

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 95638 / August 30, 2022

Admin. Proc. File No. 3-20659

In the Matter of

HUGHE DUWAYNE GRAHAM

POSTPONEMENT ORDER

On November 19, 2021, the Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) against Hughe Duwayne Graham pursuant to Section 15(b) of the Securities Exchange Act of 1934 based on an injunction entered against him by the U.S. District Court for the Northern District of Ohio.¹ On April 4, 2022, the Commission issued an order requiring Graham to show cause 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 and to otherwise defend this proceeding.² To date, Graham has not filed an answer or a response to the show cause order.

On August 15, 2022, the Division filed a motion to amend the OIP to reflect that Graham pleaded guilty on March 11, 2022, to one count of conspiracy to commit securities fraud in a non-parallel criminal proceeding in the U.S. District Court for the Northern District of Ohio, as well as a motion to postpone this proceeding until Graham’s anticipated sentencing on October 25, 2022.³ The Division filed a proposed amended OIP that contains new allegations regarding Graham’s recent conviction, but includes blank spaces regarding the eventual judgment and sentence.

¹ *Hughe Duwayne Graham*, Exchange Act Release No. 93619, 2021 WL 5415352 (Nov. 19, 2021).

² *Hughe Duwayne Graham*, Exchange Act Release No. 94599, 2022 WL 1014869, at *1 (Apr. 4, 2022).

³ See Docket, *United States v. Collins*, No. 1:20-cr-00842-BYP-3 (N.D. Ohio filed Aug. 14, 2020).

The Commission may postpone a proceeding on a party's motion, although the Commission generally strongly disfavors such motions.⁴ 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.⁵

The Division has requested that the Commission stay the proceeding pending Graham's anticipated sentencing on October 25, 2022. This proceeding was instituted less than ten months ago; no other postponements, adjournments, or extensions have been granted; and no answer to the OIP or response to the order to show cause has been filed. For these reasons, and in consideration of the Rule 161(b) factors outlined above, we conclude that a postponement of this proceeding is warranted. And we conclude that a postponement of more than 21 days is necessary because Graham's sentencing is currently scheduled for October 25, 2022.⁶

We also postpone our consideration of the Division's motion to amend the OIP. This will allow the Division to submit a complete proposed amended OIP that contains the relevant judgment and sentencing information.

Accordingly, it is ORDERED that the Division's motion to postpone the proceeding is GRANTED and that this proceeding and any previously prescribed deadlines are postponed until October 26, 2022. It is further ORDERED that, by November 9, 2022, the Division file a supplement to its motion to amend the OIP that contains its proposed amended OIP, both in clean form and as a redline against the original OIP.

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.⁷

⁴ Rule of Practice 161(b)(1), 17 C.F.R. § 201.161(b)(1). The Commission does not strongly disfavor a request to postpone if "the requesting party makes a strong showing that the denial of the request or motion would substantially prejudice their case." *Id.*

⁵ *Id.*

⁶ Rule of Practice 161(c)(1), 17 C.F.R. § 201.161(c)(1) (stating that postponements "shall not exceed 21 days unless the Commission . . . sets forth in a written order the reasons why a longer period of time is necessary").

⁷ *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.

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

Vanessa A. Countryman
Secretary