

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 98291 / September 6, 2023

Admin. Proc. File No. 3-20653

In the Matter of  
  
DONALD HOWARD

ORDER GRANTING MOTION TO AMEND THE ORDER INSTITUTING PROCEEDINGS

On November 17, 2021, the Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) against Donald Howard (“Respondent”) pursuant to Section 15(b) of the Securities Exchange Act of 1934 based on an injunction entered against him by a federal court in 2021.<sup>1</sup> On April 4, 2022, the Commission issued an order requiring Respondent to show cause why he should not be deemed to be in default and why this proceeding should not be determined against him due to his failure to file an answer and to otherwise defend this proceeding.<sup>2</sup> Respondent has not filed an answer or a response to the show cause order.

On April 29, 2022, we granted the Division of Enforcement’s request to postpone this proceeding until further order of the Commission, based on the Division’s representation that “Donald Howard” may not be the real identity of the person who allegedly committed the conduct underlying the OIP.<sup>3</sup> On April 25, 2023, the Division filed a motion to amend the OIP, to which Respondent has not responded. Accordingly, we now lift our postponement of this proceeding and consider the Division’s motion to amend the OIP.<sup>4</sup>

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<sup>1</sup> *Donald Howard*, Exchange Act Release No. 93599, 2021 WL 5358757 (Nov. 17, 2021). As discussed below, the Division of Enforcement now alleges that the Respondent’s real name is Robert Louis Carver and that he used the name “Donald Howard” as an alias.

<sup>2</sup> *Donald Howard*, Exchange Act Release No. 94600, 2022 WL 1014873 (Apr. 4, 2022).

<sup>3</sup> *Donald Howard*, Exchange Act Release No. 94825, 2022 WL 1288208, at \*1 (Apr. 29, 2022). Respondent did not respond to the Division’s postponement request.

<sup>4</sup> The postponement order also directed the Division, until further order of the Commission, to submit periodic status reports explaining whether it believed the postponement should continue. *Id.* Because we are lifting the postponement, IT IS ORDERED that the

The Division requests to amend the OIP to (1) allege that the conduct described in the original OIP was actually committed by Robert Louis Carver, who was using the name “Donald Howard” as an alias; (2) allege the truth of the allegations found in the Commission’s underlying civil complaint that resulted in the 2021 injunction; (3) allege that Carver was separately enjoined by another federal court from violating various provisions of the securities laws in 2008; and (4) allege that the Commission barred Carver from associating with any broker, dealer, or investment adviser in 2008.<sup>5</sup>

Rule of Practice 200(d)(1) provides that “[u]pon motion by a party, the Commission may, at any time, amend an order instituting proceedings to include new matters of fact or law.”<sup>6</sup> Such amendments to OIPs, including amendments that correct errors in an OIP caused by the respondent’s alleged use of an alias,<sup>7</sup> and amendments that reflect “subsequent development[s],” “should be freely granted, subject only to the consideration that other parties should not be surprised nor their rights prejudiced.”<sup>8</sup>

The Division’s proposed amendments will add “new [alleged] matters of fact or law” to the OIP, i.e., the truth of the allegations contained in the Commission’s underlying civil complaint and details about Respondent’s alleged true identity and background.<sup>9</sup> Regarding the issue of Respondent’s alleged true identity, we take official notice that Carver recently pleaded guilty to aggravated identity theft in federal district court.<sup>10</sup> We also take official notice that, in the factual basis for his plea agreement, Carver admitted to using the identity of a real person

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Division is discharged from its obligation to file further status reports under the postponement order.

<sup>5</sup> See *Robert L. Carver*, Exchange Act Rel. No. 58423, 2008 WL 3896252 (Aug. 25, 2008).

<sup>6</sup> 17 C.F.R. § 201.200(d)(1).

<sup>7</sup> See *Steven Wise*, Exchange Act Release No. 48850, 2003 WL 22827675, at \*1 (Nov. 26, 2003).

<sup>8</sup> *James S. Tagliaferri*, Exchange Act Release No. 75820, 2015 WL 5139389, at \*2 (Sept. 2, 2015) (quoting *Robert David Beauchene*, Exchange Act Release No. 68974, 2013 WL 661619, at \*2 (Feb. 25, 2013)); see also *Wise*, 2003 WL 22827675, at \*1 (applying same standard).

<sup>9</sup> Rule of Practice 200(d)(1), 17 C.F.R. § 201.200(d)(1); see also *Hughe Duwayne Graham*, Exchange Act Release No. 97963, 2023 WL 4682613, at \*1 (July 21, 2023) (holding that an amendment to an OIP alleging the truth of a civil complaint’s allegations constituted “new matters of fact or law”).

