

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 94796 / April 26, 2022

Admin. Proc. File No. 3-20350

In the Matter of

IMMUNE PHARMACEUTICALS INC.

ORDER TO SHOW CAUSE

The Securities and Exchange Commission (“Commission”) issued an Order Instituting Proceedings (“OIP”) on May 27, 2021, pursuant to Section 12(j) of the Securities Exchange Act of 1934, against Immune Pharmaceuticals Inc. (“Respondent”).¹ On September 24, 2021, the Commission issued an Order Regarding Service of the OIP. The Commission noted that the Division of Enforcement had mailed the OIP to Respondent “c/o the Chapter 7 Trustee appointed in [Respondent]’s bankruptcy case” and “to counsel to the Chapter 7 Trustee.”² The Commission noted that the Division had also mailed the OIP “directly” to Respondent at an address in Fort Lee, New Jersey. The Commission found that, under these circumstances, there had been “an absence of information necessary to confirm that service of the OIP on Respondent ha[d] been properly made.”³ The Commission explained that the Division had not established that delivering a copy of the OIP to the address of the Chapter 7 Trustee appointed in the bankruptcy matter—or to the Chapter 7 trustee’s counsel—was an appropriate method of service and that the Division had also not established that it had mailed a copy of the OIP to “the most recent address shown on [Respondent’s] most recent filing with the Commission.”⁴

On October 21, 2021, the Division filed a Supplemental Declaration of Therese Scheuer, which stated that the Chapter 7 Trustee had “assumed control of [Respondent],” and thus qualified as an “an officer, managing or general agent, or any other agent authorized by

¹ *Immune Pharm. Inc.*, Exchange Act Release No. 92056, 2021 WL 2182260 (May 27, 2021).

² *Immune Pharm. Inc.*, Exchange Act Release No. 93128, 2021 WL 4354695, at *1 (Sept. 24, 2021).

³ *Id.*

⁴ *See id.* (quoting 17 C.F.R. § 201.141(a)(2)(ii)).

appointment or by law” under Rule of Practice 141(a)(2)(ii).⁵ The Supplemental Declaration further stated that the Division had also mailed a copy of the OIP via United States Postal Service (“USPS”) Priority Express Mail to the address listed in Respondent’s most recent filing with the Commission. The declaration included, as an exhibit, USPS tracking system information that showed delivery was made to that address on October 12, 2021.

We need not determine whether the Chapter 7 Trustee qualified as an agent authorized by appointment or by law to receive service of the OIP under Rule 141(a)(2)(ii). Under the circumstances, the Supplemental Declaration establishes that, pursuant to Commission Rule of Practice 141(a)(2)(ii),⁶ service of the OIP was made on Respondent by October 12, 2021.⁷

As stated in the OIP, Respondent’s answer was required to be filed within ten days of the service of the OIP.⁸ As of the date of this order, Respondent has not filed an answer. The prehearing conference and hearing are thus continued indefinitely as to Respondent.

Accordingly, Respondent is ORDERED to SHOW CAUSE by May 10, 2022, why the registration of its securities should not be revoked by default due to its failure to file an answer and 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.

If Respondent fails to respond to this order to show cause, it may be deemed in default, the proceeding may be determined against it, and the registration of its securities may be

⁵ 17 C.F.R. § 201.141(a)(2)(ii).

⁶ *Id.*

⁷ The Division stated in the supplemental declaration that the Chapter 7 Trustee claims that it did not authorize Respondent’s last filing with the Commission, which included the address to which the Division mailed the OIP and to which the USPS delivered it on October 12, 2012. We need not resolve here whether a Chapter 7 Trustee appointed as part of a bankruptcy proceeding has the power to authorize or not authorize filings with the Commission. Our rules provide that service may be made by mailing the OIP to the address on the issuer’s most recent filing with the Commission, and that is what occurred here. We note that the Division also mailed the OIP to the address on Respondent’s filings prior to the filings the Chapter 7 Trustee claims it did not authorize. And the Chapter 7 Trustee did not file anything with the Commission that indicated correspondence from the Commission to the Respondent should be sent to another address.

⁸ *See Immune Pharm. Inc.*, 2021 WL 2182260, at *2; Rules of Practice 151(a), 160(b), 220(b), 17 C.F.R. §§ 201.151(a), 201.160(b), 201.220(b).

revoked.⁹ Upon review of the filings in response to this order, the Commission will either direct further proceedings by subsequent order or issue a final order resolving the matter.

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

⁹ Rules of Practice 155, 180, 17 C.F.R. §§ 201.155, 201.180; *see Immune Pharm. Inc.*, 2021 WL 2182260, at *2 (“If Respondent fails to file the directed Answer, . . . [it] may be deemed in default and the proceedings may be determined against [it] . . .”).

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.