

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 96462 / December 7, 2022

INVESTMENT ADVISERS ACT OF 1940
Release No. 6201 / December 7, 2022

Admin. Proc. File No. 3-20849

In the Matter of

ROBERT CHARLES HIGH, II

ORDER GRANTING AN EXTENSION OF TIME

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. The affidavit states that the process server 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 (“ADCRR Manual”) expressly states that “[e]mployees shall not accept service of process . . . on an inmate’s behalf.”²

On October 31, 2022, the Commission issued an Order Regarding Service directing the Division to file additional proof of service clarifying whether the prison official is authorized to accept service of process of the OIP.³ The Division filed a status report on November 11, 2022, attaching an affidavit from the process server stating that he has been “serving process at ASPC Lewis for over five years” and, during that time, “it has always been the prison’s standard

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

² 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/documents/policies/100/0107.pdf> (last visited Dec. 5, 2022).

³ *Robert Charles High, II*, Exchange Act Release No. 96186, 2022 WL 16570106 (Oct. 31, 2022).

operating procedure for the officer in charge to accept service on behalf of all inmates.” Under the circumstances, including that High’s sister represented that High was served with the OIP, we find that the Division has established that service of the OIP was made on High on October 11, 2022, pursuant to Rule 141(a)(2)(i) of the Commission’s Rules of Practice.⁴

As stated in the OIP, High’s answer is required to be filed within 20 days of service of the OIP.⁵ According to the Division’s status report dated October 20, 2022, High requests an extension of time to respond to the OIP until after he is “released from incarceration on December 6, 2022.” The Division does not oppose High’s request for an extension of time.

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 161.⁶ Under the circumstances, it appears appropriate to grant the requested extension for good cause shown.⁷ Therefore, it is ORDERED that the time for filing an answer to the OIP is extended to January 6, 2023.

The parties’ attention is directed to the e-filing requirements in the Rules of Practice.⁸

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

Vanessa A. Countryman
Secretary

⁴ 17 C.F.R. § 201.141(a)(2)(i). Nevertheless, in light of the apparent inconsistency between the process server’s affidavit and the ADCRR Manual, and the fact that High was released from incarceration on December 6, 2022, out of an abundance of caution, we believe it is appropriate for the Division to also deliver a copy of the OIP to High following his release from prison in a manner consistent with Rule of Practice 141(a)(2)(i). Accordingly, it is ORDERED that the Division file a status report concerning its delivery of the OIP to High after his release from prison by December 21, 2022, and every 28 days thereafter until delivery is accomplished.

⁵ *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).

⁶ *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>.

⁷ Rule of Practice 161, 17 C.F.R. § 201.161.

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