

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 92399 / July 13, 2021

Admin. Proc. File No. 3-20294

In the Matter of

FLATWORLD ACQUISITION CORP.

ORDER REGARDING SERVICE

The Securities and Exchange Commission (“Commission”) issued an Order Instituting Proceedings (“OIP”) on May 11, 2021, pursuant to Section 12(j) of the Securities Exchange Act of 1934, against respondent FlatWorld Acquisition Corp. (“Respondent”).¹

On June 10, 2021, the Division of Enforcement filed a Declaration of Sandhya C. Harris (“Declaration”), which asserted that, pursuant to Commission Rule of Practice 141(a)(2)(iv), service of the OIP was made on Respondent on June 7, 2021.² The Declaration asserted that such service was made by sending the OIP via FedEx to an address in Tortola, British Virgin Islands, taken from Respondent’s last filing with the Commission. An exhibit to the Declaration shows that delivery of the OIP was attempted by FedEx in the British Virgin Islands on June 7, 2021, but that delivery was refused by the recipient. The Declaration also stated that the OIP was mailed to Respondent via the United States Postal Service (“USPS”), but that USPS “package tracking is not available for mailings to the British Virgin Islands.” Service on Respondent was thus not perfected by USPS mailing under Rule of Practice 141(a)(2)(ii), or on the basis of compliance with that rule under Rule of Practice 141(a)(2)(iv), because such service requires “confirmation of attempted delivery.”³

The Commission has not previously addressed whether attempted delivery of an OIP by FedEx on a corporation located in the British Virgin Islands is valid service under Rule 141.⁴

¹ *FlatWorld Acquisition Corp.*, Exchange Act Release No. 91842, 2021 WL 1911672 (May 11, 2021).

² 17 C.F.R. § 201.141(a)(2)(iv).

³ 17 C.F.R. § 201.141(a)(2)(ii); *see also* 17 C.F.R. § 201.141(a)(2)(iv)(A) (authorizing notice of a proceeding to be provided on person in a foreign country under “[a]ny method specified in” Rule 141(a)(2) “that is not prohibited by the law of the foreign country”).

⁴ *But see Play La Inc.*, Admin. Proc. Rulings Release No. 5788, 2018 WL 8414618 (ALJ June 11, 2018) (finding that attempted service by UPS on corporation located in the British Virgin Islands did not comply with Rule 141); *cf. Play La Inc.*, Admin. Proc. Rulings Release

The Declaration asserts that, under the circumstances here, service was made by a “method reasonably calculated to give notice” that is “not prohibited by the law of” the British Virgin Islands.⁵ But in making this assertion, the Declaration relies on the text of Rule 141(a)(2)(iv) before it was amended in 2016.⁶ Current Rule 141(a)(2)(iv) provides that notice of a proceeding to a person in a foreign country may be made by a number of specified methods.⁷ The Division has not asserted that the OIP was validly served pursuant to any of the methods specified in current Rule 141(a)(2)(iv).⁸ Nor has the Division sought an order authorizing service by “other means not prohibited by international agreement” pursuant to Rule 141(a)(2)(iv)(D) or asserted that valid service could not otherwise be made on Respondent.⁹

Accordingly, it is ORDERED that by August 10, 2021, and every 28 days thereafter until service is accomplished, the Division of Enforcement shall file a declaration or status report providing additional information regarding its efforts to effect service of the OIP on Respondent, including an explanation of why any service effected is valid under Rule 141.

No. 6348 (ALJ Nov. 20, 2018), <https://www.sec.gov/alj/aljorders/2018/ap-6348.pdf> (finding subsequent service on corporation valid when made by personal service on its registered agent).

⁵ See Rule of Practice 141(a)(2)(iv), 17 C.F.R. § 201.141(a)(2)(iv) (version in effect before July 13, 2016 amendment).

⁶ See *id.*; *Amendments to the Commission’s Rules of Practice*, Exchange Act Release No. 78319 (July 13, 2016), 81 Fed. Reg. 50,211 (July 29, 2016), <https://www.govinfo.gov/content/pkg/FR-2016-07-29/pdf/2016-16987.pdf>.

⁷ See, e.g., 17 C.F.R. § 201.141(a)(2)(iv)(A)-(C).

⁸ See generally Rule 141(a)(2)(iv)(A), 17 C.F.R. § 201.141(a)(2)(iv)(A) (stating that service of an OIP on a person in a foreign country may be made by any method specified in Rule 141(a)(2) that is not prohibited by the law of the foreign country”); Rule 141(a)(2)(ii), 17 C.F.R. § 201.141(a)(2)(ii) (stating that service of an OIP may be made on an issuer of a class of securities registered with the Commission by sending a copy of the order addressed to the most recent address shown on the entity’s most recent filing with the Commission *by U.S. Postal Service certified, registered, or express mail* and obtaining a confirmation of delivery) (emphasis added); *Gary Edward Haynes*, Investment Advisers Act Release No. 5692, 2021 WL 763945, at *1 (Feb. 26, 2021) (noting that the “Rules of Practice do not authorize service of an OIP by sending it through a commercial courier service or express delivery service”).

⁹ 17 C.F.R. § 201.141(a)(2)(iv)(D).

The parties' attention is directed to the most recent amendments to the Commission's Rules of Practice, which took effect on April 12, 2021, and which include new e-filing requirements.¹⁰

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

Vanessa A. Countryman
Secretary

¹⁰ *Amendments to the Commission's Rules of Practice*, Exchange Act Release No. 90442, 2020 WL 7013370 (Nov. 17, 2020), 85 Fed. Reg. 86,464, 86,474 (Dec. 30, 2020), <https://www.sec.gov/rules/final/2020/34-90442a.pdf>; *Instructions for Electronic Filing and Service of Documents in SEC Administrative Proceedings and Technical Specifications*, <https://www.sec.gov/efapdocs/instructions.pdf>. The amendments impose other obligations such as a new redaction and omission of sensitive personal information requirement. *Amendments to the Commission's Rules of Practice*, 85 Fed. Reg. at 86,465-81.