

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 98685 / October 5, 2023

Admin. Proc. File No. 3-21001

In the Matter of

MATTHEW J. SKINNER

ORDER DISCHARGING ORDER TO SHOW CAUSE, EXTENDING TIME TO FILE
ANSWER, AND DENYING MOTION TO POSTPONE PROCEEDING

On August 25, 2022, the Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) against Matthew J. Skinner, pursuant to Section 15(b) of the Securities Exchange Act of 1934.¹ On March 22, 2023, the Division of Enforcement filed a Status Report and Request for Briefing Schedule, which established that the OIP was served on Skinner on September 3, 2022.² On April 5, 2023, the Commission issued an order that Skinner show cause 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 or to otherwise defend this proceeding.³ On July 26, 2023, the Division filed a motion for default and imposition of sanctions against Skinner, which also attached the OIP and the order to show cause as exhibits.

On August 29, 2023, Skinner, who is pro se and incarcerated, filed a document with the Commission requesting a “stay on this matter.” In doing so, Skinner noted that his “release date is currently June 2028.” He also requested that the matter be stayed pending an anticipated sale of real property, which he alleged might allow repayment of the investors in one of the offerings discussed in the OIP.⁴ Skinner further alleged that this proceeding has “only now been brought to [his] attention” and that, even if he were served with the OIP in September 2022, he was

¹ *Matthew J. Skinner*, Exchange Act Release No. 95608, 2022 WL 3703828 (Aug. 25, 2022).

² *See* Rule 141(a)(2)(i), 17 C.F.R. § 201.141(a)(2)(i).

³ *Matthew J. Skinner*, Exchange Act Release No. 97253, 2023 WL 2805329 (Apr. 5, 2023). Although the order to show cause was issued in April 2023, it appears that it may not have been properly served on Skinner until recently.

⁴ *See Skinner*, 2022 WL 3703828, at *1 (discussing Bayside Equity, L.P., offering).

“incapable financially, mentally, and emotionally to understand and address this matter at that time,” because he was preparing for his criminal trial. Finally, Skinner challenged some of the factual allegations that have been raised in this proceeding.

Skinner’s filing does not contain a certificate of service, but it lists the Division attorney’s address. The Division has not responded to Skinner’s filing.

We construe Skinner’s filing as a motion to postpone or adjourn this proceeding indefinitely.⁵ We DENY Skinner’s motion. Skinner has not shown that he is unable to proceed with this case due to his incarceration.⁶ Indeed, his filing this motion while incarcerated indicates that he will be able to participate in this proceeding.⁷ And Skinner has not demonstrated good cause to postpone the proceeding pending the alleged sale of real property, because he has provided no timeline for that alleged sale nor evidence pertaining to it.⁸

We also construe Skinner’s filing as a response to the order to show cause. Given Skinner’s filing and the circumstances of this case, IT IS ORDERED that the order to show cause be discharged, and that Skinner will not be deemed in default at this time. In addition, IT IS ORDERED that the deadline for Skinner to file an answer to the OIP is extended to November 20, 2023.

If Skinner cannot reasonably file or serve documents electronically, he shall also file a statement explaining why he cannot do so and how long he expects such inability to file electronically will last.⁹ Skinner shall deliver any such statement about his inability to file

⁵ See *Bradley C. Reifler*, Advisers Act Release No. 6304, 2023 WL 3274687, at *1 (May 5, 2023) (construing respondent’s request that Commission stay proceeding due to his incarceration as “a motion to postpone or adjourn this proceeding indefinitely based on his incarceration”); Rule of Practice 161, 17 C.F.R. § 201.161 (allowing Commission to “postpone or adjourn any hearing” “for good cause shown” and articulating non-exhaustive relevant considerations for granting such relief).

⁶ See, e.g., *Reifler*, 2023 WL 3274687, at *1 (denying motion to postpone or adjourn proceeding due to incarceration); *Don Warner Reinhard*, Exchange Act Release No. 63720, 2011 WL 121451, at *7 n.29 (Jan. 14, 2011) (same).

⁷ See *Reifler*, 2023 WL 3274687, at *1 (denying postponement in part because respondent filed answer and supporting documents while incarcerated).

⁸ See Rule of Practice 161, 17 C.F.R. § 201.161 (providing that postponements may be granted based on “good cause shown”).

⁹ See Rules of Practice 150(c)(1), 152(a)(1), 17 C.F.R. §§ 201.150(c)(1), .152(a)(1) (discussing certification of inability to serve and file documents electronically).

electronically, along with his answer, to the proper prison authorities no later than November 20, 2023, for forwarding to the Commission's Office of the Secretary.¹⁰

Skinner is reminded that he must also serve the Division with a copy of any document that he files with the Commission,¹¹ and he must include a certificate of service with each document that he files.¹²

If Skinner files an answer, the parties shall adhere to the prehearing conference schedule set forth in the OIP.¹³ But as explained in the OIP, if Skinner does not file an answer or participate in the prehearing conference, he may be deemed in default, the allegations of the OIP may be deemed to be true, and the proceeding may be determined against him.¹⁴

Further, a party's failure to comply with this order may result in the Commission's determination of the matter at issue against that party, entry of a default, dismissal of the

¹⁰ 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").

¹¹ Rule of Practice 150(a), 17 C.F.R. § 201.150(a). The Division of Enforcement is represented by Lynn M. Dean, 444 South Flower Street, Suite 900; Los Angeles, California 90071; DeanL@sec.gov.

¹² Rule of Practice 151(d), 17 C.F.R. § 201.151(d). A certificate of service "stat[es] 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." *Id.*

¹³ See *Skinner*, 2022 WL 3703828, at *2 (providing for a prehearing conference within 14 days of service of the answer).

¹⁴ See *id.*; Rules of Practice 155(a), 220(f), 221(f), 17 C.F.R. § 201.155(a), .220(f), .221(f).

proceeding, or the prohibition of the introduction of evidence or the exclusion of testimony regarding the matter at issue.¹⁵

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

Vanessa A. Countryman
Secretary

¹⁵ Rule of Practice 180(c), 17 C.F.R. § 201.180(c).