

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 6346 / July 13, 2023

Admin. Proc. File No. 3-20927

In the Matter of

GEORGE MCKOWN

SECOND SUPPLEMENTAL ORDER REGARDING SERVICE

On July 7, 2022, the Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”), pursuant to Section 203(f) of the Investment Advisers Act of 1940, against George McKown.¹ After neither party made any filing in this proceeding, the Commission issued orders requiring the Division of Enforcement to file status reports concerning service of the OIP.²

On June 28, 2023, the Division filed a Status Report Concerning Service. In the report, the Division stated that it had served the OIP on McKown by certified mail return receipt requested on June 27, 2023. The Division did not provide a tracking number for the mailing or evidence that McKown had received the OIP. Nor did the Division include a certificate of service when filing its status report or when filing a notice of appearance one day earlier.

Commission Rule of Practice 141(a)(2)(i) provides that “[n]otice of a proceeding shall be made to an individual by delivering a copy of the order instituting proceedings to the individual” or the individual’s authorized agent.³ Such delivery may be accomplished by “sending a copy of the order addressed to the individual by U.S. Postal Service certified, registered or express mail and obtaining a confirmation of receipt.”⁴ To assist the Office of the Secretary in maintaining a record of service that establishes that the OIP has been properly served,⁵ the Division is ordered

¹ *George McKown*, Advisers Act Release No. 6063, 2022 WL 2531702 (July 7, 2022).

² *George McKown*, Advisers Act Release No. 6171, 2022 WL 10374944 (Oct. 17, 2022); *George McKown*, Advisers Act Release No. 6247, 2023 WL 2212492 (Feb. 23, 2023).

³ 17 C.F.R. § 201.141(a)(2)(i).

⁴ *Id.*

⁵ *See* Rule of Practice 141(a)(3), 17 C.F.R. § 201.141(a)(3).

to file an additional status report concerning service of the OIP by July 27, 2023, that provides tracking information and confirmation of receipt of the OIP.

The parties are reminded that they must serve each other with a copy of any documents that they file with the Commission,⁶ and they must include a certificate of service with each document that they file.⁷ The Division should therefore file certificates of service by July 27, 2023, to cure such deficiencies in its previously filed status report and notice of appearance.⁸

⁶ Rule of Practice 150(a), 17 C.F.R. § 201.150(a); *see also Amendments to the Commission's Rules of Practice*, Exchange Act Release No. 90442, 2020 WL 7013370 (Nov. 17, 2020), 85 Fed. Reg. 86,464, 86,473 (Dec. 30, 2020), <https://www.sec.gov/rules/final/2020/34-90442a.pdf> (“Filing a document electronically in the eFAP system will not effectuate service upon the parties to the proceeding (including the Division of Enforcement) as required by Rule 150(a).”); *Instructions for Electronic Filing and Service of Documents in SEC Administrative Proceedings and Technical Specifications*, 5 (Nov. 17, 2020), <https://www.sec.gov/efapdocs/instructions.pdf> (“Filing documents electronically using eFAP will not constitute service on Commission staff, such as the Division of Enforcement, or other participants in an administrative proceeding.”); *id.* (“It is your responsibility to serve any filings on Commission staff or other participants by email outside of eFAP.”).

⁷ 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.*

⁸ *See Chelsea Oil & Gas Ltd.*, Exchange Act Release No. 92552, 2021 WL 3410761, at *1 n.3 (Aug. 3, 2021) (directing the filing of omitted certificate of service).

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

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

Vanessa A. Countryman
Secretary

⁹ *Amendments to the Commission's Rules of Practice*, 85 Fed. Reg. 86,464; *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 new redaction and omission of sensitive personal information requirement. *Amendments to the Commission's Rules of Practice*, 85 Fed. Reg. at 86,465–81. And the amendments provide further requirements if a person cannot reasonably comply with the electronic filing requirements due to lack of access to electronic transmission devices. *Id.* at 86,478–79; *see also* Rules of Practice 150(c)(1), 152(a)(1), 17 C.F.R. §§ 201.150(c)(1), 201.152(a)(1) (addressing certification of inability to serve and file documents electronically).