

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 99506 / February 9, 2024

Admin. Proc. File No. 3-21001

In the Matter of

MATTHEW J. SKINNER

ORDER DENYING MOTION TO APPOINT COUNSEL, DENYING MOTION FOR JURY TRIAL, AND DIRECTING PREHEARING CONFERENCE

On August 25, 2022, the Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) against Matthew J. Skinner, pursuant to Section 15(b) of the Securities Exchange Act of 1934, based on an injunction and conviction.¹ On August 29, 2023, Skinner, who is pro se and incarcerated, filed a document requesting a stay and challenging some of the factual allegations that have been raised in this proceeding. On October 5, 2023, the Commission denied Skinner’s motion to postpone the proceeding but extended the deadline for Skinner to file an answer to the OIP to November 20, 2023.²

On November 28, 2023, Skinner filed a letter that lacks a certificate of service. The letter asserts that Skinner cannot file documents electronically, requests a “court appointed attorney to face [his] accuser in front of a jury of [his] peers,” and argues that he cannot defend himself while he is incarcerated. The Division of Enforcement opposed Skinner’s motion for appointment of counsel and noted that Skinner had not served his letter on the Division. But the Division indicated that Skinner *had* filed a copy of his motion with the federal district court that had issued the injunction against him.³

¹ *Matthew J. Skinner*, Exchange Act Release No. 95608, 2022 WL 3703828 (Aug. 25, 2022).

² *Matthew J. Skinner*, Exchange Act Release No. 98685, 2023 WL 6517529 (Oct. 5, 2023). This order also discharged a preexisting order to show cause. *Id.*

³ The district court denied Skinner’s motion.

I. This proceeding is set before the Commission, not a federal district court, so we deny Skinner’s requests for a jury trial and appointment of counsel.

Skinner requests that the matter proceed before a jury, but this is an administrative proceeding set before the Commission, not a civil action before a federal district court. And the Commission is not authorized to order jury trials in its administrative proceedings. Accordingly, we DENY Skinner’s request for a jury trial. We also DENY his request for appointment of counsel because respondents are not entitled to counsel in Commission administrative proceedings.⁴ To the extent that Skinner argues that he cannot defend himself in this proceeding while he is incarcerated, we find that his filings in this proceeding to date demonstrate that he can participate while incarcerated.⁵

II. Skinner must include with each filing a certificate of service indicating he has served the filing on the Division of Enforcement, but he may serve and file documents using U.S. mail.

We deem Skinner’s November 28, 2023 letter as a certification of his inability to file or serve documents electronically during the duration of the proceeding pursuant to Rules of Practice 150(c)(1) and 152(a)(1).⁶ Because Skinner represents that he cannot serve or file documents electronically, he may serve and file documents by any means provided in Rules of Practice 150(d) and 152(a)(2).⁷ This includes U.S. Postal Service first class, certified, registered, or express mail delivery addressed to the Commission’s Office of the Secretary (for filing), with a separate duplicate copy addressed to the Division (for service).⁸ Skinner is again reminded that in the future he must serve any filing in this proceeding on the Division of Enforcement.⁹ In addition, he must include a certificate of service with each document that he files.¹⁰ For example, a filing’s certificate of service could state that, at the same time that he is mailing the

⁴ See, e.g., *Sonya D. Camarco*, Exchange Act Release No. 97712, 2023 WL 3995194, at *1 & n.4 (June 13, 2023) (denying request to stay proceedings until respondent obtained counsel); *Boruski v. SEC*, 340 F.2d 991, 992 (2d Cir. 1965) (per curiam) (affirming Commission orders where petitioner argued that the Commission should have appointed counsel for him)

⁵ See *Skinner*, 2023 WL 6517529, at *1 (“Indeed, [Skinner’s] filing this motion while incarcerated indicates that he will be able to participate in this proceeding.”)

⁶ 17 C.F.R. §§ 201.150(c)(1), .152(a)(1) (discussing certification of inability to serve and file documents electronically).

⁷ *Id.* §§ 201.150(d), .152(a)(2).

⁸ *Id.*

⁹ Rule of Practice 150(a), 17 C.F.R. § 201.150(a).

¹⁰ 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.*

filing via first-class U.S. mail to the Office of the Secretary, he is also mailing a duplicate copy of the filing to the Division attorney via first-class U.S. mail.¹¹

III. We direct Skinner and the Division to conduct a prehearing conference.

As noted above, Skinner's August 29, 2023, letter responded to some of the allegations raised by the OIP. Under the circumstances, we construe Skinner's August 29, 2023, letter to be his answer to the OIP.

Given the circumstances here, including Skinner's pro se and incarcerated status, we direct the parties to conduct a prehearing conference within 28 days of this order. As provided in the OIP, 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.¹² If a prehearing conference is 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. As explained in the OIP, if Skinner does not participate in the prehearing conference, he may be deemed in default, the allegations of the OIP may be deemed to be true, and the proceeding may be determined against him.¹³

Accordingly, it is ORDERED that by March 8, 2024, the parties shall conduct a prehearing conference and file a statement with the Office of the Secretary advising the Commission of any agreements reached at the prehearing conference. If a prehearing conference is not held, both parties shall file by March 8, 2024, a statement, jointly or separately, 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,

¹¹ The Division attorney for this case is Lynn M. Dean, 444 South Flower Street, Suite 900; Los Angeles, California 90071.

¹² *Skinner*, 2022 WL 3703828, at *2.

¹³ *See id.*; Rules of Practice 155(a), 221(f), 17 C.F.R. § 201.155(a), .221(f).

dismissal of the proceeding, or the prohibition of the introduction of evidence or the exclusion of testimony regarding the matter at issue.¹⁴

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

Vanessa A. Countryman
Secretary

¹⁴ Rule of Practice 180(c), 17 C.F.R. § 201.180(c).