

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 96875 / February 10, 2023

Admin. Proc. File No. 3-21021

In the Matter of
MICAH J. ELDRED

ORDER SCHEDULING BRIEFS

On August 31, 2022, the Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) against Micah J. Eldred, pursuant to Sections 15(b)(6) and 17A(c)(4) of the Securities Exchange Act of 1934.¹ Eldred filed his answer on November 14, 2022. The parties held a prehearing conference on January 31, 2023, and then submitted a joint statement regarding it on February 6, 2023. In the joint statement, the parties submitted a proposed briefing schedule for the Division of Enforcement’s motion for summary disposition pursuant to Commission Rule of Practice 250.²

In light of the parties’ agreement, we believe it is appropriate to set the following briefing schedule for the Division’s motion for summary disposition. Accordingly, IT IS ORDERED that the Division’s motion for summary disposition against Eldred shall be filed by March 13, 2023; Eldred’s opposition is due by April 14, 2023; and the Division’s reply is due by April 28, 2023.³

¹ *Micah J. Eldred*, Exchange Act Release No. 95649, 2022 WL 4011048 (Aug. 31, 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 parties’ joint statement regarding their conference reflects that the Division has made documents available pursuant to Rule 230.

³ 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. § 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

An opposition to a motion for summary disposition should precisely specify in the brief the basis for that opposition, identify with particularity the material factual issues in dispute, and address relevant Commission precedent.⁴ 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.⁵

The parties' attention is directed to the e-filing requirements in the Rules of Practice.⁶

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

Vanessa A. Countryman
Secretary

“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)).

⁴ 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), *petition 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), *petition denied*, 548 F.3d 129 (D.C. Cir. 2008).

⁵ 17 C.F.R. § 201.180(c).

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.