

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 97711 / June 13, 2023

INVESTMENT ADVISERS ACT OF 1940  
Release No. 6326 / June 13, 2023

Admin. Proc. File No. 3-19435

In the Matter of  
  
WILLIAM M. APOSTELOS

ORDER TO SHOW CAUSE

On September 11, 2019, the Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) against William M. Apostelos (“Respondent”), 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> Respondent filed an answer to the OIP on October 15, 2019. On August 5, 2020, the Division of Enforcement filed a motion for summary disposition pursuant to Commission Rule of Practice 250(b).<sup>2</sup> As of the date of this order, Respondent has not filed a response to the Division’s motion.

Accordingly, Respondent is ORDERED to SHOW CAUSE by July 28, 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 respond to the Division’s dispositive motion and to otherwise defend this proceeding. Respondent’s submission shall address the reasons for his failure to timely file a response to the Division’s motion as well as address the substance of the Division’s motion. Respondent shall deliver his response to the Division’s motion to the proper prison authorities no

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<sup>1</sup> *William M. Apostelos*, Exchange Act Release No. 86932, 2019 WL 4303127 (September 11, 2019).

<sup>2</sup> 17 C.F.R. §§ 201.250(b). 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 Division represents that this was completed on December 12, 2019.

later than the due date, for forwarding to the Commission's Office of the Secretary.<sup>3</sup> If Respondent files a response to this order to show cause, the Division may file a reply within 14 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>4</sup> The failure to timely oppose a dispositive motion is a basis for a finding of default;<sup>5</sup> it 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>6</sup>

The parties' attention is directed to the e-filing requirements in the Commission's Rules of Practice.<sup>7</sup>

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<sup>3</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>4</sup> Rules of Practice 155, 180, 17 C.F.R. §§ 201.155, .180.

<sup>5</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>6</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).

<sup>7</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 new redaction and omission of sensitive personal information requirement. *Amendments to the Commission's Rules of Practice*, 85 Fed. Reg. at 86,465-81. Rules of Practice 150(c)(1) and 152(a)(1) allow a party who cannot serve or file documents electronically (due, for example, to a "lack of access to electronic transmission devices") to serve or file paper documents upon making a certification to that effect. 17 C.F.R. §§ 201.150(c)(1), 152(a)(1).

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.

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

Vanessa A. Countryman  
Secretary