

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 6054 / June 21, 2022

Admin. Proc. File No. 3-20828

In the Matter of

GREGORY LEMELSON

ORDER SCHEDULING BRIEFS

On April 20, 2022, the Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) against Gregory Lemelson (“Lemelson”), pursuant to Section 203(f) of the Investment Advisers Act of 1940.¹ Lemelson filed his answer on May 11, 2022. On June 16, 2022, the Division of Enforcement submitted on behalf of the parties a proposed briefing schedule for the Division’s motion for summary disposition pursuant to Commission Rule of Practice 250.² In light of the Division’s representation that the parties have reached an agreement as to scheduling,³ we believe it is appropriate to set the following briefing schedule. Accordingly, IT IS ORDERED that the Division’s motion for summary disposition against Lemelson shall be filed by July 1, 2022; Lemelson’s opposition is due by July 29, 2022; and the Division’s reply is due by August 12, 2022.⁴

¹ *Gregory Lemelson*, Advisers Act Release No. 6000, 2022 WL 1184458 (Apr. 20, 2022).

² *See* 17 C.F.R. § 201.250(b) (providing that summary disposition is appropriate if “there is no genuine issue with regard to any material fact and . . . the movant is entitled to summary disposition as a matter of law”). Motions for summary disposition may be made under Rule 250(b) after a respondent’s answer has been filed and documents have been made available to the respondent for inspection and copying pursuant to Rule of Practice 230. *Id.*; 17 C.F.R. § 201.230. The Division represents that it has complied with Rule 230.

³ The proposed briefing schedule does not indicate that it was served on Lemelson. The Division is ordered to file a certificate of service with respect to that filing by June 28, 2022.

⁴ Attention is called to Rules of Practice 150-153, 17 C.F.R. §§ 201.150-153, with respect to form and service, and Rule of Practice 250(b), (e), and (f), 17 C.F.R. § 201.250(b), (e), and (f), with respect to motion requirements and length limitations. *See also In re: Pending Admin. Proceedings*, Exchange Act Release No. 88415, 2020 WL 1322001 (Mar. 18, 2020) (stating that “pending further order of the Commission, all reasonable requests for extensions of time will not be disfavored as stated in Rule 161” (citing 17 C.F.R. § 201.161(b)(1))).

A brief in opposition to a motion for summary disposition should precisely specify the basis for that opposition, identify with particularity the material factual issues in dispute, and address relevant Commission precedent.⁵ Pursuant to Rule of Practice 180(c), a party's failure to file a brief or comply with this order may result in the Commission's determination of the matter at issue against that party, entry of default, dismissal of the proceeding, or the prohibition of the introduction of evidence or the exclusion of testimony regarding the matter at issue.⁶

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

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

Vanessa A. Countryman
Secretary

⁵ See, e.g., *Peter Siris*, Exchange Act Release No. 71068, 2013 WL 6528874, at *11 & n.68 (Dec. 12, 2013) (discussing appropriateness of summary disposition in follow-on proceedings and providing citations), *pet. denied*, 773 F.3d 89 (D.C. Cir. 2014); *Conrad P. Seghers*, Advisers Act Release No. 2656, 2007 WL 2790633, at *4–6 (Sept. 26, 2007) (discussing unsuccessful attempt to oppose summary disposition), *pet. denied*, 548 F.3d 129 (D.C. Cir. 2008).

⁶ 17 C.F.R. § 201.180(c).

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.