

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 99485 / February 7, 2024

INVESTMENT ADVISERS ACT OF 1940  
Release No. 6545 / February 7, 2024

Admin. Proc. File No. 3-21030

In the Matter of  
  
LEON VACCARELLI

ORDER CLARIFYING STATUS OF PROCEEDING, SETTING NEW RESPONSE DATE TO  
OCTOBER 2023 ORDER, AND PROVIDING A COPY OF THE RULES OF PRACTICE

On September 2, 2022, the Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) against Leon Vaccarelli pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Section 203(f) of the Investment Advisers Act of 1940.<sup>1</sup> After Vaccarelli filed an answer to the OIP, the Commission issued an order setting a briefing schedule for motions for summary disposition.<sup>2</sup> On May 25, 2023, the Division of Enforcement filed a motion for summary disposition in which it requested that the Commission impose an industry-wide associational bar on Vaccarelli. Vaccarelli did not file a brief opposing the Division’s motion.

On October 16, 2023, the Commission issued an order requesting that the Division provide additional briefing and materials relating to its motion, which the Division subsequently did.<sup>3</sup> The order also provided that Vaccarelli could file by January 2, 2024, a brief addressing the matters to be discussed by the Division in its brief, why he failed to respond to the Division’s motion for summary disposition, and why the Commission should not find him in default as a result.<sup>4</sup> The order required that Vaccarelli include with his filing a response to the Division’s motion.<sup>5</sup>

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<sup>1</sup> *Leon Vaccarelli*, Exchange Act Release No. 95671, 2022 WL 4011090 (Sept. 2, 2022).

<sup>2</sup> *Leon Vaccarelli*, Exchange Act Release No. 97425, 2023 WL 3243512 (May 3, 2023).

<sup>3</sup> *Leon Vaccarelli*, Exchange Act Release No. 98757, 2023 WL 6879121 (Oct. 16, 2023).

<sup>4</sup> *Id.* at \*3.

<sup>5</sup> *Id.*

On or about January 1, 2024, Vaccarelli filed a response to the October 2023 order. Vaccarelli requested a copy of the Commission's Rules of Practice, which he stated he needed to respond to the order but did not have because he had moved through various locations in the federal prison system. Vaccarelli also stated that he believed that because the Commission's civil lawsuit against him had been concluded, this administrative proceeding had been "automatically resolved"; that he had attempted to contact Division counsel by email; and that he wanted "to put this matter to completion."

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It is not clear from Vaccarelli's filing whether he intends to oppose the Division's motion for summary disposition. He requests a copy of the Rules of Practice so that he can respond to the October 2023 order. But he also suggests that he believes that this proceeding has already been resolved. Vaccarelli is advised that this administrative proceeding before the Commission is separate from the civil action that the Commission previously filed against him in federal district court.

Because this proceeding remains pending, we construe Vaccarelli's filing as a statement that he still intends to file a response to the October 2023 order and the Division's motion for summary disposition. Vaccarelli may be found in default if he fails to do so. When a respondent defaults, the allegations in the OIP will be deemed to be true and the Commission may determine the proceeding against that party upon consideration of the record without holding a public hearing.<sup>6</sup> Here, the Division of Enforcement has requested that Vaccarelli be permanently barred from the securities industry. Under the circumstances, it is appropriate to provide Vaccarelli with a copy of the Rules of Practice and to set a new date for him to respond to the October 2023 order.<sup>7</sup>

Accordingly, it is ORDERED that Vaccarelli shall file a brief responding to the Commission's order dated October 16, 2023, the Division's motion for summary disposition, and

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<sup>6</sup> Rules of Practice 155, 180, 17 C.F.R. §§ 201.155, .180; *see also Vaccarelli*, 2022 WL 17401534, at \*1.

<sup>7</sup> *See In re Pending Administrative Proceedings*, Exchange Act Release No. 88415, 2020 WL 1322001 (Mar. 18, 2020) (providing that, pending further order of the Commission, reasonable requests for extensions of time will not be disfavored as stated in Commission Rule of Practice 161); Rule of Practice 161(a), 17 C.F.R. § 201.161(a) (requiring good cause showing for extensions).

its subsequent filing in support of that motion by March 24, 2024.<sup>8</sup> Failure to do so may lead to entry of default, and resolution of this proceeding, against Vaccarelli as previously warned.

Vaccarelli is reminded that he must mail any filings to both the Office of the Secretary and counsel for the Division of Enforcement,<sup>9</sup> and include with them a statement identifying the name of the person or persons to whom he mailed the filings, the date he mailed them, and the address to which he mailed the filings.<sup>10</sup> If Vaccarelli files a response to this order, the Division may file a reply within 14 days after receiving it, not to exceed 2,500 words.

The parties are reminded that any settlement discussions in which they might be engaged do not automatically toll deadlines in this proceeding. Instead, a party may request that the Commission extend or stay deadlines based on settlement discussions.<sup>11</sup>

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<sup>8</sup> Vaccarelli shall deliver any filings to the proper prison authorities no later than the due date, for forwarding to the Commission's Office of the Secretary. *See Houston v. Lack*, 487 U.S. 266, 276 (1988) (holding that, under federal prison mailbox rule, pro se prisoners' notices of appeal are "filed" at moment of delivery to prison authorities for forwarding to the district court); *Adams v. United States*, 173 F.3d 1339, 1341 (11th Cir. 1999) (per curiam) (noting that this "mailbox rule [applies] to other filings by pro se prisoners").

<sup>9</sup> *See* Rule of Practice 151, 17 C.F.R. § 201.151 (requiring that papers filed with the Commission be filed with the Secretary); Rule of Practice 150, 17 C.F.R. § 201.150 (generally requiring parties to serve each other with their filings). The address of the Office of the Secretary is U.S. Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549. The Division is represented by David London. His address is Division of Enforcement, U.S. Securities and Exchange Commission, Boston Regional Office, 33 Arch Street, 24th Floor, Boston, Massachusetts 02110, and his email address is LondonD@sec.gov.

<sup>10</sup> Rule of Practice 151(d), 17 C.F.R. § 201.151(d) (requiring certificate of service).

<sup>11</sup> *Cf. Water Now, Inc.*, Exchange Act Release No. 96648, 2023 WL 173351, at \*1 (Jan. 12, 2023) (granting extension of time based on Division's representation that respondent had retained counsel and was now engaged in settlement discussions); *Thomas Garnette Martin, Jr.*, Advisers Act Release No. 6375, 2023 WL 5203103, at \*1 (Aug. 14, 2023) (granting "motion to stay proceedings pending Commission consideration of an offer of settlement," applying standards similar to those found in Rule of Practice 161(c)(2), 17 C.F.R. § 201.161(c)(2)).

Upon review of the filings in response to this order, the Commission will either direct further proceedings by subsequent order or issue a final opinion and order resolving the matter.

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

Vanessa A. Countryman  
Secretary