

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 98239 / August 29, 2023

Admin. Proc. File No. 3-20999

In the Matter of

WILLIAM B. MCHENRY, JR., and FIRST SOUTH
INVESTMENTS, LLC

ORDER REGARDING SERVICE

The Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) on August 25, 2022, pursuant to Section 15(b) of the Securities Exchange Act of 1934, against respondents William B. McHenry, Jr., and First South Investments, LLC (“Respondents”).¹ On May 5, 2023, the Division of Enforcement filed a Notice of Filing Proof of Service, which establishes that service of the OIP was made on McHenry on December 12, 2022, pursuant to Rule 141(a)(2)(i) of the Commission’s Rules of Practice.

The Division, however, does not explain whether such service is also an appropriate method for serving First South under Rule 141(a)(2)(ii). Although the OIP states that McHenry is “the sole owner and operator of First South since its founding,” the Division has not supported this statement. Nor has the Division supported its apparent assertion that McHenry’s alleged role as First South’s sole owner and operator qualifies McHenry under Rule 141(a)(2)(ii) as one of the persons through whom an entity may be served under that provision: namely, as “an officer, managing or general agent, or any other agent authorized by appointment or law to receive [notice of the OIP.]”²

Under the circumstances, there is an absence of information necessary to confirm that service of the OIP has been properly made on First South Investments, LLC.

Accordingly, IT IS ORDERED that by September 26, 2023, and every 28 days thereafter until service is accomplished, the Division of Enforcement shall file a declaration or status report providing additional information regarding its efforts to effect service of the OIP on First South Investments, LLC, including an explanation of why any service effected is valid under Rule 141.

¹ *William B. McHenry, Jr., and First South Invs., LLC*, Exchange Act Release No. 95594, 2022 WL 3703826 (Aug. 25, 2022).

² 17 C.F.R. § 201.141(a)(2)(ii).

The parties' attention is directed to the e-filing requirements in the Rules of Practice.³

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

Vanessa A. Countryman
Secretary

³ *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.