

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 97279 / April 10, 2023

Admin. Proc. File No. 3-21264

In the Matter of

PETER JOSEPH POLINSKI TRUST

ORDER SCHEDULING BRIEFS

On December 27, 2022, the Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) against the Peter Joseph Polinski Trust (“Respondent”) pursuant to Section 17A(c)(3) of the Securities Exchange Act of 1934.¹ Respondent was served with the OIP and filed an answer.² On March 20, 2023, the Division of Enforcement filed a motion for summary disposition against Respondent. We denied that motion and directed the parties to conduct a prehearing conference pursuant to Commission Rule of Practice 221 and, following the conference, to file a statement with the Office of the Secretary advising the Commission of any agreements reached, including as to any schedule for summary disposition briefing.³ On April 6, 2023, the parties filed a joint statement proposing that the parties brief cross-motions for summary disposition on an agreed-upon briefing schedule.⁴ And,

¹ *Peter Joseph Polinski Tr.*, Exchange Act Release No. 96585, 2022 WL 17979680 (Dec. 27, 2022).

² *Peter Joseph Polinski Tr.*, Exchange Act Release No. 97199, 2023 WL 2631027 (Mar. 24, 2023).

³ *Id.*

⁴ *See* Rule of Practice 250(c), 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). *Peter Joseph Polinski Tr.*, 2022 WL 17979680, at *4; 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 or, in this case, the Commission 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. Respondent has answered and the parties do not dispute that the Division has made documents available for

on April 10, 2023, the Division filed a motion for summary disposition. In light of the parties' submissions, we believe it is appropriate to set the following briefing schedule.

Accordingly, IT IS ORDERED that the parties shall file their respective motions for summary disposition by April 17, 2023; the parties shall file their respective oppositions by May 12, 2023; and the parties may file any reply briefs within ten business days from the filing of the opposition to which a reply is made.⁵

A brief in support of a motion for summary disposition should include references to relevant undisputed pleaded facts along with facts eligible to be officially noted pursuant to Rule of Practice 323,⁶ and should include, as attachments, relevant declarations, affidavits, and other supporting documentation. 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 and other precedent.⁷

Pursuant to Rule of Practice 180(c), a party's failure to file a required 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

inspection and copying. We construe the parties' joint statement as a motion for leave to file motions for summary disposition and grant such leave.

⁵ 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))).

⁶ 17 C.F.R. § 201.323.

⁷ *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).

evidence or the exclusion of testimony regarding the matter at issue.⁸ The parties' attention is directed to the e-filing requirements in the Rules of Practice.⁹

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

Vanessa A. Countryman
Secretary

⁸ 17 C.F.R. § 201.180(c).

⁹ 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.