

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 93419 / October 25, 2021

Admin. Proc. File No. 3-20557

In the Matter of

GELTECH SOLUTIONS, INC.

ORDER REGARDING SERVICE

The Securities and Exchange Commission (“Commission”) issued an Order Instituting Proceedings (“OIP”) on September 15, 2021, pursuant to Section 12(j) of the Securities Exchange Act of 1934, against respondent GelTech Solutions, Inc. (“Respondent”).¹

On October 5, 2021, the Division of Enforcement filed a Declaration of Gina Joyce, which asserted that, pursuant to Commission Rule of Practice 141(a)(2)(ii),² service of the OIP was made on Respondent on September 20, 2021. The declaration stated that such service was made by sending the OIP via the United States Postal Service (“USPS”) to the address listed in Respondent’s most recent filing with the Commission, 1460 Park Lane South, Suite 1, Jupiter, Florida 33458, and that the “USPS tracking system confirms that delivery of the OIP was attempted on September 20, 2021, but forwarding had expired.” The declaration included, as an exhibit, USPS tracking information which shows that the mailing departed a USPS regional facility in West Palm Beach, Florida, on September 18, 2021, that the “Forward Expired” in Jupiter, Florida, on September 20, 2021, and that the mailing was then returned to the Commission’s headquarters in Washington, D.C.

It appears that, in some circumstances where mail forwarding expires, USPS will return the mailing to the sender with the new address attached.³ And in *Perez v. Amalgamated Transit*

¹ *GelTech Sols., Inc.*, Exchange Act Release No. 92995, 2021 WL 4242578 (Sept. 15, 2021).

² 17 C.F.R. § 201.141(a)(2)(ii).

³ *See Ancillary Service Endorsements*, U.S. Postal Serv., <https://pe.usps.com/text/qsg300/Q507.htm> (last visited Oct. 22, 2021); *see also* Rule of Practice 323, 17 C.F.R. § 201.323 (permitting official notice of “any material fact which might be judicially noticed by a [U.S.] district court”); Fed. R. Evid. 201(b) (stating that a “court may judicially notice a fact that is not subject to reasonable dispute because it . . . can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned”).

Union Local 1700, the court held that it was unreasonable for a defendant to not resend a mailing after USPS had affixed the expired forwarding address to the returned envelope.⁴ The court determined that the defendant “was required to take the practical, straightforward step of resending the [mailing]” because it was aware of the recipient’s forwarding address.⁵

Here, the Division’s declaration and accompanying exhibit do not indicate whether the OIP mailing was returned with Respondent’s forwarding address affixed to the returned envelope. In light of the foregoing, we find that there is an absence of information necessary to confirm that service of the OIP on Respondent has been properly made. Accordingly, it is ORDERED that the Division shall file a status report concerning service of the OIP on Respondent by November 8, 2021, and every 28 days thereafter until service is accomplished. Specifically, the Division is directed to identify whether USPS affixed Respondent’s expired forwarding address to the returned envelope. If so, the Division is further directed to attempt to serve Respondent by sending the OIP to the expired forwarding address provided by USPS.

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.⁶

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

Vanessa A. Countryman
Secretary

⁴ 174 F. Supp. 3d 395, 403 (D.D.C. 2016).

⁵ *Id.*

⁶ *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.