

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 96841 / February 8, 2023

INVESTMENT ADVISERS ACT OF 1940  
Release No. 6233 / February 8, 2023

Admin. Proc. File No. 3-20400

In the Matter of  
  
DAVID AARON ROCKWELL

ORDER TO SHOW CAUSE

On July 15, 2021, the Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) against David Aaron Rockwell pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Section 203(f) of the Investment Advisers Act of 1940.<sup>1</sup> On November 1, 2021, the Division of Enforcement filed a declaration of Andrew O. Schiff, which establishes that service of the OIP was made on Rockwell on August 31, 2021, pursuant to Rule 141(a)(2)(i) of the Commission’s Rules of Practice.<sup>2</sup> On February 14, 2022, the Division filed a motion for default and sanctions against Rockwell with supporting exhibits. The Division requests that the Commission find Rockwell in default for not filing an answer and bar him from the securities industry and from participating in any penny stock offering based on the record and the allegations in the OIP.

As stated in the OIP, Rockwell’s answer was required to be filed within 20 days of service of the OIP.<sup>3</sup> Rockwell also was required to respond to the Division’s motion for default and sanctions by February 22, 2022.<sup>4</sup> As of the date of this order, Rockwell has not filed an

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<sup>1</sup> *David Aaron Rockwell*, Exchange Act Release No. 92423, 2021 WL 3023727 (July 15, 2021).

<sup>2</sup> 17 C.F.R. § 201.141(a)(2)(i).

<sup>3</sup> *Rockwell*, 2021 WL 3023727, at \*2; Rules of Practice 151(a), 160(b), 220(b), 17 C.F.R. §§ 201.151(a), .160(b), .220(b).

<sup>4</sup> *See* Rules of Practice 154(b), 160(b), 17 C.F.R. §§ 201.154(b), .160(b); *BDO China Dahua CPA Co.*, Exchange Act Release No. 72753, 2014 WL 3827605, at \*1 n.2 (Aug. 4, 2014) (clarifying method of time computation under Rule of Practice 160). The Division served its motion on Rockwell by United States mail.

answer to the OIP or a response to the Division's motion. The prehearing conference and the hearing are thus continued indefinitely.

Accordingly, Rockwell is ORDERED to SHOW CAUSE by March 25, 2023, 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, to respond to the Division's motion, or to otherwise defend this proceeding. Rockwell's submission shall address the reasons for his failure to timely file an answer or response to the Division's motion, include a proposed answer to be accepted in the event that the Commission does not enter a default against him, and address the substance of the Division's request for sanctions. Rockwell shall deliver any response, including any answer, to the proper prison authorities no later than the due date for forwarding to the Commission's Office of the Secretary.<sup>5</sup> If Rockwell files a response to this order to show cause, the Division may file a reply within 28 days after its service.

When a party defaults, the allegations in the OIP will be deemed to be true and the Commission may determine the proceeding against that party upon consideration of the record without holding a public hearing.<sup>6</sup> The OIP informed Rockwell that a failure to file an answer could result in deeming him in default and determining the proceedings against him.<sup>7</sup>

The failure to timely oppose a dispositive motion is also a basis for a finding of default.<sup>8</sup> Like failing to timely file an answer, failing to timely oppose a dispositive motion may result in the determination of particular claims, or the proceeding as a whole, adversely to the non-moving party and may be deemed a forfeiture of arguments that could have been raised at that time.<sup>9</sup>

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<sup>5</sup> See *Houston v. Lack*, 487 U.S. 266, 276 (1988) (holding that, under federal prison mailbox rule, pro se prisoners' notices of appeal are "filed" at moment of delivery to prison authorities for forwarding to the district court); *Adams v. United States*, 173 F.3d 1339, 1341 (11th Cir. 1999) (per curiam) (noting that this "mailbox rule [applies] to other filings by pro se prisoners").

<sup>6</sup> Rules of Practice 155, 180, 17 C.F.R. §§ 201.155, .180.

<sup>7</sup> *Rockwell*, 2021 WL 3023727, at \*2.

<sup>8</sup> See Rules of Practice 155(a)(2), 180(c), 17 C.F.R. §§ 201.155(a)(2), .180(c); see, e.g., *Behnam Halali*, Exchange Act Release No. 79722, 2017 WL 24498, at \*3 n.12 (Jan. 3, 2017).

<sup>9</sup> See, e.g., *McBarron Capital LLC*, Exchange Act Release No. 81789, 2017 WL 4350655, at \*3-5 (Sep. 29, 2017); *Bennett Grp. Fin. Servs., LLC*, Exchange Act Release No. 80347, 2017 WL 1176053, at \*2-3 (Mar. 30, 2017), *abrogated in part on other grounds by Lucia v. SEC*, 138 S. Ct. 2044 (2018); *Apollo Publ'n Corp.*, Securities Act Release No. 8678, 2006 WL 985307, at \*1 n.6 (Apr. 13, 2006).

Upon review of the filings in response to this order, the Commission will either direct further proceedings by subsequent order or issue a final opinion and order resolving the matter.<sup>10</sup>

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

Vanessa A. Countryman  
Secretary

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<sup>10</sup> The parties' attention is directed to the e-filing requirements in the Rules of Practice. *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.