

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 6268 / March 31, 2023

Admin. Proc. File No. 3-21143

In the Matter of

ELBERT L. HARDIMAN, JR.

SECOND ORDER REGARDING SERVICE

The Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) on September 23, 2022, pursuant to Section 203(f) of the Investment Advisers Act of 1940, against Elbert L. Hardiman, Jr.¹ On December 6, 2022, the Commission issued an Order Regarding Service, directing the Division of Enforcement to file a status report concerning service of the OIP by December 20, 2022, and every 28 days thereafter until service is accomplished.²

The Division subsequently filed four status reports concerning its attempts to personally serve the OIP on Hardiman pursuant to Commission Rule of Practice 141(a)(2)(i).³ According to the first status report, filed December 20, 2022, the Division had “retained a process server to personally serve Respondent,” but that the process server “has been unsuccessful in its attempts to do so.” The second status report, filed January 17, 2023, states that the process server “has been unable to personally serve Respondent thus far, but will continue its efforts to do so.” On February 15, 2023, the Division filed its third status report, which states that the process server “has been unable to locate and serve Respondent” and that the Division “believes that further efforts by [the process server] to do so would be unavailing.” And, on March 14, 2023, the Division filed a fourth status report stating that the process server “has made no further attempts to locate and serve Respondent.”

Commission Rule of Practice 141(a)(2)(i) provides that service of an OIP on an individual can be accomplished not only by “handing a copy of the [OIP] to the individual,” but also by, among other things, “U.S. Postal Service certified, registered or express mail and

¹ *Elbert L. Hardiman, Jr.*, Advisers Act Release No. 6145, 2022 WL 4445483 (Sept. 23, 2022).

² *Elbert L. Hardiman, Jr.*, Advisers Act Release No. 6200, 2022 WL 17501976 (Dec. 6, 2022).

³ 17 C.F.R. § 201.141(a)(2)(i).

obtaining a confirmation of receipt.”⁴ The Division states that its attempts to personally serve Hardiman via process server have been unsuccessful, but it is unclear whether the Division has attempted to send a copy of the OIP to Hardiman by mail in accord with Rule of Practice 141(a)(2)(i).⁵

Accordingly, IT IS ORDERED that, if the Division has obtained proof of service, it file a declaration of service attaching such proof by April 28, 2023; or, if the Division has not obtained proof of service, it file a status report concerning service of the OIP by April 28, 2023, and every 28 days thereafter until service is accomplished.

The parties’ attention is directed to the e-filing requirements in the Rules of Practice.⁶

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

Vanessa A. Countryman
Secretary

⁴ *Id.*

⁵ *Id.*

⁶ *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.