

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 90781 / December 22, 2020

Admin. Proc. File No. 3-19919

In the Matter of

STEVEN PAGARTANIS

ORDER TO SHOW CAUSE

The Securities and Exchange Commission (“Commission”) issued an Order Instituting Proceedings (“OIP”) on August 21, 2020, pursuant to Section 15(b) of the Securities Exchange Act of 1934, against respondent Steven Pagartanis.¹ On December 11, 2020, the Division of Enforcement filed the Declaration of Sheldon Mui, which states that service of the OIP was made on Pagartanis on September 2, 2020.² The same day, the Division filed a motion requesting that the Commission find Pagartanis in default for not filing an answer and that the Division be given leave to file a motion for summary disposition on the issue of remedial sanctions.

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

Accordingly, Pagartanis is ORDERED to SHOW CAUSE by February 5, 2021, why the Commission should not find him in default due to his failure to file an answer, to respond to the Division’s motion, or to otherwise defend this proceeding. Pagartanis’s submission shall address the reasons for his failure to timely file an answer or response to the Division’s motion, and include a proposed answer to be accepted in the event that the Commission does not enter a

¹ *Steven Pagartanis*, Exchange Act Release No. 89629, 2020 WL 4921019 (Aug. 21, 2020).

² *See* 17 C.F.R. § 201.141(a)(2)(i).

³ *Pagartanis*, 2020 WL 4921019, at *2; Rules of Practice 151(a), 160(b), 220(b), 17 C.F.R. §§ 201.151(a), 160(b), .220(b).

default against him. Pagartanis shall deliver any response to the proper prison authorities no later than the due date, for forwarding to the Commission's Office of the Secretary.⁴

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.⁵ The OIP informed Pagartanis that a failure to file an answer could result in him being deemed in default and the proceedings determined against him.⁶ The failure to timely oppose a dispositive motion is also a basis for a finding of default.⁷ 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 in opposition to the motion.⁸

If Pagartanis responds to this order to show cause, the Division may file a reply within 21 days after its service. If Pagartanis does not file a response, the Division shall file a motion for summary disposition on the issue of remedial sanctions by March 5, 2021.⁹ The motion should

⁴ See *Houston v. Lack*, 487 U.S. 266, 276 (1988) (under federal prison mailbox rule, pro se prisoners' notices of appeal are "filed" at moment of delivery to prison authorities for forwarding to the district court); *Adams v. United States*, 173 F.3d 1339, 1341 (11th Cir. 1999) (noting that this "mailbox rule [applies] to other filings by pro se prisoners").

⁵ Rules of Practice 155, 180, 17 C.F.R. § 201.155, .180.

⁶ *Pagartanis*, 2020 WL 4921019, at *2 ("If Respondent fails to file the directed Answer, . . . the Respondent may be deemed in default and the proceedings may be determined against him . . .").

⁷ See Rules of Practice 155(a)(2), 180(c), 17 C.F.R. § 201.155(a)(2), .180(c); see, e.g., *Benham Halali*, Exchange Act Release No. 79722, 2017 WL 24498, at *3 n.12 (Jan. 3, 2017).

⁸ See, e.g., *McBarron Capital LLC*, Exchange Act Release No. 81789, 2017 WL 4350655, at *3-5 (Sep. 29, 2017); *Bennett Group 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).

⁹ The Division's motion requests that the "*Administrative Law Judge* permit it to file a motion for summary disposition" under Rule of Practice 250. But the OIP directs that, "notwithstanding any contrary reference in the Rules of Practice to filing with or disposition by a hearing officer, all filings, including those under Rule[] . . . 250 of the Commission's Rules of Practice . . . shall be directed to and, as appropriate, decided by the *Commission*." *Pagartanis*, 2020 WL 4921019, at *3 (emphasis added). At any rate, leave to file a motion for summary disposition is not required because the OIP states that "[t]his proceeding shall be deemed to be one under the 75-day timeframe . . . for the purposes of applying Rule[] of Practice . . . 250." *Id.*; cf. Rule of Practice 250(c), 17 C.F.R. § 201.250(c) (requiring such leave in only 120-day proceedings).

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.¹⁰

The parties' attention is called to the Commission's March 18, 2020 order regarding the filing and service of papers, which provides that to the extent possible all filings should be submitted electronically at apfilings@sec.gov.¹¹

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

¹⁰ See generally *Rapoport v. SEC*, 682 F.3d 98, 108 (D.C. Cir. 2012); *Gary McDuff*, Exchange Act Release No. 74803, 2015 WL 1873119, at *1 (Apr. 23, 2015); *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 *3-4 (Feb. 4, 2010).

¹¹ See *Pending Administrative Proceedings*, Exchange Act Release No. 88415 (Mar. 18, 2020), available at <https://www.sec.gov/litigation/opinions/2020/33-10767.pdf>.