

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 4563/January 27, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-17716

In the Matter of

ROBERT L. BAKER,
JACOB B. HERRERA,
MICHAEL D. BOWEN and
TERRENCE A. BALLARD

ORDER DIRECTING PARTIES
TO HOLD A PREHEARING
CONFERENCE

On December 8, 2016, the Securities and Exchange Commission issued an order instituting proceedings (OIP) in this matter. The Division of Enforcement submitted a declaration of service on January 26, 2017. I find that the Division has established that Respondent Jacob C. Herrera was served by U.S. Postal Service certified mail on December 15, 2016, and that Respondent Terrence A. Ballard was personally served on January 10, 2017. I find that counsel for Respondents Robert L. Baker and Michael D. Bowen accepted service for their clients on January 11, 2017.¹ Each Respondent's answer is due twenty days after service with three additional days to be added due to service by mail for Respondent Herrera. 17 C.F.R. §§ 201.160(b), .220(b); OIP at 6.

Respondent Herrera submitted a preliminary answer, motion to dismiss, or alternatively, motion to abate on January 12, 2017. The Division submitted a response on January 20, 2017. If Herrera wishes to file a reply, he must do so within three days of service of the Division's response. 17 C.F.R. § 201.154(b).

¹ The Division initially attempted to serve Respondents Baker and Bowen by U.S. Postal Service certified mail, but service was not accomplished because there was no authorized recipient to accept delivery. *See* Div. Serv. Decl. Exs. 2, 4; 17 C.F.R. § 201.141(a)(2)(i) (requiring "confirmation of receipt" when delivery is made to an individual). The Division then attempted to serve Baker and Bowen via UPS delivery, but such delivery does not satisfy Rule of Practice 141(a)(2)(i), 17 C.F.R. § 201.141(a)(2)(i), which only contemplates delivery by U.S. Postal Service. The Division's attempt to serve Baker and Bowen's counsel by UPS was insufficient for the same reason. *See* Div. Serv. Decl. Ex. 7. Nevertheless, because counsel for Baker and Bowen indicated that they accepted service of the OIP on January 11, 2017, I deem the U.S. Postal Service requirement under Rule 141(a)(2)(i) waived in this instance.

On January 27, 2017, Respondents Baker and Bowen submitted a motion to extend their time to answer to February 14, 2017, which the Division does not oppose. Respondent Ballard's answer is due on January 30, 2017.

I ORDER as follows:

1. Respondents Baker and Bowen's unopposed motion to extend their answer deadline to February, 14, 2017, is GRANTED.
2. Each party must file with the Commission, and keep current, a notice of appearance in accordance with Rule of Practice 102(d), 17 C.F.R. § 201.102(d).
3. By February 21, 2017, the parties shall hold an initial prehearing conference without the hearing officer to discuss each numbered item in Rule of Practice 221(c), 17 C.F.R. § 201.221(c).² By February 24, 2017, the parties shall file a joint prehearing conference statement reflecting the results of their conference. That statement must: (A) address each numbered item in Rule of Practice 221(c), and include proposed due dates where applicable (the parties may denote that an item is "not applicable" in their filing); (B) propose a procedural schedule; and (C) address the date(s), potential location,³ and length of any hearing.

Based on the prehearing statement, a subsequent prehearing conference with the hearing officer will be scheduled if appropriate. If the parties are unable to hold a prehearing conference within the time provided, the Division shall promptly notify my office.

The parties should email courtesy copies of any filings in this proceeding in PDF text-searchable format and, when possible, in Word format, to alj@sec.gov.

Jason S. Patil
Administrative Law Judge

² The Rules of Practice are available online at <https://www.sec.gov/about/rules-of-practice-2016.pdf>. General instructions for Respondents, including the mailing address for filings, are available online at <http://www.sec.gov/alj/alj-instructions-for-respondents.pdf>.

³ The hearing location "shall be fixed with due regard for the public interest and the convenience and necessity of the parties, other participants, or their representatives." Rule of Practice 200(c), 17 C.F.R. § 201.200(c). The parties should consider the suitability of a hearing location in or near Dallas, Texas.