<sup>10</sup> See Information at 4, *United States v. Carver*, No. 8:23-CR-60 (C.D. Cal. May 8, 2023), ECF No. 1; Minutes of Change of Plea Hearing, *Carver*, No. 8:23-CR-60 (C.D. Cal. June 30, 2023), ECF No. 12; see also Rule of Practice 323, 17 C.F.R. § 201.323 (“Official notice may be taken of any material fact which might be judicially noticed by a district court of the United States . . .”).

named “D.H.” while acting as an “unlicensed stock broker” from around November 2017 until around September 2018.<sup>11</sup>

The amendments to the OIP will not prejudice Respondent because he has made no filings in this proceeding, including in response to the Division’s motion to amend the OIP. The amendments also will not unfairly surprise Respondent because this proceeding is still in its earliest stages,<sup>12</sup> and he will have the opportunity to file an answer to the amended OIP and to contest its allegations.<sup>13</sup>

Accordingly, IT IS ORDERED that the Division’s motion to amend the OIP is granted. The amended OIP is attached to this order.<sup>14</sup> Service of this order and the amended OIP shall be made consistent with Rule of Practice 141(a).<sup>15</sup> After the service of the amended OIP, the Division shall promptly file with the Office of the Secretary a record of service consistent with Rule of Practice 141(a)(3).<sup>16</sup> Respondent shall file an answer to the allegations contained in the amended OIP within 20 days of service of the amended OIP.

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<sup>11</sup> Plea Agreement for Defendant Robert Louis Carver at 10, *Carver*, No. 8:23-CR-60 (C.D. Cal. May 8, 2023), ECF No. 3.

<sup>12</sup> See *Wise*, 2003 WL 22827675, at \*1 (“Amending the OIP [to allege the true name of the respondent] will not result in surprise or prejudice to other parties, particularly since the proceeding has been stayed and no hearing has been set.”)

<sup>13</sup> See *Tagliaferri*, 2015 WL 5139389, at \*2 (“The OIP does not establish facts, it alleges them; [the respondent] will have an opportunity to contest these allegations and their legal effect.”)

<sup>14</sup> The Division’s motion requests that we amend Section I of the OIP to state that proceedings are being instituted against “Donald Howard (aka ‘Robert Louis Carver’).” We have instead amended Section I to state that proceedings are being instituted against “Robert Louis Carver (a/k/a ‘Donald Howard’).”

<sup>15</sup> 17 C.F.R. § 201.141(a).

<sup>16</sup> 17 C.F.R. § 201.141(a)(3).

The parties' attention is directed to the e-filing requirements in the Rules of Practice.<sup>17</sup>

By the Commission.

Vanessa A. Countryman  
Secretary

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<sup>17</sup> *Amendments to the Commission's Rules of Practice*, 85 Fed. Reg. 86,464 (Dec. 30, 2020), <https://www.sec.gov/rules/final/2020/34-90442a.pdf>; *Instructions for Electronic Filing and Service of Documents in SEC Administrative Proceedings and Technical Specifications*, <https://www.sec.gov/efapdocs/instructions.pdf>. The amendments impose other obligations such as a redaction and omission of sensitive personal information requirement. *Amendments to the Commission's Rules of Practice*, 85 Fed. Reg. at 86,465-81. And the amendments provide further requirements if a person cannot reasonably comply with the electronic filing requirements due to lack of access to electronic transmission devices. *Id.* at 86,478-79.

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**ADMINISTRATIVE PROCEEDING**

**File No. 3-20653**

**In the Matter of**

**ROBERT LOUIS CARVER,  
A/K/A DONALD HOWARD,**

**Respondent.**

**AMENDED ORDER INSTITUTING  
ADMINISTRATIVE PROCEEDINGS  
PURSUANT TO SECTION 15(b) OF THE  
SECURITIES EXCHANGE ACT OF 1934 AND  
NOTICE OF HEARING**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”) against Robert Louis Carver (a/k/a “Donald Howard”) (“Respondent” or “Carver”).

**II.**

After an investigation, the Division of Enforcement alleges that:

**A. RESPONDENT**

1. Respondent, age 67, is last known to reside in Irvine, California. From at least October 2017 to May 2019, Respondent, using the alias “Donald Howard”, was engaged in the business of effecting transactions in, or inducing or attempting to induce the purchase and sale of, securities and received transaction-based compensation. During the period relevant to this action, Respondent was neither registered with the Commission as either a broker or a dealer nor was he associated with a broker or dealer registered with the Commission.

2. On August 1, 2008, judgment was entered by consent against Carver, permanently enjoining him from future violations of Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933 (“Securities Act”), Sections 10(b) and 15(a) of the Exchange Act and Rule 10b-5 thereunder, and Sections 206(1) and 206(2) of the Advisers Act, in the civil action entitled Securities and Exchange Commission v. Robert Louis Carver, et al., Civil Action Number 8:08-CV-627 in the United States District Court for the Central District of California. Respondent was subsequently barred by the Commission from any association with any broker, dealer, or investment adviser. Robert L. Carver, Securities Exchange Act Rel. No. 58423 (Aug. 25, 2008).

