

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
FILE NO. 3-21015

In the Matter of

MARK W. HECKELE. ESQ.,

Respondent.

RESPONDENT’S ANSWER
AND
MOTION FOR MORE DEFINITE
STATEMENT

I.

COMES NOW Respondent Mark W. Heckeke and hereby answers the Commission’s *Order Instituting Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Notice of Hearing* (“Order”) as follows:

II.

A. RESPONDENT

1. ADMIT.

B. ENTRY OF THE INJUNCTION

2. Respondent asserts that the final judgment referenced in ¶ B.2. of the Order is a publicly available document and the document speaks for itself as to all of the allegations in ¶ B.2. of the Order.

3. Respondent asserts that the complaint referenced in ¶ B.3. of the Order is a publicly available document and the document speaks for itself as to all of the allegations in ¶ B.3. of the Order.

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A.

General Denial

Respondent denies all allegations in the Commission’s Order not expressly admitted herein.

B.

Affirmative Defenses

The Commission’s administrative proceeding is unconstitutional.

The Commission is collaterally estopped from raising the issues alleged in its Order.

The Commission’s claims in its Order are res judicata.

The Commission’s Order is deficient for failure to comply with Rule 200(b).

C.

Motion for More Definite Statement

Respondent hereby, pursuant to Rule 220(c), moves the Commission for a more definite statement in respect of the deficiencies in its Order under Rule 200(b) – specifically, subsections (2) and (4), which require the Commission to “state the legal authority and jurisdiction under which the hearing is to be held” and “state the nature of any relief or action sought or taken”, respectively. The Commission’s prayer for relief, as espoused in Section III.B. of its Order, simply seeks “appropriate remedial action”, but fails to state with any specificity what remedy, exactly, the Commission seeks to impose against the Respondent which the District Court has not already imposed.

In consideration of the District Court having entered a final judgment against Respondent herein, issues of collateral estoppel and claims of res judicata are not to be relitigated by either party, and Respondent is therefore entitled to know specifically what

remedies the Commission seeks in order to determine whether Court intervention is required at this early stage of this administrative proceeding.

For the foregoing reasons, Respondent respectfully requests that the hearing officer or Administrative Law Judge assigned to this matter order, pursuant to Rule 180(b), the Commission to cure the deficiencies in its Order and refile an order in compliance with Rule 200(b).

DATED: January 10, 2023.

/s/ Mark W. Heckele
Mark W. Heckele

CERTIFICATE OF SERVICE

I certify that on January 10, 2023 I caused the foregoing document to be served on the following persons, in the manner described below:

By eFAP to:

Vanessa Countryman, Secretary
Securities and Exchange Commission
100 F. Street, N.E., Mail Stop 1090
Washington, DC 20549-1090
Facsimile: (703) 813-9793

By email to:

Charles E. Canter
Division of Enforcement
Securities and Exchange Commission
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