

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-21364

In the Matter of

MARCUS BEAM

Respondent.

**DIVISION OF ENFORCEMENT'S STATUS
REPORT AND NOTICE OF FILING**

The Division of Enforcement respectfully submits this Status Report and Notice of Filing in the above-referenced matter.

The Commission initiated this follow-on proceeding against Respondent on April 11, 2023 pursuant to Section 203(f) of the Investment Advisers Act of 1940. This matter arises from Respondent's guilty plea and criminal conviction on March 16, 2023 in the United States District Court for the Northern District of Illinois.

When Respondent failed to answer the OIP in this matter, the Division moved for default and imposition of sanctions on May 22, 2023. The Division seeks an associational bar against Respondent.

The Commission issued two Orders to Show Cause – the first on June 29, 2023 and the second on August 24, 2023 – giving Respondent ultimately until October 10, 2023 to show cause why he should not be deemed to be in default and why this proceeding should not be determined against him. The Orders also required Respondent to (i) explain the reasons for his failure to timely defend this proceeding; (ii) include a proposed answer to the OIP; and (iii) address the substance of the Division's request for the associational bar.

The Division filed a Status Report on October 23, 2023, advising the Commission that Respondent had failed to file the required response to the Orders. The Division attached as an exhibit to its report a copy of the Commission’s publicly-available docket showing that Respondent had not filed anything as of October 23, 2023.

Respondent filed a Motion to Vacate Default on September 28, 2023 (the “Motion to Vacate Default”).¹ Among other things, Respondent argued in the Motion to Vacate Default that he should not be required to file an Answer to the OIP until after his sentencing in the district court action on December 21, 2023, because doing so before then is “problematic and may implicate Due Process arguments.” Respondent thus sought in the Motion to Vacate Default to continue this proceeding until after sentencing.

The Commission then issued an Order on November 22, 2023 directing Respondent to file a reply by December 20, 2023 to the Division’s November 8, 2023 Response to the Motion to Vacate Default.

On December 4, 2023, the Division received a Response from Respondent to the Division’s October 23, 2023 Status Report. A true and correct copy of that Response is attached as Exhibit A. Among other things, and despite the grounds he otherwise asserted in the Motion to Vacate Default, Respondent claims in the attached Response that he actually did file an Answer to the OIP on October 11, 2023. He included a copy of the U.S. Postal Service card showing that his mailing was addressed to the Commission’s Office of the General Counsel. To date, however, the Division has not received

¹ As the Division noted in its November 8, 2023 Response to the Motion to Vacate Default, the Division was never served with a copy of that Motion. Instead, the first the Division learned it had been filed was when undersigned counsel checked the Commission’s publicly-available docket on November 8, 2023. Notably, as the Division observed in its Response, as of the time of filing of the Division’s October 23, 2023 Status Report, the Commission’s publicly-available docket did not show the Motion as having been filed.

a copy of that purported Answer. And the Commission's publicly-available docket does not reflect the Answer as having been filed either. A true and correct copy of the docket to date is attached as Exhibit B.

Date: December 5, 2023

Respectfully submitted,

By: /s/ Patrick R. Costello
Patrick R. Costello
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Counsel for Division of Enforcement

CERTIFICATE OF SERVICE

I certify that on December 5, 2023, I caused to be served the foregoing DIVISION OF ENFORCEMENT'S STATUS REPORT AND NOTICE OF FILING on Respondent in the manner indicated:

By US Mail:

Mr. Marcus Beam (Inmate Register No. [REDACTED])
MCC Chicago
Metropolitan Correctional Center
71 West Van Buren St.
Chicago, IL 60605

/s/ Patrick R. Costello
Patrick R. Costello

EXHIBIT A

UNITED STATES OF AMERICA
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SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-21364

In the Matter of
MARCUS BEAM

DIVISION OF ENFORCEMENT
STATUS REPORT

Respondent.

MARCUS BEAM'S RESPONSE TO DIVISION OF ENFORCEMENT'S
STATUS REPORT AND REQUEST FOR DEFAULT

Respondent Marcus Beam ("Beam") states that the Division of Enforcement is incorrect in its statement that he did not answer the OIP in this matter. The Division of Enforcement states in its Status Report that as of October 23, 2023, it had not received an Answer from Beam. However, Beam attaches and incorporates herein a copy of the United States Postal Service Certified Mail PS Form 3811 Identification Number (PSN) 7530-02-000-9053, showing that the Office of General Counsel of the Securities and Exchange Commission received Beam's answer on October 11, 2023.

Therefore, Marcus Beam requests the Commission deny the Division's Default Motion and postpone any further proceedings until Beam is sentenced in 1:19-cr-00698.

Respectfully submitted,



Marcus Beam
Respondent