

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

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ADMINISTRATIVE PROCEEDING
File No. 3-17508

In the Matter of

MICHAEL RALPH CASEY, Esq.,

Respondent.

VERIFIED MOTION
PURSUANT TO
17 C.F.R. § 200.30-10(a)(8)
REQUESTING THAT THE
CHIEF ADMINISTRATIVE
LAW JUDGE
DISCONTINUE THIS
ADMINISTRATIVE
PROCEEDING WITHOUT
PREJUDICE

INTRODUCTION

The Office of General Counsel (“OGC”) respectfully requests, pursuant to 17 C.F.R. 200.30-10(a)(8), that the Chief Administrative Law Judge discontinue without prejudice this Rule 102(e)(3)(i)¹ administrative proceeding against Respondent Michael

¹ Rule 102(e)(3)(i), 17 C.F.R. 201.102(e)(3)(i)(A) and (B), provides, in relevant part, that:

The Commission, with due regard to the public interest and without preliminary hearing, may, by order temporarily suspend from appearing or practicing before it any attorney . . . who has been by name:

- (A) [p]ermanently enjoined by any court of competent jurisdiction, by reason of his or her misconduct in an action brought by the Commission, from violating or aiding and abetting the violation of any provision of the Federal securities laws or of the rules and regulations thereunder; or
- (B) [f]ound by any court of competent jurisdiction in an action brought by the Commission to which he or she is a party . . . to have violated (unless the violation was found not to have been willful) or aided and abetted the violation of any provision of

Ralph Casey, Esq. (“Respondent” or “Casey”), as the OGC and the Office of the Secretary have been unable to serve on Respondent notice of the entry of the order instituting this proceeding as contemplated by 17 CFR 201.200. The facts set forth in this motion are supported by the attached verification of Juanita C. Hernandez.² Exhibit 1.

BACKGROUND

On September 5, 2012, the Commission filed a civil injunctive action against Casey and others alleging that they violated antifraud provisions of the federal securities laws. *Securities and Exchange Commission v. Howard, et al.*, Case No. 12-cv-61731-WJZ, (S.D. Fla.). On that same date, the Office of the United States Attorney for the Southern District of Florida filed a criminal action against Casey and others based on the same fraudulent conduct alleged in the Commission’s complaint. *See United States v. Howard, et al.*, Case No. 12-cr-20630-JAL (S.D. Fla.). On September 13, 2013, the district court presiding over the Commission’s civil action stayed that case based on the pendency of the criminal action against Casey.

On April 29, 2014, the court presiding over the criminal case against Casey designated him as a fugitive after he failed to appear at a status hearing. On August 28, 2014, a grand jury indicted Casey for knowingly failing to appear before the court for the status hearing in violation of 18 U.S.C. 3146(a)(1) and (b)(1)(A)(i). *See United States v. Casey*, Case No. 14-cr-20619-FAM (S.D. Fla.).

On May 19, 2014, the State Bar of Florida petitioned the Florida Supreme Court for an emergency suspension of Casey’s law license as a result of Casey’s fugitive status due to his failure to appear at the aforementioned status conference in the criminal case. On May 28, 2014, the Supreme Court of Florida entered an Order suspending Casey from the practice of law. The court based its ruling upon the May 19, 2014 Petition for Emergency Suspension of the Florida Bar (“Bar”), which requested the court enter an emergency suspension of Casey based on his participation in the same fraud alleged in the Commission’s Complaint and his failure to appear at his status hearing in his criminal case. The Bar Petition asserted that Casey “has caused or is likely to cause, immediate and serious harm to clients and/or the public and that immediate action must be taken for the protection of the respondent’s clients and the public.”

On December 16, 2015, the district court presiding over the Commission’s injunctive action lifted the stay it had entered and, on May 31, 2016, entered a default

the Federal securities laws or of the rules and regulations thereunder.

² This motion does not apply to the forthwith suspension under Rule 102(e)(2) entered against Casey on August 26, 2016 in Admin. Proc. No. 3-17509. See <https://www.sec.gov/litigation/admin/2016/34-78708.pdf>. That suspension, based on his criminal conviction, remains in effect. *In the Matter of Michael Ralph Casey, Esq.*, Release No. 78708 (S.E.C. Aug. 26, 2016)

judgment finding that Casey had violated the antifraud provisions of the federal securities laws alleged in the Commission's complaint. On August 26, 2016, based on the violations found in the default judgment, the Commission entered an Order Instituting Proceedings ("OIP") against Casey and imposing a temporary suspension pursuant to Rules 102(e)(3)(i)(A) and (B) of the Commission's Rules of Practice.

