prehearing conference for a date between November 5 and November 25, 2013.

It is ORDERED that Cain's Answer is due on November 25, 2013. See 17 C.F.R. §§ 201.161, .220(b). I GRANT the Revised Motion, and FURTHER ORDER that the hearing

scheduled for November 4, 2013, is POSTPONED sine die and a telephonic prehearing conference shall be held on Monday, November 25, 2013, at 2:00 p.m. EST. If Cain fails to file an Answer within the time provided by this Order, participate in the prehearing conference, or otherwise defend the proceeding, he will be deemed in default and the proceeding may be determined against him. See 17 C.F.R. §§ 201.155(a), .220(f), .221(f).

Cameron Elliot
Administrative Law Judge