

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

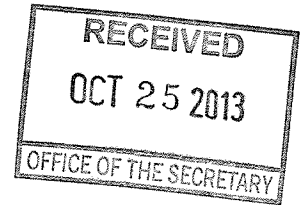
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ADMINISTRATIVE PROCEEDING
File No. 3-15548

In the Matter of

PHILIP MARK CAIN,

Respondent.



**DIVISION OF ENFORCEMENT'S BRIEF IN SUPPORT OF
MOTIONS FOR ADJOURNMENT OF HEARING AND PREHEARING CONFERENCE**

Introduction

On October 1, 2013, the Securities and Exchange Commission ("Commission") issued an Order Instituting Proceedings ("OIP") against Philip Mark Cain ("Respondent") to determine what sanctions, if any, are appropriate in the public interest against him based on his criminal convictions in March 2012. On October 2, 2013, the Office of the Secretary mailed the OIP to Respondent by USPS Certified Mail, which was delivered on October 4, 2013. The Division of Enforcement ("Division") also mailed a copy of the OIP to Respondent by USPS Certified Mail, which was delivered on October 7, 2013. As of the date of this Motion, Respondent has not served an Answer on the Division. Respondent has also failed to respond to the Division's requests to confer about proposed times for a prehearing conference and postponing the hearing currently scheduled to commence on November 4, 2013. Therefore, the Division seeks to adjourn the hearing scheduled for November 4, 2013, and schedule a telephonic prehearing conference for November 4, 2013, at 2:00 p.m. Eastern Time. The prehearing conference will

allow the parties and the Court to determine an efficient manner in which to adjudicate these proceedings.

Statement of Facts

The Office of the Secretary mailed the OIP to Respondent by USPS Certified Mail on October 2, 2013, and the OIP was delivered on October 4, 2013. Also on October 4, 2013, the Division mailed to Respondent a copy of the OIP and a letter offering the Division's investigative files for inspection and copying pursuant to Rule of Practice 230 by USPS Certified Mail, which was delivered on October 7, 2013. On October 7, 2013, the Division mailed to Respondent by USPS Certified Mail the Order Scheduling Hearing and Designating Presiding Judge and a letter proposing times for the prehearing conference and asking whether Respondent would object to the Division's motion to postpone the November 4 hearing date. The Division's October 7 correspondence to Respondent was delivered on October 9, 2013. As of the date of this Motion, Respondent has not served an Answer on the Division, nor has he responded to the Division's requests to confer on the prehearing conference time or postponement of the hearing.

Motions for Adjournment of Hearing and Prehearing Conference

The Division moves for an order setting aside the November 4, 2013 hearing and in lieu thereof scheduling a telephonic prehearing conference on November 4, 2013 pursuant to Rule 221. Respondent has not responded to the Division's requests to confer. Accordingly, the Division respectfully requests that the prehearing conference be scheduled for November 4, 2013, at 2:00 p.m. Eastern Time. The Division will make arrangements for the telephone conference call. Postponing the hearing date and scheduling a prehearing conference will allow the Court to establish an orderly and efficient prehearing schedule for any prehearing motions, and, if necessary, to schedule a mutually acceptable date for a hearing.

Conclusion

For the reasons set forth above, the Division respectfully requests that the Administrative Law Judge grant the Division's Motions for Adjournment of Hearing and Prehearing Conference, and enter an order granting the following relief:

1. Setting aside the November 4, 2013 hearing date; and
2. Scheduling a telephonic prehearing conference for November 4, 2013, at 2:00 p.m. Eastern Time.

Dated: October 24, 2013

Respectfully submitted,



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