Following the issuance of the OIP, the Office of the Secretary attempted to serve a copy of the OIP on the Respondent, pursuant to Rule 200, 17 C.F.R. 201.200, by sending a copy of the OIP by registered mail, return receipt requested, to the last known addresses for his home and business in Oakland Park, Florida. Those letters were returned unopened because the letters were unclaimed for the maximum time allowed by the U.S. Postal Service (USPS) and were deemed undeliverable as USPS did not have a forwarding address.

In November 2016, OGC made additional efforts to serve the OIP on the Respondent by registered mail, return receipt requested, at his last known home and business addresses and a third address in Oakland Park. Those letters to Respondent were returned by the USPS to the OGC as undeliverable.

On March 1, 2017, in a third attempt to serve Casey, the OGC mailed the OIP to Respondent by registered mail, return receipt requested, to an additional address, in Fort Lauderdale, Florida, but again the USPS returned the letter as undeliverable. All attempts to serve notice of this proceeding on Respondent, at all known addresses, have been unsuccessful. At present, OGC has no further leads as to Respondent's whereabouts.

ARGUMENT

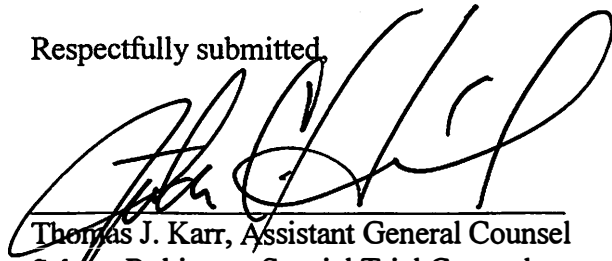
Under 17 C.F.R. 200.30-10(a)(8), the Commission has delegated authority to the Chief Administrative Law Judge "to grant motions of staff counsel to discontinue administrative proceedings as to a particular respondent who has died or cannot be found[.]" OGC is requesting that the Chief Administrative Law Judge discontinue this administrative proceeding against Casey without prejudice as OGC and the Office of the Secretary have used reasonable diligence but have not been able to serve Respondent with notice of this proceeding. The discontinuance should be without prejudice because, in the event OGC is able to locate and serve Respondent at some time in the future, it may move to reopen and prosecute this proceeding. *See In the Matter of Kenneth Bruce Baker*, Release No. 671 (S.E.C. Release No. Apr. 25, 2011) (<https://www.sec.gov/alj/aljorders/2011/ap671bpm.pdf>) (motion to discontinue proceeding without prejudice was granted after Secretary's Office and Division of Enforcement were unable to serve Baker); *In the Matter of Alain A. Assemi*, Release No. 717 (S.E.C. Release No. Aug. 15, 2012) (<https://www.sec.gov/alj/aljorders/2012/ap717bpm.pdf>) (motion to discontinue proceeding without prejudice was granted after Commission made considerable unsuccessful efforts to serve Assemi).

CONCLUSION

For the foregoing reasons, the OGC requests that the Chief Administrative Law Judge discontinue without prejudice the proceedings against Respondent Michael Ralph Casey.

October 23, 2017

Respectfully submitted,

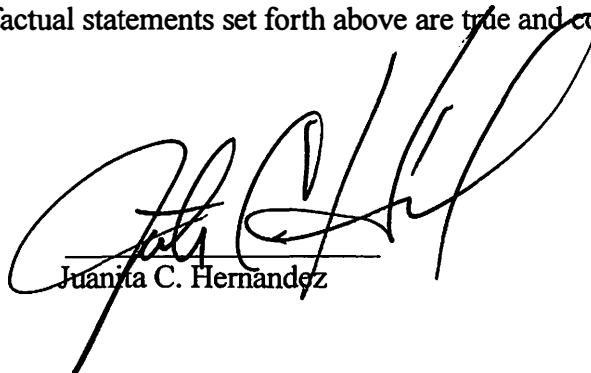


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VERIFICATION

I declare under penalty that the factual statements set forth above are true and correct to the best of my knowledge.

