

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 6252 / February 28, 2023

Admin. Proc. File No. 3-20134

In the Matter of
PAUL HORTON SMITH, SR.

ORDER DIRECTING RESPONDENT TO FILE CERTIFICATE OF SERVICE

On October 22, 2020, the Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) against Paul Horton Smith, Sr., pursuant to Section 203(f) of the Investment Advisers Act of 1940.¹ Smith was served with the OIP on December 6, 2022, and his answer was due 20 days thereafter.² On January 12, 2023, because Smith had not filed an answer, the Commission ordered that he show cause by January 26, 2023, why he should not be deemed to be in default and why this proceeding should not be determined against him.³

On January 30, 2023, the Office of the Secretary received a letter via facsimile from Smith dated January 26, 2023.⁴ That letter appears to respond to the show cause order and

¹ *Paul Horton Smith, Sr.*, Advisers Act Release No. 5618, 2020 WL 6262345 (Oct. 22, 2020).

² *Id.* at *2; Rules of Practice 151(a), 160(b), 220(b), 17 C.F.R. §§ 201.151(a), .160(b), .220(b).

³ *Paul Horton Smith, Sr.*, Advisers Act Release No. 6215, 2023 WL 173352 (Jan. 12, 2023).

⁴ We remind the parties that their filings must comply with the Rules of Practice. The electronic filing requirements are described in the *Amendments to the Commission's Rules of Practice*, Exchange Act Release No. 90442, 2020 WL 7013370 (Nov. 17, 2020), 85 Fed. Reg. 86,464, 86,465-81 (Dec. 30, 2020), <https://www.sec.gov/rules/final/2020/34-90442a.pdf> and *Instructions for Electronic Filing and Service of Documents in SEC Administrative Proceedings and Technical Specifications*, <https://www.sec.gov/efapdocs/instructions.pdf>. The rules require the redaction or omission of sensitive personal information. *Amendments to the Commission's Rules of Practice*, 85 Fed. Reg. at 86,465–81.

request a stay of this proceeding under Rule of Practice 161.⁵ But Smith's filing was not accompanied by a certificate of service, as required by Rule of Practice 151(d).⁶

All respondents, including those proceeding *pro se*, must comply with the Rules of Practice.⁷ Accordingly, it is ORDERED that by March 14, 2023, Smith shall serve his filing on the Division (if that has not already been done) and file with the Commission a certificate of service that conforms with Rule of Practice 151(d).⁸ The Division's response to Smith's filing, including his motion for a stay of this proceeding, shall be due fourteen days after the date on which the certificate of service is filed, and any reply by Smith shall be due fourteen days after service of the Division's response.

Pursuant to Rule of Practice 180(c),⁹ a party's failure to comply with this order may result in the Commission's entry of a default, dismissal of the proceeding, determination of the matter at issue against that party, or a finding of waiver. For example, if Smith fails to file the requisite certificate of service, the Commission may reject his response to the show cause order, including his motion for a stay of this proceeding, as deficient on that basis alone.¹⁰ In issuing this order, we express no views as to the substance of Smith's letter response or motion for a stay of this proceeding.

The parties' attention is again directed to the e-filing requirements in the Rules of Practice.¹¹

⁵ 17 C.F.R. § 201.161.

⁶ 17 C.F.R. § 201.151(d).

⁷ See, e.g., *BDO China Dahua CPA Co., Ltd.*, Exchange Act Release No. 72134, 2014 WL 1871077, at *3 (May 9, 2014) ("Parties, including those appearing *pro se*, are obligated to familiarize themselves with the Rules of Practice.") (quoting *Adopting Release, Rules of Practice*, Exchange Act Release No. 35833, 1995 WL 368865, at *36 (June 9, 1995)).

⁸ 17 C.F.R. § 201.151(d) (requiring certificate of service to state "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").

⁹ 17 C.F.R. § 201.180(c).

¹⁰ 17 C.F.R. § 201.180(c)(2) (stating that sanctions may be imposed for failing to "cure a deficient filing within the time specified by the Commission"); see also *Adopting Release, Rules of Practice*, 1995 WL 368865, at *36 (explaining that a "filing may be rejected if it fails to meet the requirements of any rule" and that "filings that are not served as required . . . could be found to be deficient").

¹¹ See *supra* note 4.

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

Vanessa A. Countryman
Secretary