

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 96946 / February 16, 2023

Admin. Proc. File No. 3-21261

In the Matter of

ADAM MATTESSICH

ORDER SCHEDULING BRIEFS

The Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) on December 22, 2022, pursuant to Section 15(b) of the Securities Exchange Act of 1934, against Adam Mattessich.¹ On January 24, 2023, the parties filed a joint statement proposing a briefing schedule for the Division of Enforcement’s proposed motion for summary disposition pursuant to Commission Rule of Practice 250(c).² On January 31, 2023, we denied the Division leave to move for summary disposition pending proof of service of the OIP and filing of Respondent’s answer.³

Respondent filed his answer on February 2, 2023, and the Division filed proof of service on February 7, 2023. On February 16, 2023, the Division filed a consent motion seeking leave to brief summary disposition pursuant to an agreed briefing schedule. In light of the parties’ agreement, we believe it is appropriate to set the following briefing schedule.

¹ *Adam Mattessich*, Exchange Act Release No. 96576, 2022 WL 17886457 (Dec. 22, 2022).

² *See* 17 C.F.R. § 201.250(c) (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”). This proceeding is one under the 120-day timeframe specified in Rule of Practice 360(a)(2)(i). *Mattessich*, 2022 WL 17886457, at *3; 17 C.F.R. § 360(a)(2)(i). Accordingly, summary disposition is governed by Rule of Practice 250(c). Motions for summary disposition may be made under Rule 250(c) with the leave of the hearing officer and 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. 17 C.F.R. §§ 201.250(c), 201.230. The parties agree that the Division has complied with Rule 230.

³ *Adam Mattessich*, Exchange Act Release No. 96780, 2023 WL 1419740 (Jan. 31, 2023).

Accordingly, IT IS ORDERED that the Division shall file its motion for summary disposition by March 3, 2023; Respondent shall file his opposition to the Division's motion by April 3, 2023; and the Division shall file any reply brief by April 18, 2023.⁴

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

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))).

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).

introduction of evidence or the exclusion of testimony regarding the matter at issue.⁶ The parties' attention is directed to the e-filing requirements in the Rules of Practice.⁷

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

Vanessa A. Countryman
Secretary

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