

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-20928

In the Matter of

Richard Gearhart,

Respondent.

**DIVISION OF ENFORCEMENT'S FOURTH
STATEMENT CONCERNING
PREHEARING CONFERENCE**

The Division of Enforcement (the "Division"), by and through its undersigned counsel, respectfully submits this Fourth Statement Concerning Prehearing Conference as directed by the Commission's Renewed Order Directing Prehearing Conference (the "Order"), dated September 17, 2024 (Advisers Act Rel. No. 6697).

1. The Order directed the parties to conduct a prehearing conference by October 17, 2024 or, if a prehearing conference is not held, to file statements, jointly or separately, advising the Commission of the efforts made to meet and confer and why those efforts were unsuccessful.

2. In its Third Statement Concerning Prehearing Conference, the Division advised the Commission that it had been working to schedule a Prehearing Conference with Mr. Gearhart's assigned counselor at USP Tucson, the facility at which Mr. Gearhart was incarcerated.

The Division later learned that Mr. Gearhart had been transferred to a halfway house and that the Division should contact the Residential Reentry Management field office in Chicago, Illinois (RRM-Chicago) to schedule the conference.

3. Counsel for the Division tried calling RRM-Chicago in January of 2024, which call went unanswered. The Division then sent several emails to RRM-Chicago at the email address specified on the bop.gov website, [REDACTED]@bop.gov. All of those emails went unanswered.

4. The Division tried calling RRM-Chicago again on October 9, 2024 and was able to speak with a representative who advised the Division to send another email to a different email address not specified on the bop.gov website. The Division sent an email to that email address on October 9, 2024, requesting instructions as to how to schedule a call with Mr. Gearhart.

5. In response to the Division's October 9 email, the Division received a call from staff at RRM-Chicago who advised the Division that RRM-Chicago would instruct Mr. Gearhart to call the undersigned counsel's office on October 22, 2024 at 3:00 P.M. CST to conduct the Prehearing Conference.

6. If the Division is able to conduct the Prehearing Conference with Mr. Gearhart on October 22, 2024, the Division will file a statement with the Office of the Secretary advising the Commission of any agreements reached during the Conference by October 31, 2024.

7. Should Mr. Gearhart fail to contact the undersigned counsel at the time scheduled for the Prehearing Conference, the Division will file a statement with the Office of the Secretary advising the Commission of that fact by October 31, 2024.

8. Regardless of whether Mr. Gearhart contacts the Division's counsel as instructed by RRM-Chicago, the Division intends to file a Motion for Summary Disposition pursuant to Rule 250 by November 30, 2024.¹

Respectfully submitted,

/s/ Andrew P. O'Brien
Andrew P. O'Brien
Counsel for Division of Enforcement

¹ The Division apologizes to the Commission for not submitting periodic reports per the directive of the Second Order Directing Filing of Status Report Regarding Prehearing Conference. (Advisers Act Rel. No. 6570, Mar. 8, 2024).

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CERTIFICATE OF SERVICE

I hereby certify that on October 10, 2024, the Division of Enforcement electronically filed a Fourth Statement Concerning Prehearing Conference in the above-captioned matter. The Division then served that document upon Richard Gearhart on October 10, 2024 by mailing a copy of the same to:

Richard Gearhart

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respectfully submitted,

/s/ Andrew P. O'Brien

Andrew P. O'Brien

Counsel for Division of Enforcement