

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 94825 / April 29, 2022

Admin. Proc. File No. 3-20653

In the Matter of

DONALD HOWARD

POSTPONEMENT ORDER

On November 17, 2021, the Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) against Donald Howard pursuant to Section 15(b) of the Securities Exchange Act of 1934.¹ On April 4, 2022, the Commission issued an order to show cause by April 18, 2022, why Howard should not be found in default for failing to file an answer.² If Howard failed to file a response, the order to show cause directed the Division to file a motion for entry of an order of default and the imposition of remedial sanctions by May 16, 2022. To date, neither an answer nor a response to the order to show cause has been filed. On April 18, 2022, the Division filed a motion to stay this proceeding.

We will consider the Division’s request under Rule of Practice 161(b), which provides that the Commission may “postpone” a proceeding on a party’s motion or request “in circumstances where the requesting party makes a strong showing that the denial of the request or motion would substantially prejudice their case.”³ That rule directs that, in assessing such a motion, the Commission must consider, as relevant here, the length of the proceeding to date; the number of postponements, adjournments or extensions already granted; the stage of the proceedings at the time of the request; and any other such matters as justice may require.⁴

The Division’s filing states that, on April 8, 2022, the Division learned that Howard may not be the real identity of the person who allegedly committed the conduct underlying the OIP. The Division has requested that the Commission stay the proceeding so that the Division can conduct additional research and seek to amend the OIP or take other action as appropriate. This proceeding was instituted less than six months ago; no other postponements, adjournments, or

¹ *Donald Howard*, Exchange Act Release No. 93599, 2021 WL 5358757 (Nov. 17, 2021).

² *Donald Howard*, Exchange Act Release No. 94600, 2022 WL 1014873 (Apr. 4, 2022).

³ 17 C.F.R. § 201.161(b).

⁴ *Id.*

extensions have been granted; and no answer to the OIP or response to the order to show cause has been filed. For those reasons, and in consideration of the Rule 161(b) factors outlined above, we conclude that a postponement of this proceeding is warranted. For the same reasons, we find that a postponement of more than 21 days is necessary, to the extent that the period prescribed below exceeds 21 days.⁵

Accordingly, it is ORDERED that the Division's request is GRANTED and that this proceeding and any previously prescribed deadlines are postponed until further order of the Commission. It is further ORDERED that the Division shall file a status report by July 28, 2022, and every 90 days thereafter until further order of the Commission, explaining whether it believes that the postponement should continue.

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

⁵ See Rule of Practice 161(c)(1), 17 C.F.R. § 201.161(c)(1) ("Postponements . . . shall not exceed 21 days unless the Commission or the hearing officer states on the record or sets forth in a written order the reasons why a longer period of time is necessary.").

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.