

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 96186 / October 31, 2022

INVESTMENT ADVISERS ACT OF 1940
Release No. 6179 / October 31, 2022

Admin. Proc. File No. 3-20849

In the Matter of

ROBERT CHARLES HIGH, II

ORDER REGARDING SERVICE

On May 10, 2022, the Securities and Exchange Commission (“Commission”) issued an order instituting administrative proceedings (“OIP”) against Robert Charles High, II, pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Section 203(f) of the Investment Advisers Act of 1940.¹ On October 20, 2022, the Division of Enforcement (“Division”) filed a status report regarding service of the OIP, which appended a process server’s affidavit and presented High’s request for an extension of time to answer the OIP.

Commission Rule of Practice 141(a)(2)(i) provides that service may be made by handing a copy of the OIP to an agent authorized by appointment or law to receive notice of a proceeding.² The process server’s affidavit states that he personally served the OIP on the officer in charge at the prison where High is incarcerated, and that “[p]er ASPC procedures, [the officer] accepts all legal process on behalf of all inmates as personal contact is not allowed until further notice.” But the Arizona Department of Corrections, Rehabilitation and Reentry Order Manual expressly states that “[e]mployees shall not accept service of process . . . on an inmate’s behalf.”³ Although High’s sister represented that High had been served with the OIP, it is not clear from the Division’s status report or the process server’s affidavit that the officer in charge is authorized to accept service of the OIP on behalf of High. Accordingly, it is ORDERED that the Division file additional proof of service clarifying whether the prison official is authorized to accept service of process of the OIP by November 14, 2022; and, if the Division does not have

¹ *Robert Charles High, II*, Exchange Act Release No. 94886, 2022 WL 1485815 (May 10, 2022).

² See Rule of Practice 141(a)(2)(i), 17 C.F.R. § 201.141(a)(2)(i).

³ Ariz. Dep’t of Corr., Rehab. & Reentry, *Dep’t Order Manual*, Order No. 107, Proc. 11.1 (Jan. 29, 2022), <https://corrections.az.gov/sites/default/files/policies/100/0107.pdf>.

such proof, the Division shall file a status report concerning service of the OIP by November 14, 2022, and every 28 days thereafter until service is accomplished.

As stated in the OIP, High's answer is required to be filed within 20 days of service of the OIP.⁴ According to the Division's status report, High requests an extension of time to respond to the OIP "until after his release" from incarceration. High asserts that he "will be released from incarceration on December 6, 2022." The Division does not oppose High's request for an extension of time to file an answer to the OIP.

On March 18, 2020, the Commission issued an order providing that, pending further order of the Commission, reasonable requests for extensions of time will not be disfavored as stated in Commission Rule of Practice 161.⁵ Under the circumstances, it appears that an extension of time to answer the OIP would be appropriate, but we will postpone ruling on High's request and setting a new deadline for High to respond to the OIP until the Division establishes that it served the OIP on High properly and his time to answer the OIP began to run.

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 e-filing requirements.⁶

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

Vanessa A. Countryman
Secretary

⁴ *High*, 2022 WL 1485815, at *2; Rules of Practice 151(a), 160(b), 220(b), 17 C.F.R. §§ 201.151(a), .160(b), .220(b).

⁵ *In re Pending Administrative Proceedings*, Securities Act Release No. 10767, 2020 WL 1322001 (Mar. 18, 2020), <https://www.sec.gov/litigation/opinions/2020/33-10767.pdf>.

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 redaction and omission of sensitive personal information requirement. *Amendments to the Commission's Rules of Practice*, 85 Fed. Reg. at 86,465–81.