

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

Administrative Proceedings Rulings
Release No. 6305 / November 7, 2018

Administrative Proceeding
File No. 3-18535

In the Matter of

Richard W. Kessler

Order to Show Cause

At the prehearing conference held on October 19, 2018, the Division of Enforcement advised me that it expected to receive signed settlement papers from Mr. Kessler within a few days. Prehr's Tr. 4. Mr. Kessler, appearing pro se, stated that he understood and had no questions. *Id.* at 4, 6. On November 2, 2018, the Division submitted a status report stating that Mr. Kessler did not submit the settlement papers. Mr. Kessler was served with the order instituting proceedings (OIP) on June 11, 2018, and has failed to file an answer. Accordingly, I ORDER Mr. Kessler to SHOW CAUSE by November 19, 2018, why he should not be found in default due to his failure to file an answer. 17 C.F.R. §§ 201.155(a)(2), .220(f).

If Mr. Kessler does not respond to the order to show cause, the Division shall file a motion for default and sanctions by December 17, 2018. The motion should contain sufficient evidence to carry the Division's burden of establishing the violations alleged in the OIP. This evidence may include "undisputed pleaded facts, declarations, affidavits, documentary evidence or facts officially noted." 17 C.F.R. § 201.250(b). Because the underlying final order of the Securities Division of the New Mexico Regulation and Licensing Department was decided on default, I cannot rely solely on the factual allegations, if any, in that order. *Gary L. McDuff*, Securities Exchange Act of 1934 Release No. 74803, 2015 SEC LEXIS 1657, at *6-11 (Apr. 23, 2015); see *Rapoport v. SEC*, 682 F.3d 98 (D.C. Cir. 2012).

Cameron Elliot
Administrative Law Judge