

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 87451 / November 4, 2019

Admin. Proc. File No. 3-19303

In the Matter of

QUICKSILVER STOCK TRANSFER, LLC, AKA
QUICKSILVER STOCK TRANSFER CORPORATION

ORDER REGARDING REQUEST FOR SUBPOENAS

The Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) on August 1, 2019, pursuant to Section 17A(c)(3)(A) of the Securities Exchange Act of 1934, against Quicksilver Stock Transfer, LLC, aka Quicksilver Stock Transfer Corporation.¹ The OIP ordered that a public hearing be held before the Commission for the purpose of taking evidence. On September 20, 2019, the Division requested, pursuant to Commission Rule of Practice 232,² that the Commission issue subpoenas for the production of documents from Quicksilver Stock Transfer, LLC, and its president and owner Alan Shinderman; and from Quicksilver Stock Transfer Corporation, and its president, Nina Rosen. The Division also requested the issuance of subpoenas to depose Shinderman and Rosen.

On October 8, 2019, the Commission issued an Order Regarding Request for Subpoenas, noting that the subpoenas attached to the Division’s request appeared to contemplate that they were to be issued by an “Administrative Law Judge,” while this matter remained pending before the Commission. The Commission therefore directed the Division to make a supplemental filing to explain its request for subpoenas or to modify its request to include proposed subpoenas to be issued by the Commission. The Division submitted revised subpoenas on October 9, 2019.

On October 17, 2019, Respondent Quicksilver LLC objected to the Division’s request on the grounds that the Division’s request to depose Shinderman and Rosen did not comply with the Commission’s Rule of Practice 233; that the Division’s request places an undue burden on Shinderman and Rosen to be deposed in Los Angeles, California, as opposed to Las Vegas, Nevada; and that the Division did not properly serve Shinderman. Quicksilver LLC also objected that the request for documents was unduly burdensome and that the subpoena on Quicksilver Stock Transfer Corporation was not properly served. On October 21, 2019, the

¹ *Quicksilver Stock Transfer, LLC, aka Quicksilver Stock Transfer Corp.*, Exchange Act Release No. 86544, 2019 WL 3531248 (Aug. 1, 2019).

² 17 C.F.R. § 201.232.

Division filed a response to Quicksilver LLC's objections and submitted revised subpoenas. The Division's revised subpoenas propose that documents and other tangible evidence be produced by November 6, 2019 and that the depositions take place on November 25 and 26, 2019.

In reviewing those filings, we note that the OIP designated this proceeding as a 210-day proceeding under Rule of Practice 360(a)(2)(i) for the purposes of applying Rules 233 and 250.³ That designation appears to be a typographical error, because that designation corresponds with the Commission's earlier Rules of Practice, which provided that the OIP designate that the hearing officers had to file an initial decision within 120, 210, or 300 days from the date of service of the OIP. The Commission's current Rules of Practice state that the OIP shall designate the period for preparation of the initial decision as 30, 75 or 120 days from the completion of post-hearing or dispositive motion briefing or a finding of a default.⁴ As the Commission observed when adopting the current rules, "follow-on" administrative proceedings (such as the proceeding here) are typically designated as 75-day proceedings.⁵ The Commission further observed that the current Rules of Practice limit depositions to 120-day proceedings and that "parties will not be permitted to notice depositions in proceedings where the initial decision is placed on either the 30- or 75-day timeline under amended Rule 360."⁶ Given these circumstances, we believe the Commission would benefit from further briefing on whether the Commission's Rule of Practice 233 permits parties to notice depositions in this proceeding.

We further note that, in certain proceedings that have been set for a hearing before the Commission, the Commission has delegated to the Office of the General Counsel authority "[t]o determine procedural requests or similar prehearing matters" and "[t]o rule upon non-dispositive, prehearing motions."⁷ But the Commission has not delegated authority to the Office of General Counsel to issue subpoenas.⁸ The Division may therefore wish to consider revising the dates of the proposed depositions and date by which proposed production is due to reflect that the Commission must consider the parties' arguments and, if appropriate, issue any subpoenas.

Accordingly, IT IS ORDERED that the parties shall file simultaneous briefs not to exceed 5,000 words by November 18, 2019, addressing whether the Commission's Rule of

³ See *Quicksilver Stock Transfer, LLC*, 2019 WL 3531248, at *4.

⁴ 17 C.F.R. § 200.360(a)(2)(i).

⁵ See *Adoption of Amendments to the Rules of Practice*, Exchange Act Release No. 78319, 2016 WL 3853756, at *6 (Jul. 13, 2016) (explaining that the Commission is authorized to institute administrative proceedings following certain injunctions or convictions of persons associated with or seeking to associate in the securities industry).

⁶ See *Adoption of Amendments*, 2016 WL 3853756, at *9; but see 17 C.F.R. § 200.360(b) (providing that a party may also seek to notice a deposition in certain circumstances where a witness is unavailable).

⁷ See 17 C.F.R. § 200.30-14 (i)(1).

⁸ See *id.* § 200.30-14 (i)(2).

Practice 233 permits parties to notice depositions in this proceeding. In doing so, the Division may, at its discretion, include a modified request for subpoenas that accounts for the time necessary for the Commission to consider the Division's request.

For the Commission, by the Office of the General Counsel, pursuant to delegated authority.

Vanessa A. Countryman
Secretary