

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

Administrative Proceedings Rulings
Release No. 6378 / November 30, 2018

Administrative Proceeding
File No. 3-18129

In the Matter of
Brian Michael Berger

**Order Setting Briefing
Schedule**

Counsel for the Division of Enforcement was the only participant at yesterday's telephonic prehearing conference. Respondent Brian Michael Berger did not appear, has not submitted an answer to the order instituting proceedings or responded to my order to show cause, and has not otherwise participated in this proceeding.

Either party may file an appropriate dispositive motion by December 14, 2018. Any opposition will be due January 11, 2019, and a reply to an opposition will be due January 18, 2019. *See* 17 C.F.R. §§ 201.154(b), .161(a). A dispositive motion should include legal analysis and evidentiary support for the allegations and requested sanction in accordance with *Rapoport v. SEC*, 682 F.3d 98, 108 (D.C. Cir. 2012), and *Ross Mandell*, Securities Exchange Act of 1934 Release No. 71668, 2014 WL 907416, at *2 (Mar. 7, 2014), *vacated in part on other grounds*, Exchange Act Release No. 77935, 2016 WL 3030883 (May 26, 2016).

In addition to complying with the rules regarding service contained in the Securities and Exchange Commission's Rules of Practice, courtesy copies of any filings should be e-mailed to my office at alj@sec.gov, in PDF text-searchable format if possible. Exhibits should be e-mailed as separate attachments, not as a combined PDF file, and accompanied by a declaration.

James E. Grimes
Administrative Law Judge