

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 96784 / February 1, 2023

Admin. Proc. File No. 3-20816

In the Matter of
ANITA SGARRO

ORDER DIRECTING RESPONDENT TO FILE CERTIFICATE OF SERVICE

On April 8, 2022, the Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) against Anita Sgarro pursuant to Section 15(b) of the Securities Exchange Act of 1934.¹ Sgarro was served with the OIP and filed an answer.² The prehearing conference was continued while the parties engaged in settlement efforts.³ Sgarro was directed to accept or decline a pending settlement offer from the Division of Enforcement by January 9, 2023.⁴ If the offer was not accepted, the parties were to conduct a prehearing conference by January 30, 2023, and file a status report advising the Commission of any agreements reached at the conference by February 13, 2023.⁵

On January 6, 2023, Sgarro, proceeding *pro se*, filed a motion declining the Division’s settlement offer and seeking a stay of this proceeding through the resolution of all post-judgment motions in her criminal case. The motion was not accompanied by a certificate of service, as required by Rule of Practice 151(d).⁶ On January 26, 2023, we issued an Order Directing Respondent to File Certificate of Service (the “January 26 Order”).⁷ That order directed Sgarro

¹ *Anita Sgarro*, Exchange Act Release No. 94660, 2022 WL 1058704 (Apr. 8, 2022).

² *Anita Sgarro*, Exchange Act Release No. 95113, 2022 WL 2191139 (June 16, 2022).

³ *Anita Sgarro*, Exchange Act Release No. 95636, 2022 WL 3757568 (Aug. 30, 2022); *Anita Sgarro*, 2022 WL 2191139.

⁴ *Anita Sgarro*, Exchange Act Release No. 96268, 2022 WL 16834143 (Nov. 8, 2022).

⁵ *Id.*

⁶ 17 C.F.R. § 201.151(d).

⁷ *Anita Sgarro*, Exchange Act Release No. 96758, 2023 WL 1066738 (Jan. 26, 2023).

to serve her motion and file a certificate of service complying with Rule of Practice 151(d),⁸ set deadlines for opposition and reply briefs, and continued the deadlines for the prehearing conference and status report pending resolution of Sgarro's stay motion.⁹

On January 27, 2023, the Division filed its opposition to Sgarro's stay motion. The Division's brief states that Sgarro transmitted a copy of her motion to Division counsel on January 11, 2023. However, Rule of Practice 151(d) still requires Sgarro to file a certificate of service with the Commission.¹⁰

Accordingly, it is ORDERED that the January 26 Order is VACATED and no longer in effect.

IT IS FURTHER ORDERED that by February 8, 2023, Sgarro shall file with the Commission a certificate of service for her stay motion that complies with Rule of Practice 151(d).¹¹

IT IS FURTHER ORDERED that Sgarro may, by February 8, 2023, file her reply in further support of her stay motion (that is, a response to the Division's opposition). Any reply shall be accompanied by a certificate of service that complies with Rule of Practice 151(d).¹²

IT IS FURTHER ORDERED that the deadlines for the prehearing conference and status report are continued pending resolution of Sgarro's stay motion and that new deadlines will be established in the order resolving that motion.

Pursuant to Rule of Practice 180(c),¹³ a party's failure to comply with this order may result in the Commission's entry of a default, dismissal of the proceeding, determination of the matter at issue against that party, or a finding of waiver. For example, if Sgarro fails to file the

⁸ 17 C.F.R. § 201.151(d).

⁹ *Anita Sgarro*, 2023 WL 1066738.

¹⁰ 17 C.F.R. § 201.151(d) ("Papers filed with the Commission . . . shall be accompanied by a certificate stating the name of the person or persons served, the date of service, the method of service, and the mailing address or email address to which service was made, if not made in person."); *see also Gregory Lemelson*, Exchange Act Release No. 6066, 2022 WL 2643198 (July 8, 2022) (requiring certificate of service to be filed with the Commission even though it was apparent service had been accomplished).

¹¹ 17 C.F.R. § 201.151(d).

¹² *Id.*

¹³ 17 C.F.R. § 201.180(c).

requisite certificate of service, the Commission may reject her motion to stay as deficient on that basis alone.¹⁴ In issuing this order, we express no views as to the substance of Sgarro's motion.

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

Vanessa A. Countryman
Secretary

¹⁴ 17 C.F.R. § 201.180(c)(2) (stating that sanctions may be imposed for failing to “cure a deficient filing within the time specified by the Commission”); *see also Adopting Release, Rules of Practice*, 1995 WL 368865, at *36 (explaining that a “filing may be rejected if it fails to meet the requirements of any rule” and that “filings that are not served as required . . . could be found to be deficient”).