

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 5808 / July 26, 2021

Admin. Proc. File No. 3-19245

In the Matter of

KIMM C. HANNAN

ORDER TO SHOW CAUSE

On July 11, 2019, the Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) against Kimm C. Hannan, pursuant to Section 203(f) of the Investment Advisers Act of 1940.¹ On January 16, 2020, the Division of Enforcement filed a motion for an order entering a default against Hannan, to which was attached a Declaration of Timothy J. Stockwell, which establishes that service of the OIP was made on Respondent on August 27, 2019, pursuant to Rule 141(a)(2)(i) of the Commission’s Rules of Practice.² The Division requested that the Commission bar Hannan from the securities industry.

As stated in the OIP, Hannan’s answer was required to be filed within 20 days of service of the OIP.³ On December 2, 2020, we acknowledged Hannan’s suggestion, in a letter to the Division that the Division attached to the Stockwell Declaration, that Hannan would like to defend this proceeding, and we ordered him to file an answer no later than December 23, 2020.⁴ As of the date of this order, Hannan has not filed an answer or a response to the Division’s motion. The prehearing conference and the hearing are thus continued indefinitely.

Accordingly, Hannan is ORDERED to SHOW CAUSE by September 9, 2021, why he should not be deemed to be in default and why this proceeding should not be determined against him due to his failure to file an answer or response to our December 2, 2020 order, to respond to the Division’s motion, or to otherwise defend this proceeding. Hannan’s submission shall address the reasons for his failure to timely file an answer, response to our December 2, 2020

¹ *Kimm C. Hannan*, Advisers Act Release No. 5295, 2019 WL 3035536 (July 11, 2019).

² 17 C.F.R. § 201.141(a)(2)(i).

³ *Hannan*, Advisers Act Release No. 5295, 2019 WL 3035536, at *2; *see* Rule of Practice 220, 17 C.F.R. § 201.220;

⁴ *Kimm C. Hannan*, Advisers Act Release No. 5637, 2020 WL 7482071 (Dec. 2, 2020).

order, or response to the Division's motion. It should also include a proposed answer to be accepted in the event that the Commission does not enter a default against him, and address the substance of the Division's request for sanctions. Hannan shall deliver any response, including any answer, to the proper prison authorities no later than the due date, for forwarding to the Commission's Office of the Secretary.⁵ If Hannan files a response to this order to show cause, the Division may file a reply within 28 days after its service.

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.⁶ The OIP informed Hannan that a failure to file an answer could result in him being deemed in default and the proceedings determined against him.⁷

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.⁸

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

⁵ See *Houston v. Lack*, 487 U.S. 266, 276 (1988) (holding that, 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) (per curiam) (noting that this "mailbox rule [applies] to other filings by pro se prisoners").

⁶ Rules of Practice 155, 180, 17 C.F.R. §§ 201.155, .180.

⁷ *Hannan*, Advisers Act Release No. 5295, 2019 WL 3035536, at *2.

⁸ *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. And the amendments provide further requirements if a person cannot reasonably comply with the electronic filing requirements due to lack of access to electronic transmission devices. *Id.* at 86,478-79.