

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 99245 / December 26, 2023

INVESTMENT ADVISERS ACT OF 1940
Release No. 6516 / December 26, 2023

Admin. Proc. File No. 3-21280

In the Matter of

DARAYL D. DAVIS

ORDER SCHEDULING BRIEFS

On January 19, 2023, the Securities and Exchange Commission issued an order instituting administrative proceedings against DaRayl D. Davis, pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Section 203(f) of the Investment Advisers Act of 1940.¹ Davis was served with the OIP and filed an answer. On November 8, 2023, the Commission directed the parties to conduct a prehearing conference and file a statement with the Office of the Secretary advising the Commission of any agreements reached at the conference.² On December 19, 2023, the parties filed a joint statement regarding the prehearing conference, stating that they had agreed the Division would file a motion for summary disposition by January 5, 2024; Respondent would file an opposition brief by March 8, 2024; and the Division would file a reply by March 22, 2024.³ Given the joint statement, it is appropriate to set a briefing schedule that conforms to the parties' agreement.

¹ *DaRayl D. Davis*, Exchange Act Release No. 96712, 2023 WL 345207 (Jan. 19, 2023).

² *DaRayl D. Davis*, Exchange Act Release No. 98883, 2023 WL 7402893 (Nov. 8, 2023).

³ *See* 17 C.F.R. § 201.250(b) (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”). Motions for summary disposition may be made under Rule of Practice 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. Respondent filed an answer, and the Division’s status report reflects that the Division has made documents available pursuant to Rule 230.

Accordingly, it is ORDERED that the Division's motion for summary disposition shall be filed by January 5, 2024; Respondent's opposition shall be filed by March 8, 2024; and the Division's reply shall be filed by March 22, 2024.⁴

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 323,⁵ 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 precedent.⁶ 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 evidence or the exclusion of testimony regarding the matter at issue.⁷

⁴ 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(e), and (f), 17 C.F.R. § 201.250(e) and (f), with respect to length limitations.

⁵ 17 C.F.R. § 201.323.

⁶ 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).

⁷ 17 C.F.R. § 201.180(c).

The parties' attention is directed to the e-filing requirements in the Rules of Practice.⁸ 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.⁹

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

Vanessa A. Countryman
Secretary

⁸ *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 also 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.

⁹ 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.”).