B. ENTRY OF INJUNCTION

3. On November 12, 2021, a final judgment was entered against Respondent, permanently enjoining him from future violations of Section 15(a)(1) of the Exchange Act in the civil action entitled Securities and Exchange Commission v. Hugh Duwayne Graham, et al., Civil Action Number 1:20-CV-02505, in the United States District Court for the Northern District of Ohio.

4. As alleged in the Commission's complaint, from at least October 2017 to May 2019, Respondent, using the mails or other means or instrumentalities of interstate commerce, effected transactions in, or induced or attempted to induce the purchase and sale of, securities and received commissions while he was not registered with the Commission as a broker or dealer nor while he was associated with an entity registered with the Commission as a broker or dealer.

**III.**

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative proceedings be instituted to determine:

A. Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford Respondent an opportunity to establish any defenses to such allegations; and

B. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 15(b) of the Exchange Act.

**IV.**

IT IS ORDERED that a public hearing before the Commission for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed by further order of the Commission, pursuant to Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondent shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220(b) of the Commission's Rules of Practice, 17 C.F.R. § 201.220(b).

IT IS FURTHER ORDERED that the Division of Enforcement and Respondent shall conduct a prehearing conference pursuant to Rule 221 of the Commission's Rules of Practice, 17 C.F.R. § 201.221, within fourteen (14) days of service of the Answer. The parties may meet in person or participate by telephone or other remote means; following the conference, they shall file a statement with the Office of the Secretary advising the Commission of any agreements reached at said conference. If a prehearing conference was not held, a statement shall be filed with the Office of the Secretary advising the Commission of that fact and of the efforts made to meet and confer.

If Respondent fails to file the directed Answer, or fails to appear at a hearing or conference after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against him upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310.

This Order shall be served forthwith upon Respondent by any means permitted by the Commission's Rules of Practice.

The Commission finds that it would serve the interests of justice and not result in prejudice to any party to provide, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), that notwithstanding any contrary reference in the Rules of Practice to service of paper copies, service to the Division of Enforcement of all opinions, orders, and decisions described in Rule 141, 17 C.F.R. § 201.141, and all papers described in Rule 150(a), 17 C.F.R. § 201.150(a), in these proceedings shall be by email to the attorneys who enter an appearance on behalf of the Division, and not by paper service.

Attention is called to Rule 151(a), (b) and (c) of the Commission's Rules of Practice, 17 C.F.R. § 201.151(a), (b) and (c), providing that when, as here, a proceeding is set before the Commission, all papers (including those listed in the following paragraph) shall be filed electronically in administrative proceedings using the Commission's Electronic Filings in Administrative Proceedings (eFAP) system access through the Commission's website, [www.sec.gov](http://www.sec.gov), at <http://www.sec.gov/eFAP>. Respondent also must serve and accept service of documents electronically. All motions, objections, or applications will be decided by the Commission.

The Commission finds that it would serve the interests of justice and not result in prejudice to any party to provide, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), that notwithstanding any contrary reference in the Rules of Practice to filing with or disposition by a hearing officer, all filings, including those under Rules 210, 221, 222, 230, 231, 232, 233, and 250 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.210, 221, 222, 230, 231, 232, 233, and 250, shall be directed to and, as appropriate, decided by the Commission. This proceeding shall be deemed to be one under the 75-day timeframe specified in Rule of Practice 360(a)(2)(i), 17 C.F.R. § 201.360(a)(2)(i), for the purposes of applying Rules of Practice 233 and 250, 17 C.F.R. §§ 201.233 and 250.

The Commission finds that it would serve the interests of justice and not result in prejudice to any party to provide, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), that the Commission shall issue a decision on the basis of the record in this proceeding, which shall consist of the items listed at Rule 350(a) of the Commission's Rules of Practice, 17 C.F.R. § 201.350(a), and any other document or item filed with the Office of the Secretary and accepted into the record by the Commission. The provisions of Rule 351 of the Commission's Rules of Practice, 17 C.F.R. § 201.351, relating to preparation and certification of a record index by the Office of the Secretary or the hearing officer are not applicable to this proceeding.

The Commission will issue a final order resolving the proceeding after one of the following: (A) The completion of post-hearing briefing in a proceeding where the public hearing has been completed; (B) The completion of briefing on a motion for a ruling on the pleadings or a motion for summary disposition pursuant to Rule 250 of the Commission's Rules of Practice, 17 C.F.R. § 201.250, where the Commission has determined that no public hearing is necessary; or (C) The determination that a party is deemed to be in default under Rule 155 of the Commission's Rules of Practice, 17 C.F.R. § 201.155, and no public hearing is necessary.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.