

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 89508 / August 7, 2020

Admin. Proc. File No. 3-18807

In the Matter of  
  
DAVID HOWARD WELCH  
(a/k/a DAVID HOWARD BRYANT)

ORDER TO SHOW CAUSE

On September 20, 2018, the Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) against David Howard Welch (a/k/a David Howard Bryant) pursuant to Section 15(b) of the Securities Exchange Act of 1934.<sup>1</sup> On August 6, 2019, the Division of Enforcement filed a notice of service appending a process server’s affidavit, which states that service of the OIP was made on Welch on August 4, 2019, pursuant to Rule 141(a)(2)(i) of the Commission’s Rules of Practice.<sup>2</sup> On May 12, 2020, after Welch failed to answer the OIP, the Division filed a motion for entry of default against Welch and requested that we grant it permission to submit a motion for summary disposition on the issue of remedial sanctions.

As stated in the OIP, Welch’s answer to the OIP was required to be filed within 20 days of service of the OIP.<sup>3</sup> As of the date of this order, Welch has not filed an answer or opposition to the Division’s motion. The prehearing conference and the hearing are thus continued indefinitely.

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<sup>1</sup> *David Howard Welch*, Exchange Act Release No. 84234, 2018 WL 4537200 (Sep. 20, 2018), <https://www.sec.gov/litigation/admin/2018/34-84234.pdf>.

<sup>2</sup> *See David Howard Welch*, Exchange Act Release No. 86615, 2019 WL 3765321 (Aug. 9, 2019) (explaining that service had been effected, and “direct[ing] Welch to the OIP for information about the consequences of the failure to timely file an answer”).

<sup>3</sup> *Welch*, 2018 WL 4537200, at \*2; *see* Rules of Practice 151(a), 160(b), 220(b), 17 C.F.R. §§ 201.151(a), .160(b), .220(b).

Accordingly, Welch is ORDERED to SHOW CAUSE by August 21, 2020, why the Commission should not find him in default due to his failure to file an answer, or respond to the Division' motion, or to otherwise defend this proceeding. When a party defaults, the allegations in the OIP will be deemed to be true and the Commission may determine the proceeding against that party upon consideration of the record without holding a public hearing.<sup>4</sup> The OIP informed Welch that a failure to file an answer could result in his being deemed in default and the proceedings determined against him.<sup>5</sup> The failure to timely oppose a dispositive motion is also a basis for a finding of default.<sup>6</sup> Like failing to timely file an answer, failing to timely oppose a dispositive motion may result in the determination of particular claims, or the proceeding as a whole, adversely to the non-moving party and may be deemed a forfeiture of arguments that could have been raised at that time.<sup>7</sup>

Welch's submission shall address the reasons for his failure to timely file an answer or response to the Division's motion. If Welch responds to this order to show cause, the Division may file a reply within 21 days after its service. If Welch does not file a response, the Division shall file a motion for summary disposition on the issue of remedial sanctions by September 18, 2020. The motion should discuss relevant authority relating to the legal basis for and the appropriateness of the requested sanctions and include evidentiary support sufficient to make an individualized assessment of whether those sanctions are in the public interest.<sup>8</sup>

The parties' attention is called to the Commission's March 18, 2020 order regarding the filing and service of papers, which provides that pending further order of the Commission parties to the extent possible shall submit all filings electronically at [apfilings@sec.gov](mailto:apfilings@sec.gov).<sup>9</sup>

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<sup>4</sup> Rules of Practice 155, 180, 17 C.F.R. § 201.155, .180.

<sup>5</sup> See *Welch*, 2018 WL 4537200, at \*2.

<sup>6</sup> See, e.g., *Benham Halali*, Exchange Act Release No. 79722, 2017 WL 24498, at \*3 n.12 (Jan. 3, 2017).

<sup>7</sup> See, e.g., *Bennett Grp. Fin. Servs., LLC*, Exchange Act Release No. 80347, 2017 WL 1176053, at \*2-3 (Mar. 30, 2017); *Apollo Publ'n Corp.*, Securities Act Release No. 8678, 2006 WL 985307, at \*1 n.6 (Apr. 13, 2006); *McBarron Capital LLC*, Exchange Act Release No. 81789, 2017 WL 4350655, at \*3-5 (Sep. 29, 2017).

<sup>8</sup> See generally *Rapoport v. SEC*, 682 F.3d 98 (D.C. Cir. 2012); *Ross Mandell*, Exchange Act Release No. 71668, 2014 WL 907416, at \*2 (Mar. 7, 2014); *Don Warner Reinhard*, Exchange Act Release No. 61506, 2010 WL 421305, at \*4 & nn.25-26 (Feb. 4, 2010).

<sup>9</sup> See *Pending Administrative Proceedings*, Exchange Act Release No. 88415, <https://www.sec.gov/litigation/opinions/2020/33-10767.pdf>.

Upon review of the filings in response to this order, the Commission will either direct further proceedings by subsequent order or issue a final opinion and order resolving the matter.

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

Vanessa A. Countryman  
Secretary