

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 97157 / March 17, 2023

Admin. Proc. File No. 3-20817

In the Matter of  
CHARLES K. TOPPING

ORDER DEEMING SERVICE COMPLETE AND DIRECTING AN ANSWER

The Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) on April 8, 2022, pursuant to Section 15(b) of the Securities Exchange Act of 1934, against Charles K. Topping.<sup>1</sup> The Division filed a motion on January 12, 2023, seeking an order deeming service of the OIP complete because it mailed the OIP to the address the Bureau of Prisons (“BOP”) provided for Topping: a P.O. Box address at a Residential Reentry Management Office (“RRMO”) in Miami, FL.

We denied that motion, noting that: (i) inmates are not housed at RRMOs, but instead at third-party Residential Reentry Centers (“RRCs”) and (ii) “Topping’s receipt of the OIP thus appears to turn on the RRMO’s forwarding the OIP to the appropriate third-party facility, and then staff of that facility delivering it to Topping.”<sup>2</sup> Under those circumstances, we could not determine whether the Division had effected service of the OIP in compliance with Rule of Practice 141(a)(2)(i).<sup>3</sup> The order noted that “alternative procedures,” such as using the BOP’s “Special Mail” designation, might provide “greater assurance” that Topping receives the OIP.<sup>4</sup>

The Division’s most recent status report, filed on March 6, 2023, states that it express mailed a package containing the OIP to the RRMO’s P.O. Box, as provided by the BOP.<sup>5</sup> The

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<sup>1</sup> *Charles K. Topping*, Exchange Act Release No. 94661, 2022 WL 1058706 (Apr. 8, 2022).

<sup>2</sup> *Charles K. Topping*, Exchange Act Release No. 96806, 2023 WL 1794808 (Feb. 6, 2023).

<sup>3</sup> 17 C.F.R. § 201.141(a)(2)(i) (providing that service is complete, *inter alia*, upon “handing a copy of the [OIP] to the individual” or “confirmation of receipt” after mailing).

<sup>4</sup> *Charles K. Topping*, 2023 WL 1794808, at \*2.

<sup>5</sup> The Division’s status report also states that the BOP declined to provide it with the address of the RRC where Topping resides. *Cf. Charles K. Topping*, 2023 WL 1794808, at \*2

mailing envelopes were marked “United States Securities and Exchange Commission,” “Official Business,” and “Special Mail – Open Only in the Presence of the Inmate.” U.S. Postal Service records show the package was picked up on February 18, 2023. Following an inquiry by the Division, the BOP reported that on February 23, 2023, the package was presented to Topping, who refused to open it. The BOP provided copies of the mailing envelopes with annotations stating Topping refused to open them.

In light of the Division’s additional service efforts and evidentiary showing, the Division’s motion for an order deeming service of the OIP complete under Rule of Practice 141(a)(2)(i) is GRANTED.<sup>6</sup> Accordingly, IT IS ORDERED that Topping shall file his Answer to the allegations contained in the OIP by April 6, 2023. If Topping fails to timely file the Answer, he may be deemed in default and the proceedings may be determined against him upon

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(observing that the Division might, if possible, attempt to send the OIP “directly to the [RRC] where [the respondent] resides”).

<sup>6</sup> See, e.g., *Troupe v. Blakeman*, No. C15-5261, 2016 WL 1055649, at \*1 (W.D. Wash. Feb. 4, 2016), *report and recommendation adopted*, No. C15-5261, 2016 WL 1046237 (W.D. Wash. Mar. 16, 2016) (finding inmate was served with a motion by a government agency despite his refusal to accept or open legal mailings containing the motion); *Doe I v. Liu Qi*, 349 F.Supp.2d 1258, 1275 n.5 (N.D. Cal. 2004) (“Where a defendant attempts to avoid service . . . by refusing to take the papers, it is sufficient if the server is in close proximity to the defendant, clearly communicates intent to serve court documents, and makes reasonable efforts to leave the papers with the defendant.”).

consideration of the OIP, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Rules of Practice.<sup>7</sup>

The parties' attention is directed to the e-filing requirements in the Rules of Practice.<sup>8</sup>

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

Vanessa A. Countryman  
Secretary

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<sup>7</sup> 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310.

<sup>8</sup> *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.