

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 98211 / August 24, 2023

Admin. Proc. File No. 3-21257

In the Matter of  
  
JOHN MARQUES

ORDER DIRECTING SUBMISSION FROM THE DIVISION OF ENFORCEMENT

On December 20, 2022, the Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) against John Marques pursuant to Section 15(b) of the Securities Exchange Act of 1934.<sup>1</sup> On January 23, 2023, the Division of Enforcement filed a Notice of Proof of Service, which established that service of the OIP was made on Marques on December 21, 2022, pursuant to Rule 141(a)(2)(i) of the Commission’s Rules of Practice.<sup>2</sup> Marques did not answer the OIP.

On January 27, 2023, the Commission issued an order requiring Marques to show cause by February 10, 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 file an answer and to otherwise defend this proceeding.<sup>3</sup> If Marques did not file a response, the order required the Division to file a motion for entry of an order of default and the imposition of remedial sanctions by March 10, 2023.<sup>4</sup> The Division has not filed the required motion despite the failure of Marques to respond to the show cause order.

Accordingly, the Division of Enforcement is ORDERED to file a motion for default and other relief by September 21, 2023. As noted in the Commission’s January 27, 2023 order, the motion for sanctions should address each statutory element of the relevant provisions of Exchange Act Section 15(b).<sup>5</sup> The motion should discuss relevant authority relating to the legal

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<sup>1</sup> *John Marques*, Exchange Act Release No. 96540, 2022 WL 17829013 (Dec. 20, 2022).

<sup>2</sup> 17 C.F.R. § 201.141(a)(2)(i).

<sup>3</sup> *John Marques*, Exchange Act Release No. 96761, 2023 WL 1066732, at \*1 (Jan. 27, 2023).

<sup>4</sup> *Id.*

<sup>5</sup> *See, e.g., Shawn K. Dicken*, Exchange Act Release No. 89526, 2020 WL 4678066, at \*2 (Aug. 12, 2020) (requesting additional information from the Division “regarding the factual

basis for, and the appropriateness of, the requested sanctions and include evidentiary support sufficient to make an individualized assessment of whether those sanctions are in the public interest.<sup>6</sup> The parties may file opposition and reply briefs within the deadlines provided by the Rules of Practice.<sup>7</sup> The failure to timely oppose a dispositive motion is itself a basis for a finding of default;<sup>8</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>9</sup>

The parties' attention is directed to the e-filing requirements in the Rules of Practice.<sup>10</sup> We also remind the parties that any document filed with the Commission must be served upon all participants in the proceeding and be accompanied by a certificate of service.<sup>11</sup>

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predicate for Dicken's convictions" and "why these facts establish" the need for remedial sanctions); *see also Shawn K. Dicken*, Exchange Act Release No. 90215, 2020 WL 6117716, at \*1 (Oct. 16, 2020) (clarifying the additional information needed from the Division).

<sup>6</sup> *See generally Rapoport v. SEC*, 682 F.3d 98, 108 (D.C. Cir. 2012) (requiring "meaningful explanation for imposing sanctions"); *McCarthy v. SEC*, 406 F.3d 179, 190 (2d Cir. 2005) (stating that "each case must be considered on its own facts"); *Gary L. McDuff*, Exchange Act Release No. 74803, 2015 WL 1873119, at \*1, \*3 (Apr. 23, 2015); *Ross Mandell*, Exchange Act Release No. 71668, 2014 WL 907416, at \*2 (Mar. 7, 2014), *vacated in part on other grounds*, Exchange Act Release No. 77935, 2016 WL 3030883 (May 26, 2016); *Don Warner Reinhard*, Exchange Act Release No. 61506, 2010 WL 421305, at \*3-4 (Feb. 4, 2010), *appeal after remand*, Exchange Act Release No. 63720, 2011 WL 121451, at \*5-8 (Jan. 14, 2011).

<sup>7</sup> *See* Rules of Practice 154, 160, 17 C.F.R. §§ 201.154, .160.

<sup>8</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>9</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>10</sup> *See Amendments to the Commission's Rules of Practice*, Exchange Act Release No. 90442, 2020 WL 7013370 (Nov. 17, 2020), 85 Fed. Reg. 86,464 (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.

<sup>11</sup> *See* Rule of Practice 150, 17 C.F.R. § 201.150 (generally requiring parties to serve each other with their filings); Rule of Practice 151(d), 17 C.F.R. § 201.151(d) ("Papers filed with the Commission . . . shall be accompanied by a certificate stating the name of the person or persons served, the date of service, the method of service, and the mailing address or email address to which service was made, if not made in person.").

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

Vanessa A. Countryman  
Secretary