

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT of 1940
Release No. 6337/June 29, 2023

Admin. Proc. File No. 3-21364

IN THE MATTER OF
MARCUS BEAM

NOW COMES Respondent Marcus Beam ("Beam") and moves pursuant to 17 C.F.R. §201.155 to set aside any and all default judgments in the above-captioned matter. In support thereof, Beam states as follows.

Background

On April 11, 2023, the Securities and Exchange Commission issued an order instituting administrative proceedings ("OIP") against Marcus Beam ("Respondent" or "Beam"), pursuant to §203(f) of the Investment Advisers Act of 1940. On April 28, 2023, the Division of Enforcement filed a Proof of Service of Order Instituting Proceedings which establishes that service of the OIP was made on the Respondent on April 26, 2023, pursuant to Rule 141(a)(2)(i) of the Commission's Rules of Practice (17 C.F.R. §201.141(a)(2)(i)). On May 22, 2023, the Division filed a motion for default and imposition of sanctions against Respondent. Beam was then Ordered to Show Cause by August 14, 2023, why he should not be deemed in default and why this proceeding should not be determined against him due to his failure to file a timely answer opposing the Division's motion for default, or to otherwise defend this proceeding.

Respondent Beam's Reason For Late Filing

Beam is currently detained at the Metropolitan Correctional Center, 71 West Van Buren Street, Chicago, Illinois 60605 ("MCC Chicago").

On March 16, 2023, Beam pleaded guilty to one count of wire fraud in violation of Title 18, United States Code, §1343, before the United States District Court for the Northern District of Illinois in United States v. Marcus Beam, Crim. No. 1:19-cr-00698. Beam was previously scheduled to be sentenced on June 13, 2023; however, due to attorney and court scheduling conflicts, the sentencing is now tentatively scheduled for December 21, 2023. Since Beam is still preparing for sentencing, an Answer in this Securities and Exchange Commission Complaint in which Beam may have certain defenses is problematic and may implicate Due Process arguments. Consequently, further proceeding in this Securities and Exchange Commission Complaint should be postponed until after sentencing in Beam's criminal case.

In addition to the above argument, Beam asserts that periodically, such as the week after Labor Day, the MCC is on lockdown status. These periodic lockdowns are due to COVID, staff shortages, or disciplinary reasons. Several times each month, mail is delayed or not delivered for one or two days per week. This is also due to staff shortages as Receiving and Delivery ("R&D") is often short of staff. Receipt of legal mail is also often delayed as it must be delivered by an MCC Counselor or Case Manager and not by the correctional staff.

Also, due to staff shortages, the MCC Law Library was shut down to inmates for the summer months as the Educational Director was transferred to FCI Beaumont and a new Educational Director was not scheduled to start work at MCC Chicago until late August 2023. The Educational Director at MCC Chicago is responsible for the Law Library and when inmates can attend the Library. It is in the library that the copy machine can be used by inmates. Consequently, Beam was unable to research necessary information or type an Answer to this Complaint and make appropriate copies.

Lastly, Beam was not served a copy of this Order to Show Cause by MCC Counselors until the week of August 28, 2023.

WHEREFORE, Marcus Beam requests the Commission order the following:

1. Vacate any orders of default or Rule to Show Cause;
2. Continue these proceedings until after Beam is sentenced in his criminal case number 19-cr-00698;
3. Any further relief as the Commission sees fit.

Respectfully submitted,




MARCUS BEAM
No. 54550-424
Metropolitan Correctional Center
71 W. Van Buren St.
Chicago, IL. 60605

CERTIFICATE OF SERVICE

I, Marcus Beam, state under penalty of perjury that on September 28, 2023, I deposited this Motion to vacate any defaults and Rule to Show Cause in the MCC Chicago Legal Mail System, first class and certified mail prepaid and addressed to the General Counsel of the Securities and Exchange Commission, 100 F. Street, N.E., Washington, D.C. 20549.

Respectfully submitted,


MARCUS BEAM
#54550-424
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Chicago, IL. 60605