Dated: October 23, 2017

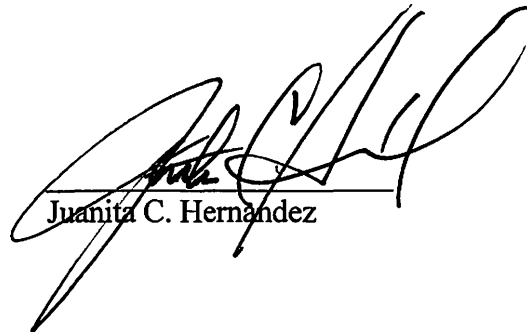


Juanita C. Hernandez

CERTIFICATE OF SERVICE

I hereby certify that an original and three copies of the foregoing were filed with the Securities and Exchange Commission, Office of the Secretary, 100 F Street, N.E., Washington, D.C. 20549-9303, and that a true and correct copy of the foregoing has been served, on this 23rd day of October, 2017, on the following persons entitled to notice:

The Honorable Brenda P. Murray
Chief Administrative Law Judge
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549



Juanita C. Hernandez

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-17508

In the Matter of

MICHAEL RALPH CASEY, Esq.,

Respondent.

[proposed]
ORDER DISCONTINUING
PROCEEDING WITHOUT
PREJUDICE

In this administrative proceeding against Michael Ralph Casey, Esq. (“Respondent” or “Casey”), the Office of the General (“OGC”) has moved, pursuant to 17 C.F.R. 200.30-10(a)(8)¹, for an order discontinuing this proceeding without prejudice as it has not been able to serve the Respondent with notice of this proceeding. The facts set forth in OGC’s motion are supported by the Verification of Juanita C. Hernandez. For the reasons set forth below, that motion is GRANTED.

BACKGROUND AND RULING

On August 26, 2016, based on a final judgment entered by the U.S. District Court for the Southern District of Florida finding that Casey had violated the federal securities laws, the Commission entered an Order Instituting Proceedings (“OIP”) against Casey and imposing a temporary suspension pursuant to Rules 102(e)(3)(i)(A) and (B) of the Commission’s Rules of Practice. *In the Matter of Michael Ralph Casey, Esq.*, Release No. 78708 (S.E.C. Aug. 26, 2016).

Following entry of the Commission’s order, the Office of the Secretary and OGC have made multiple attempts to serve Casey notice of this proceeding at all known possible business and personal addresses *See* 17 C.F.R. 201.102(e)(3)(ii) (respondent has 30 days from the date of service to challenge the basis of temporary suspension). Specifically, staff

¹ 17 C.F.R. 200.30-10(a)(8) delegates authority to the Chief Administrative Law Judge or his or her administrative law judge designee, authority to conduct proceedings under the provisions of Rule 102(e) of the Commission’s Rules of Practice, § 17 C.F.R. 201.102(e), and “[t]o grant motions of staff counsel to discontinue administrative proceedings as to a particular respondent who has died or cannot be found”

in OGC and the Office of the Secretary took the following steps to effect service, without success:

- A. In August 2016, the Office of the Secretary attempted to serve a copy of the OIP on Respondent, pursuant to Rule 200, 17 C.F.R. 201.200, by sending a copy of the OIP by registered mail, return receipt requested, to the last known addresses for his home and business in Oakland Park, Florida. Those letters were returned unopened because the letters were unclaimed for the maximum time allowed by the U.S. Postal Service (USPS) and were deemed undeliverable as USPS did not have a forwarding address.
- B. In November 2016, OGC made additional efforts to serve the OIP on Respondent by registered mail, return receipt requested, at his last known home and business addresses and a third address in Oakland Park. Those letters to Respondent were returned by the USPS to OGC as undeliverable.
- C. In March 2017, in a third attempt to serve Casey, OGC mailed the OIP to Respondent by registered mail, return receipt requested, to an additional address in Fort Lauderdale, Florida, but again the USPS returned the letter as undeliverable. All attempts to serve notice of this proceeding on Respondent, at all known addresses, have been unsuccessful.

As OGC staff has been unable to locate and serve Casey, and represents that it has no further leads as to Respondent's whereabouts,² it has moved to discontinue the proceeding without prejudice. OGC has requested that the discontinuance be without prejudice because, in the event it locates Respondent, OGC intends to move to reinstitute this proceeding and serve Respondent.

As OGC has established that Respondent "cannot be found" (*see* 17 C.F.R. 200.30-10(a)(8)), IT IS HEREBY ORDERED that the proceeding is discontinued without prejudice.

Brenda P. Murray
Chief Administrative Law Judge

² On April 29, 2014, the court presiding over the criminal case against Casey designated him as a fugitive after he failed to appear at a status hearing. *See United States v. Casey*, Case No. 14-cr-20619-FAM (S.D. Fla.).