

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 100000 / April 22, 2024

Admin. Proc. File No. 3-20622

In the Matter of

IBRAHIM ALMAGARBY

ORDER DIRECTING RESPONDENT TO FILE AN ANSWER TO THE OIP

On October 13, 2021, the Securities and Exchange Commission issued an order instituting proceedings (“OIP”) against Ibrahim Almagarby pursuant to Section 15(b) of the Securities Exchange Act of 1934.¹ The OIP directed Almagarby to file an answer to the allegations therein within 20 days of service of the OIP.² Although Almagarby was served with the OIP on October 18, 2021, he did not file an answer to it.

On June 2, 2022, the Division of Enforcement filed a motion for default and sanctions requesting that the Commission bar Almagarby from the securities industry based on the record and the allegations in the OIP.³ On June 6, 2022, Almagarby filed a response, stating that it was “not clear whether an operative OIP has been issued, given the fact that it was erroneously based upon a final judgment that had not been issued.” Almagarby’s response further stated that, “[i]f the Commission believes that an operative OIP has been issued,” he requested that the Commission provide him “with notice of such and he will respond to the OIP within five business days.”

The Rules of Practice permit, but do not compel, the Commission to deem a respondent who failed to answer an OIP to be in default.⁴ In light of Almagarby’s statement that he intends

¹ *Ibrahim Almagarby*, Exchange Act Release No. 93307, 2021 WL 4786748 (Oct. 13, 2021).

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 *See* Rules of Practice 220(f), 155(a), 17 C.F.R. §§ 201.220(f), .151(a).

⁴ Rules of Practice 220(f), 155(a), 17 C.F.R. §§ 201.220(f), .155(a); *cf. Travis A. Branch*, Exchange Act Release No. 86285, 2019 WL 2775917, at *2 (July 2, 2019) (recognizing that “the Rules of Practice do not compel entry of default” (internal quotation marks omitted)).

to present a defense to the OIP's allegations, it would be premature to deem him to be in default at this time.

Accordingly, it is ORDERED that Almagarby shall file an answer to the allegations in the OIP by May 13, 2024. Almagarby may raise any challenges to the OIP (including any challenge to the OIP's validity) in his answer, consistent with Rule of Practice 220(c)'s provision that a "respondent must affirmatively state in the answer any avoidance or affirmative defense."⁵

It is additionally ORDERED that, as provided in the OIP, the Division of Enforcement and Almagarby shall conduct a prehearing conference pursuant to Rule of Practice 221 within fourteen (14) days of service of the answer.⁶ The parties may meet in person or participate by telephone or other remote means; following the conference, they shall file a statement with the Office of the Secretary advising the Commission of any agreements reached at said conference. If a prehearing conference was not held, a statement shall be filed with the Office of the Secretary advising the Commission of that fact and of the efforts made to meet and confer.

Pursuant to Rule of Practice 180(c), 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 proceeding, or the prohibition of the introduction of evidence or the exclusion of testimony regarding the matter at issue.⁷

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

⁵ 17 C.F.R. § 201.220(c).

⁶ *Almagarby*, 2021 WL 4786748, at *2; 17 C.F.R. § 201.221.

⁷ 17 C.F.R. § 201.180(c).

⁸ See Rules of Practice 151, 152(a), 17 C.F.R. §§ 201.151, .152(a) (providing procedure for filing papers with the Commission and mandating electronic filing in the form and manner posted on the Commission's website); *Instructions for Electronic Filing and Service of Documents in SEC Administrative Proceedings and Technical Specifications*, <https://www.sec.gov/efapdocs/instructions.pdf>. Parties generally also must certify that they have redacted or omitted sensitive personal information from any filing. Rule of Practice 151(e), 17 C.F.R. § 201.151(e).

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.").

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

Vanessa A. Countryman
Secretary