

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

Administrative Proceedings Rulings  
Release No. 6691 / September 27, 2019

Administrative Proceeding  
File No. 3-17693

In the Matter of

**Sean P. Finn and  
M. Dwyer LLC**

**Order Following Remand**

After I issued an initial decision of default against Respondents, the Office of the Secretary received Respondent Sean P. Finn's motion to stay this proceeding pending the outcome of his motion to dismiss and possible appeal in the civil enforcement action against him that is the predicate for this proceeding. Finn also objected to "the unfounded summations and assemblage of evidence" in the Division of Enforcement's motion for summary disposition. I was not made aware of the motion until after my authority to consider it had expired.<sup>1</sup> The Securities and Exchange Commission later vacated the initial decision and has remanded the proceeding "to provide [me] with authority to consider" Finn's motion.<sup>2</sup>

The motion for a stay is DENIED. The district court entered a final judgment enjoining Finn from violating the securities laws, and subsequent litigation and potential appeals are not a basis for staying this proceeding.<sup>3</sup>

---

<sup>1</sup> *Sean P. Finn*, Admin. Proc. Rulings Release No. 6623, 2019 SEC LEXIS 1718 (ALJ July 10, 2019).

<sup>2</sup> *Finn*, Securities Exchange Act of 1934 Release No. 87057, 2019 SEC LEXIS 3209 (Sept. 23, 2019).

<sup>3</sup> *See Joseph P. Galluzzi*, Exchange Act Release No. 46405, 2002 WL 1941502, at \*3 n.21 (Aug. 23, 2002); *John Francis D'Acquisto*, Investment Advisers Act of 1940 Release No. 1696, 1998 WL 34300389, at \*2 n.9 (Jan. 21, 1998).

Given that Finn also objected in broad terms to the Division’s motion for summary disposition, however, and considering his status as a detained, pro se respondent, I will provide him another opportunity to respond to the Division’s motion and participate in this proceeding.<sup>4</sup> His response may not simply rely on bare allegations or denials.<sup>5</sup> Rather, Finn must submit evidence—such as declarations, affidavits (including his own), prior testimony, documentary evidence, or facts that can be officially noticed under Rule of Practice 323—countering the facts asserted by the Division and raising specific facts that support his contention that this matter requires a hearing. Failure to respond to the Division’s motion may be grounds for a default under Rule of Practice 155. Finn may style his response to the Division’s motion as a cross-motion for summary disposition in the alternative, which would provide me with authority to rule in his favor upon the requisite showing under Rule of Practice 250.

Finn’s response to the Division’s motion for summary disposition is due by November 15, 2019. The Division may file a reply to Finn’s new response, or if he does not file one, to his May filing, by December 4, 2019.

---

James E. Grimes  
Administrative Law Judge

---

<sup>4</sup> Cf. *Pecarsky v. Galaxiworld.com Ltd.*, 249 F.3d 167, 174 (2d Cir. 2001) (“It is well established that default judgments are disfavored. A clear preference exists for cases to be adjudicated on the merits.”).

<sup>5</sup> See *James S. Tagliaferri*, Exchange Act Release No. 80047, 2017 WL 632134, at \*7 (Feb. 15, 2017) (“The party opposing summary disposition may not rely on bare allegations or denials but instead must present specific facts showing a genuine issue of material fact for resolution at a hearing.” (internal quotation marks omitted)).