

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

ADMINISTRATIVE PROCEEDINGS RULINGS

Release No. 3458/January 4, 2016

ADMINISTRATIVE PROCEEDING

File No. 3-16989

In the Matter of

VINAY KUMAR NEVATIA

ORDER TO SHOW CAUSE, POSTPONING
HEARING, AND DIRECTING MOTION FOR
SANCTIONS

On December 8, 2015, the Securities and Exchange Commission issued an Order Instituting Administrative Proceedings (OIP) against Respondent Vinay Kumar Nevatia pursuant to Securities Exchange Act of 1934 Section 15(b). A hearing is scheduled for January 12, 2016.

On December 22, 2015, the Division of Enforcement submitted a Motion to Convert Hearing Date to Telephonic Prehearing Conference (Motion) and a Declaration of William T. Salzmann to Assist Secretary with Record of Service (Service Decl.).

Nevatia was last known to be residing in the United Arab Emirates (UAE), but is currently at large and has not responded to the Commission's attempts to contact him since the investigation preceding the underlying district court case, *SEC v. Nevatia*, No. 14-cv-05273 (N.D. Cal.). Motion at 2 n.1; Service Decl. at 2; Decl. of William T. Salzmann Regarding Service of Report and Recommendation, *SEC v. Nevatia* (October 30, 2015), ECF No. 39 (Service of Report Decl.). Because Respondent's address is unknown, the Division represents it served Nevatia with the OIP by email on December 11, 2015, using the email address that Nevatia had instructed the Division to use to serve documents in the underlying investigation. Motion at 2; Service Decl. at 1 & Ex. A; *see* Service of Report Decl. The Division also represents that in *SEC v. Nevatia*, the court allowed the Division to give Nevatia notice of the impending default judgment via email. Motion at 2 n.1. The Division notes that service by email is consistent with Article 8 of UAE Federal Law No. 10 on the Amendment of Certain Provisions of the Civil Procedures Law Issued by Virtue of Federal Law No. 11 of 1992, which provides that "should it be impossible to serve [Respondent] the notice or should [Respondent] abstain from receiving such notice," service may be accomplished by email.http://ejustice.gov.ae/downloads/latest_laws2015/Federal_Law_10_2014_en.pdf.

Commission Rule of Practice 141(a)(2)(iv) provides that notice of a proceeding to a person in a foreign country may be made by any method reasonably calculated to give notice, provided that the method of service used is not prohibited by the law of the foreign country. 17

C.F.R. § 201.141(a)(2)(iv). Based on the Division's representations that Nevatia is a fugitive last known to be residing in the UAE and that the email address the OIP was sent to is the email address Nevatia instructed the Division to use when contacting him, I find that email is a method reasonably calculated to give notice of the proceeding and that Nevatia was served on December 11, 2015, in accordance with 17 C.F.R. § 201.141(a)(2)(iv). To date, Nevatia has not filed an Answer, which was due on December 31, 2015. OIP at 3; 17 C.F.R. § 201.220(b).

It is ORDERED that the Division email Respondent a copy of this Order by January 5, 2016.

It is FURTHER ORDERED that Nevatia SHOW CAUSE by January 15, 2016, why this proceeding should not be determined against him due to his failure to file an Answer or otherwise defend the proceeding. If Nevatia fails to respond to this Order, Nevatia will be deemed in default and the Division shall file a motion for sanctions by January 29, 2016. *See* OIP at 3; 17 C.F.R. §§ 201.155(a)(2), .220(f). The motion shall provide legal authority and evidentiary support relating to the OIP's allegations and the Division's requested sanctions, in accordance with *Gary L. McDuff*, Exchange Act Release No. 74803, 2015 SEC LEXIS 1657 (Apr. 23, 2015). Electronic courtesy copies of the parties' filings should be emailed to ALJ@sec.gov in PDF text-searchable format. Exhibits should be emailed as separate attachments, not as a combined PDF file.

It is FURTHER ORDERED that the hearing scheduled for January 12, 2016, is POSTPONED *sine die*.

Cameron Elliot
Administrative Law Judge